

MINUTES
CHARLOTTE COUNTY BOARD OF ZONING APPEALS
Wednesday, October 12, 2016 – 9 a.m. – Room 119
Charlotte County Administration Center
18500 Murdock Circle
Port Charlotte, FL 33948-1094

(These minutes are not official until they have been approved by the Charlotte County Board of Zoning Appeals)

Members Present

Katherine Ariens, Chair (absent)
Joe Tiseo, Vice-Chair
Steve Vieira, Secretary
Blair McVety
Larry Fix

Staff Present

Shaun Cullinan, Zoning Official
Joshua Moye, Assistant Co. Attorney
Ken Quillen, AICP, Planner
Diane Clim, Recorder

I. Call to Order

Vice-Chair Tiseo called the October 12, 2016 meeting of the Board of Zoning Appeals to order at 9:00 AM.

II. Pledge of Allegiance

Vice-Chair Tiseo led the members and the audience in reciting the Pledge of Allegiance.

III. Roll Call

Roll call was taken; a quorum was present.

IV. Swearing In of Those Giving Testimony

Diane Clim swore in all persons who wished to provide testimony.

V. Approval of Minutes

ACTION: A motion was presented by Mr. Vieira and seconded by Mr. McVety to approve the minutes of the September 14, 2016 meeting of the Board of Zoning Appeals. Motion passed with a unanimous vote.

VI. Disclosure Statements

Ex-parte forms indicating site visits concerning the petitions being presented before the October 12, 2016 Board of Zoning Appeals meeting were submitted.

VII. Introduction of Staff/Comments

Vice-Chair Tiseo introduced staff. Shaun Cullinan, Zoning Official, read the Zoning rules, Attorney Josh Moye, and Vice-Chair Tiseo made introductory remarks regarding the types of requests that the Board of Zoning Appeals would be reviewing and the standards which must be met, the notification process and how the Board of Zoning Appeals makes its decision.

VIII. New Business

The following petitions were advertised on September 27, 2016: VAR-16-006 and SE-16-011.

VAR-16-006

Allen Shrum, agent for Carolyn O'Connor, is requesting a variance to reduce the required 20-foot rear yard setback by four feet to allow a 16-foot rear setback for a new replacement manufactured home in the Manufactured Home Conventional (MHC) zoning district. The property address is 3021 Bayside Parkway, Punta Gorda and is described as Lots 141 and 142 of Pelican Harbor Mobile Home Estates Subdivision, all located in Section 26, Township 40 South, Range 23 East.

Ken Quillen presented general information and staff findings for the petition.

Applicant Presentation

Allen Shrum, agent for the applicant, said he was sworn in. Mr. Shrum said they had a survey done in July 2015. It shows the mean high water line. There is 20-21 feet to the water line.

Mr. Cullinan asked was that survey done at the time there was rip-rap or a seawall?

Mr. Shrum said just rip-rap at that time. It took over a year to sell the owners a home. He is the project manager and the 30' x 60' home would fit. Their original home burnt down and they are replacing that. Once the owners picked out the home they wanted, he went back to get a new survey done and saw they put in a seawall. That is when the new survey showed a shortage.

Mr. Quillen found the 2015 survey that was handed in with the application and showed it to the Board. This survey is now Exhibit "L".

Mr. Shrum said when the customers picked out the new home, they wanted a few things changed. The home was redesigned, so they ordered the home with instructions not to build the home until September 2016. After we ordered the home, the manufacturer received a large order for other mobile homes, so they built this home in August. If the home had not been built until September, they would have known about the 20' setback issue, and they could have canceled the home. **Mr. Shrum** said he deals with this manufacturer a lot and does not want to return the home, he would keep it as a very expensive lot model.

There were a lot of questions for Mr. Shrum about exactly where the home is being placed, the sidewalk and driveway that is still there, and the pad for the back lanai. There was discussion about the placement of the house and if it might fit being turned a little. There was also discussion about the mean high water line and the seawall.

Vice-Chair Tiseo opened the meeting to Public Hearing.

Public Input

Gary Linger, who lives in the area, said he was sworn in. Mr. Linger said he is the Acting President of the Pelican Harbor Civic Association and we held a special board meeting to discuss this variance request. The Board was aware the O'Connor's were planning on putting in a new home on this site. The Board has an architectural committee. The O'Connor's need to apply for a plot plan and show this Board where the house would be. This has not been done. I was up north until September 10. Mr. Shrum called me about a week later. If our Board knew about this, probably this meeting today would not be needed. This Board does not agree with approving this request. They want to keep the 20 foot setback.

William Yates, who lives in the area, said he was sworn in. Mr. Yates said there has been a lot of discussion about the location of the house and the size of the lot. That house was an older home put there years ago, but it was probably set prior to the change in zoning code. Back then, the setback was only 10 feet. The fact that the rip rap wall was there has no bearing on the size of the lot. 15 feet in the rear is riparian rights giving the homeowner access to the water. New building codes make the house set up higher. The surrounding neighbors probably won't like that because now the view will be compromised. He is against this variance request.

Mr. Shrum said most of the mobile homes in that area are old and at some point, they will have to be replaced. Then they all will be raised up to the new code.

There was more discussion about the position of the house on the lot, if it had to be configured like the other houses or shifted around.

There being no further requests to speak for or against the petition, Mr. Vieira moved to close the public hearing, seconded by Mr. McVety. The public hearing was closed with a unanimous vote.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions

Mr. McVety wanted to see one of the aerials again to see if the back lanai was blocking any view of the water.

ACTION: A motion was presented by Larry Fix and seconded by Steve Vieira that Petition VAR-16-006 be DENIED based on the Community Development Staff Report dated October 5, 2016, the evidence and testimony presented at the hearing and finding that the applicant HAS NOT MET the required criteria for the granting of the Variance.

Motion to deny the request was passed with a 3 to 1 vote. (Mr. Tiseo, Mr. Vieira and Mr. Fix voted to deny – Mr. McVety voted against the denial)

SE-16-011

Candace Sedlacek is requesting a special exception to allow an adult day care center in the Residential Single Family-3.5 (RSF-3.5) zoning district. The property address is 2013 Lake View Boulevard, Port Charlotte, and is described as lots 20 and 21, of block 363, of Port Charlotte Subdivision, Sub-section 23, located in Section 17, Township 40 South, Range 22 East.

Ken Quillen presented general information and staff findings for the petition.

Applicant Presentation

Candace Sedlacek, applicant, said she was sworn in. Ms. Sedlacek said she is going to open an adult day care for the community. She is not changing anything in the house. The outside has a lot of native plants. The people can come 7:30 in the morning, they get two meals, snacks, they have socialization, there are walks on the property. She owns the lot next door. There is plenty of room in and out of the house.

Mr. Tiseo asked what agency regulates this business.

Ms. Sedlacek replied AHCA. The County Health Dept. has to come in, the Fire Dept., several agencies have to come in to check things before she even files with the state. They come in 3 times a year to check. They may even come in to observe.

Vice-Chair Tiseo opened the meeting to Public Hearing.

Public Input

No one spoke for or against this request.

There being no further requests to speak for or against the petition, Mr. Fix moved to close the public hearing, seconded by Mr. Vieira. The public hearing was closed with a unanimous vote.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions

None

ACTION: A motion was presented by Larry Fix and seconded by Steve Vieira that Petition SE-16-011 be APPROVED based on the Community Development Staff Report dated October 5, 2016, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with the six conditions recommended by staff.

Motion was approved with a unanimous vote with the following six conditions:

1. This special exception shall allow an Adult Day Care for no more than 12 clients at any one time, only as an accessory use to the existing single-family residence. The operator of the Adult Day Care shall reside full-time in this residence.

2. Prior to providing care for more than six clients at any one time the owner shall construct a circular driveway according to a plan approved by the Zoning Official and similar to the one shown on Exhibit "F" in the Staff Report for this special exception.
3. This special exception, allowing an Adult Day Care, shall be conducted according to these conditions as well as all of the applicable standards and conditions of section 3-9-74, Home Occupation, of the Land Development Regulations, as amended.
4. The owner shall obtain all applicable County permits if any future development, tree removal or land clearing is proposed.
5. This special exception, allowing an Adult Day Care, shall require both lots 20 and 21 to be retained in single ownership by the resident of this home for as long as the Adult Day Care is in operation.
6. Any major modifications, or change in the type of home occupation conducted, shall require a modification to the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.

IX. Public Comments - None

X. Staff Comments -

Mr. Quillen said there are 4 petitions for the November 9, 2016 meeting.

XI. Member Comments - None

XII. Next Meeting

*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, November 9, 2016, at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 10:50 a.m.

Respectfully submitted,
Diane Clim, Recorder
/dlc

Katherine Ariens, Chair

Approval Date: _____