



MINUTES

Charlotte County Board of Zoning Appeals

Wednesday, April 12, 2023 9:00 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)

Board Member:

Blair McVety, Chair
Steve Vieira, Vice-Chair
Nichole Beyer
Vacant
John Richardson

Staff:

Shaun Cullinan, Planning/Zoning Official
Thomas David, Asst. Co. Attorney
Stacy Bjordahl, Asst. Co. Attorney
Elizabeth Nocheck, AICP, Sr. Planner
Kimberly Sargent - Recorder

I. Call to Order

Chair McVety called the April 12, 2023 meeting of the Board of Zoning Appeals to order at 9:00 a.m.

II. Pledge of Allegiance

Chair McVety 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

Kimberly Sargent swore in all persons who wished to provide testimony.

V. Staff Comments

None.

VI. Approval of Minutes

ACTION: A motion was presented by Mr. Vieira and seconded by Mr. Davidson to approve the minutes of March 8, 2023, meeting of the Board of Zoning Appeals which passed with a unanimous vote.

ACTION: A motion was presented by Mr. Vieira and seconded by Mr. Davidson to approve the revision of minutes of January 11, 2023 meeting of the Board of Zoning Appeals which passed with a unanimous vote.

VII. Disclosure Statements

Ex-parte forms indicating site visits concerning the petitions being presented before the April 12, 2023 Board of Zoning Appeals meeting were submitted.

VIII. Introduction of Staff/Comments

Chair McVety introduced staff. *Shaun Cullinan, Planning and Zoning Official*, read the Zoning rules, *Asst. County Attorney David*, and *Chair McVety* 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.

IX. New Business

The following petitions were advertised on March 28, 2023: SE-23-012 & VAR-23-006

SE-23-012

Steve Goff, representative for Jack Baker, is requesting a special exception to exceed the maximum of 3,000-square feet of accessory structures, to allow a 3,264-square foot detached garage, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at 14128 Fillmore Avenue, in Port Charlotte, and is described as Lots 1, 2, 16, & 17, Block 1694, of the Port Charlotte Subdivision, Section 52, located in Section 33, Township 40 South, Range 21 East.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Applicant Presentation

Steve Goff, representative for the applicant, said he was sworn in. Mr. Goff states in order to keep it from looking like a big box and in order to get the cars in there that he needs. We had to increase the 264 square feet, make the front elevation look like a residence while it's not. It has no plumbing in it, has no toilet, no running water none at all. If we were to cut down and put it at 3,000 square foot it will change the side elevation. Where you see those dormers at on the side, basically we would have to cut five feet off of it, off that end. Those dormers would not no longer line up over the garage doors any longer. So that's why we need the 264 square feet.

Chair McVety opened the meeting to Public Comments.

Public Input

Jon Stowell said he has been sworn in. I am here representing my wife, Susan Stowell. We reside at 5352 Kaspar Avenue. Jack Baker has a beautiful property that he has made significant improvements on. The landscaping is immaculate and the four lots are beautiful. I have no idea what the plans look like, but it looks like it's keeping in line with what he has now. It's going to be a beautiful property and respectfully recommend and request the approval of this exception.

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

Elizabeth Nocheck presented the recommended conditions for the petition.

Board Member Comments and Questions

Mr. Vieira says I do have a couple of questions if I could regarding the conditions. Item number 3 the detached garage shall not be used as a dwelling unit. How do we insure that? Is at site plan review do we ensure that there is no plumbing, no septic system is that how that ensures that it doesn't become a dwelling unit.

Ms. Nocheck says yes for building permits, they don't require site plan review for like residential garages.

Mr. Vieira so we based on what we may or may not approve here today that would be a stipulation in submitting a permit correct?

Asst. County Attorney David it is my understanding that they can have plumbing in the garage if they wished. It would be code enforcement activity I believe but Shaun if you want to weigh in on that.

Mr. McVety personally I want water to wash my cars and a sink to clean my hands.

Mr. Vieira I understand that, but I know but one leads to the other. We've got water now we can subdivide the inside of it. I am not saying that's the case with Mr. Baker, or the applicant is going to do that. But I am just asking the question for my own notification.

Mr. Cullinan yes sir, and they actually could convert this to a residence assuming it meets all the primary structure standards. They have three lots, they have three vested units of density, they are allowed a guest house if they were to properly permit it. If they are on septic and well increase the requirements for that, if they are on sewer or county water, they would be able to tie into those. The intent is to not have something that's permitted as a garage becoming without any proper approvals. But they do have a right under the code either as a free standing, they could unconsolidated the lots and that was an option we gave to them.

Mr. Vieira that leads me to my next question because item number 5 says that we would do a declaration of unity of title so that the lots could not be split. So, what you're saying to me is that they could be split in the future. He could un consolidate those lots and create a separate dwelling unit or single ERU for that garage?

Mr. Cullinan if they went through all the steps to properly permit it as a single-family structure or properly permitted as a guest house.

Mr. McVety if it meets the elevation and all the other stuff.

Asst. County Attorney David says Mr. Vieira you can not have an accessory use as the only use on a lot. He goes over this with Mr. Vieira about it has to be attached to the lot next door. Discusses the unity of title and residential building code.

ACTION: A motion was presented by Steve Vieira and seconded by John Davidson that Petition SE-23-012 be APPROVED based on the Community Development Staff Report dated April 5, 2023, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Variance with ten conditions recommended by staff.

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

1. The Special Exception, as approved by the Board of Zoning Appeals, is to exceed the maximum of 3,000-square feet for accessory structures on a property greater than one-half acre in size, to construct a 3,264-square foot detached garage, and extends only to the lands included in the Site Plans and legal description submitted with this application.

2. The Site Plan submitted by the applicant, as part of the petition, is for illustrative purposes only. All applicable regulations of County Code shall apply to this development. The applicant shall obtain all necessary permits and approvals as applicable to this development, including but not limited to right-of-way access and building permits.
3. The detached garage shall not be used as a dwelling unit.
4. The detached garage shall be constructed to match the materials and colors of the existing single-family residence.
5. Subject property shall remain under unified ownership and applicant shall complete a Declaration of Unity of Title pursuant to Section 3-5-541 of the County Code, to ensure that the lots may not be split or unconsolidated in the future.
6. The detached garage shall not be used for the purposes of storing any commercial vehicles, construction materials, heavy machinery, or hazardous materials.
7. The existing shed on subject property must be removed prior to the Certificate of Occupancy being granted for the proposed garage.
8. The construction of any additional accessory structures will require a modification of the Special Exception.
9. This Special Exception is granted for a term of three (3) years from the date of approval from the Board of Zoning Appeals; however, the Special Exception shall not expire if the owner commences the proposed development on or before the Special Exception's term expires.
10. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions, such as accessory uses, may be approved by the Zoning Official.

VAR-23-006

Carrie Slaughter is requesting two variances: (a) to reduce the required 40-foot front yard setback by 4.5 feet to allow a 35.5-foot front yard setback, and (b) to reduce the required 22.5-foot east side yard setback by 15 feet to allow a 7.5-foot side yard setback, for a new 15-foot-tall, detached garage, in the Residential Single-family-5 (RSF-5) zoning district. The property is located at 5615 Oakview Lane, in Punta Gorda, and is described as Lots 27 & 28, Block A, of the Allapatchee Shores Subdivision, located in Section 28, Township 41 South, Range 23 East.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Mr. McVety has two questions, anything over 12 foot, every foot you got to be 5 foot more from the property line.

Ms. Nocheck Yes.

Mr. McVety is that measuring from the top of the tie beam or from the roof?

Ms. Nocheck I am going to let Shaun take that one.

Mr. Cullinan that is the wall height, so top of the tie beam.

Mr. McVety why did we come up with this rule?

Mr. Cullinan that was when we changed these regulations and I want to say about 2018 we were getting a lot of structures, accessory structures that were dwarfing the primary structures. We workshopped with the board a number of times regarding this, and it was actually a suggestion by the board if you're going to be creating a very large structure because most people when they do this, they put it as far from their primary as possible so as not to be not in their backyard if you will. Put that mass closer to their primary structure so that you're not impacting the neighbors as much. So, the higher up you get the closer you need to get to your own primary structure and away from the neighbors. So, you don't have a large, we were seeing some of these were at like 20 feet tall right on ya know 7 and ½ feet. These things were twice the size of the primary structures on some of these houses. There was one in Parkside it was an old Mackle house probably like less than 1,000 square feet and there was a 2,000 square foot garage that was about 18 feet tall right next to it. Those folks stated that they only bought that house to put up that garage to store their boat. So, it was one of those situations where residential neighborhoods were starting to be becoming more industrial that's also when we put in the compatibilities for over 3,000 square feet as well as if you have more than 3,000 square feet you've got to get the special exception because while you may have the land mass to be able support the accessory structure. We wanted to make sure that the accessory structure wasn't becoming the primary structure.

Applicant Presentation

Carrie Slaughter, applicant, said she was sworn in. I just want to thank you for taking the time to hear the variance appeal. Just also want to note that it is part of my husband's treatment plan from the VA to be able to have boating and recreational activities. Also, for his job field he's going into. We actually moved from Illinois in May of 2021, so we were able to experience Hurricane Ian and we had our boat and the trailer stored outdoors and both sustained considerable damage. The boat was luckily mostly cosmetic but the travel trailer the frame was a little damaged. So, we have to have that repaired and we still can't get an appointment to get it repaired. So, as Elizabeth mentioned if there is a Hurricane our back up plan is to be able to utilize that for housing. And we were not able to do that this time, the rental that we are in did sustain damage. So, it kinda put a wrench in our plans for that. As far as the boat, she mentioned my husband is trying to get his captain's license. He had trouble in Illinois trying to get a job after the military and everything like this. We moved here for a better quality of life and ya know. With the rules I understand we don't want to create something large that would look unsightly. When we purchased in that neighborhood, we saw the neighbor that had that detached garage. It blends in you can't really see it. The front view of it ya know it's visible but otherwise it's pretty well hidden. We want to make sure everything looks nice and is cosmetically pleasing.

Chair McVety opened the meeting to Public Comments.

Public Input

No one spoke for or against this request.

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

Elizabeth Nocheck presented the recommended conditions for the petition.

Board Member Comments and Questions

None.

ACTION: A motion was presented by John Davidson and seconded by Steve Vieira that Petition VAR-23-006 be APPROVED based on the Community Development Staff Report dated April 5, 2023, 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 five conditions recommended by staff.

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

1. The two variances, as approved by the Board of Zoning Appeals, are to **(a)** reduce the required 40-foot front yard setback by 4.5 feet to allow a 35.5-foot front yard setback, and **(b)** to reduce the required 22.5-foot east interior side yard setback by 15 feet to allow a 7.5-foot east interior side yard setback, to allow a new 15-foot-tall, detached garage.
2. The variances shall only apply to the proposed 15-foot-tall, detached garage, as shown in the documents submitted with this application.
3. Subject property shall remain under unified ownership and applicant shall complete a Declaration of Unity of Title pursuant to Section 3-5-541 of the County Code, to ensure that the lots may not be split or unconsolidated in the future.
4. These variances are granted for a term of three (3) years from the date of approval from the Board of Zoning Appeals; however, the variances shall not expire if the owner commences the proposed development on or before the variance's term expires.
5. If the detached garage is removed or replaced, these variances shall expire and all future development must be constructed according to all applicable codes in existence at that time, unless a new variance is granted specific to the development proposed at that time. This condition shall not apply to removal or replacement caused by a natural disaster or involuntary destruction of the detached garage.

X. Public Comments –

None

XI. Staff Comments –

Ms. Nocheck said next month we have six petitions, five variances and one special exception, several of them are a bit complicated so bring a snack.

XII. Member Comments –

Take a quick break at 9:52 a.m. before the videos.

XII. Next Meeting

The next meeting of the Board of Zoning Appeals is scheduled for Wednesday, May 10, 2023 at 9:00 a.m., in Room 119.

There being no further business, the meeting **ADJOURNED** at 9:57 a.m.

Respectfully submitted,
Kimberly Sargent, Recorder
/kas



Blair McVety, Chair

Approval Date: _____

