



# MINUTES

## Charlotte County Board of Zoning Appeals

Wednesday, November 13, 2024 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, Secretary  
Turner Rouse  
Andrew Filieo

### **Staff:**

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

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### I. **Call to Order**

Chair McVety called the November 13, 2024, 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. **Introduction of Staff/Comments**

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

### VI. **Approval of Minutes**

***ACTION:*** A motion was presented by Mr. Filieo and seconded by Mr. Vieira to approve the minutes of August 14, 2024, 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 November 13, 2024, Board of Zoning Appeals meeting none were submitted.

### VIII. **New Business**

The following petitions were advertised on October 29, 2024: VAR-24-013, VAR-24-014, VAR-24-015, SE-24-019, and SE-24-020.

**VAR-24-013**

Bruce & Deborah Brooks are requesting a variance to reduce the required 20-foot east side yard (abutting water) setback by 12.5 feet to allow a 7.5-foot east side yard (abutting water) setback, to allow an existing shed to remain “as-is” in its current location on subject property, in the Manufactured Home Conventional (MHC) zoning district. The property is located at 5503 River Bay Drive, in Punta Gorda, and is described as Lot 23 & a portion of Tract III, of the By the Sea Subdivision, Phase II, located in Section 25, Township 41 South, Range 22 East. The Parcel ID for subject property is 412224483001. A full legal description is available on file.

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

**Applicant Presentation**

**Bruce Brooks and Debbie Brooks, applicants, said they have been sworn in.** Mr. Brook said he agrees with everything that Elizabeth has said. Mrs. Brooks said we have a small community of thirty-three homes and we did receive positive enforcement from twenty eight of the homes in response to the situation that’s happening.

***Chair McVety opened the meeting to Public Comments.***

***Ms. Nocheck said she received several public comments from people who said that they were not able to attend and will label this as exhibit I and will pass it out.***

**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. Rouse. 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** said is the shed attached to the property? It’s tied down but is it physically attached to the property.

**Ms. Nocheck** said the applicant can best address that.

**Mr. Cullinan** said do you mean attached to the existing house.

**Mr. Brooks** said yes, it is attached to the garage.

**Mr. Vieira** said on the survey it still shows on our slide site image for variance 24-013 it still shows the dotted line from the covered boat lift to the street. Looking at the material that we were provided, I couldn’t see anywhere on the narrative that previous owners acquired that land. Do we have verification that it is an acquired piece of property and part of this exact property that we’re talking about.

**Ms. Nocheck** said that I was not able to locate that document for the property consolidation of the resub division of the property, but it is in all of their deeds and titles.

**Mr. Cullinan** said the property appraiser it's showing up as yellow dash which means the property appraiser allowed in to be consolidated so the ownership would have had to been verified for the property appraiser to consolidate it.

**Mr. Vieira** said I guess my next question would be, even if it wasn't part of it, would we still be in the same position with the same property line. Because it looks like its mangrove that's infiltrated the area over the years so we would still be dealing with the same shoreline.

**Mr. Cullinan** said yes sir, the way our code is written, and I can't speak for the nineties when the original structures were put up. The current code that's been in place for about a decade now, we clarified it that it is to either be mean high water or average high-water line for seasonal or the property line whichever is more restrictive.

***ACTION: A motion was presented by Nichole Beyer and seconded by Steve Vieira that Petition VAR-24-013 be APPROVED based on the Community Development Staff Report dated October 2, 2024, 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 four conditions recommended by staff.***

***Motion was approved with a unanimous vote with the following four conditions:***

1. The variance, as approved by the Board of Zoning Appeals, is to reduce the required 20-foot east side yard (abutting water) setback by 12.5 feet to allow a 7.5-foot east side yard (abutting water) setback, to allow an existing shed to remain "as-is" in its current location on subject property.
2. A companion variance, as approved by the Board of Zoning Appeals, to reduce required 20-foot east side yard (abutting water) setback by 2.4 feet to allow a 17.6-foot east side yard (abutting water) setback, to allow the existing detached garage to remain "as-is" in its current location on subject property.
3. The variances shall only apply to the existing shed and existing detached garage, as shown in the documents submitted with this application.
4. If the shed or detached garage is removed or replaced, the applicable variance 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 the removal or replacement caused by a natural disaster or involuntary destruction of the detached garage or shed.

**VAR-24-014**

Louis & Patricia McPhail are requesting a variance to reduce the required 7.5-foot east side yard setback by 4 feet to allow a 3.5-foot east side yard setback, for a new carport, in the Manufactured Home Conventional (MHC) zoning district. The property is located at 7317 Desant Lane, in Port Charlotte, and is described as Lot 38, Block 20, of the Village of Holiday Lakes Subdivision, First Replat, located in Section 09, Township 41 South, Range 21 East. The Parcel ID for subject property is 412109333003.

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

**Applicant Presentation**

**Louis and Patricia McPhail, applicants, said they were sworn in.** **Mr. McPhail** said he had a minor stroke about eight weeks ago and having a little bit of difficulty with current events, so he is turning it

over to his wife. Mrs. McPhail said we just like to thank Ms. Nocheck for doing a good job explaining our situation. But I would also like to just mention that when we purchased this home two years ago. Our focus was not on the carport, the focus was on finding a safe place to live after dealing with five different moves in over an eighteen-month period. This is not something that we choose to do to beautify our property or to make it look a little bit better than the neighbors. This is far from it, we have dealt with slippery driveway, very slippery stairs the way they were made from the manufacturer. We found that we can not open both doors in order to easily enter our property. As you know in Florida it rains almost every day. We are just hoping that you do consider this request so that we can safely enter and exit our property without having a severe injury. As we age, we do not have the strength that we once had or the mobility and I thank you for considering that.

***Chair McVety opened the meeting to Public Comments.***

**Ms. Nocheck** said she did receive some emails from adjacent property owners. The first one I will point out is from the adjacent property owner to the east with no objection of the petition. I will distribute these out and this will be exhibit K.

**Public Input**

**James Boshans, who lives in Village of Holiday Lake on Ratan Circle**, said when I selected my mobile home, I wanted a 54-foot unit and I had to shrink it down to a 48 because of the same type of problems with the carport. They could have gone with a single wide in the same square footage and had room for a wider carport if that's what they wanted. At this point in time, they could do a narrower carport they could park in front, and they could put a non-slip surface there. So, they could get out of their car and walk under the narrower carport, they can do that. I am on the environmental committee and were not going to approve it, it's a deed restricted community. We are not going to approve it on our end, we want the seven and a half foot for esthetics for one and for the other for our mowers. Our mowers come by with a six-foot-wide mower and if they got the carport three and half foot off. Now you're going to have some gutters hang out there for drainage. So, you're probably talking about two and half feet and if their neighbor wants to put a tree in there the mowers may not be able to get through there. There are reasons we have these seven and a half foot setbacks, the last carport that was there. It was probably done without permitting because the environmental committee does not allow that.

**Lori Geer, who lives in the Village of Holiday Lake**, said I am just here not against these folks. Again, we are a deed restricted community. These folks the survey that was submitted is not the correct survey, because the property does have an existing shed. It is not shown on that property, they also required and requested a nine-foot driveway which was approved by the county. Not a ten foot which was stated in the survey that was submitted. This permit as far as I am aware, the shed that is installed did not have a permit and does not meet the setbacks as indicated in the response. As far as an undue or hardship these folks unfortunately as many in our community do have illnesses and disabilities. You choose the home that you replace it with to be smaller to fit the carports that you want. I have a twelve-foot carport I still don't open up my car doors to get in. My husband is disabled on crutches, there is many people who have had strokes, and sadly these folks also. We have people in wheelchairs. Again, we are a community with a deed restriction, but the paperwork that was submitted is not totally accurate. I would like for you folks to review; I believe also that our village has submitted their recommendations or disagreement with this. This relates to five hundred and fifty-one homes, there is many homes that have less of a property within our community. That also have to comply with the setbacks that are required and do require and have submitted permits. Putting homes that are either single wide or smaller. They do fit and there are many people who are probably here today that have had to put in a smaller home than they wanted. Myself included and to choose a carport, if you want a

lanai or you want a carport. When you go to put your house in that's what you decide on and that's what the people tell you what property size or home that you can fit. This is not against these folks this is because we live in an HOA and rules apply to all of us the same.

***There being no further requests to speak for or against the petition, Mr. Rouse moved to close the public comments, seconded by Ms. Beyer. 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** asks Ms. Nocheck does the new manufactured home actually sit seven and half feet off the existing property line.

**Ms. Nocheck** said that is what the survey says and that is what we have to go by.

**Chair McVety** said on the front two corners where the lots are narrower than it's more as the lots get wider.

**Ms. Nocheck** said correct that the narrowest point here at the bottom it does show a seven-point five-yard setback.

**Mr. Vieira** said can you tell me where the home is set, does the county approve where the house is set and rely on the survey that's been given.

**Mr. Cullinan** said at the end of the permit an as built is required to make sure that it was put in the right place.

**Mr. Vieira** and **Mr. Cullinan** have a discussion along with **Ms. Nocheck**.

**Mr. Cullinan** said based on the comment by one of the speakers even if you approve it today, if their HOA denies it, that would be a civil matter and we would not have any involvement in that.

***ACTION: A motion was presented by Steve Vieira and seconded by Turner Rouse that Petition VAR-24-014 be APPROVED based on the Community Development Staff Report dated October 2, 2024, 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 three conditions recommended by staff.***

***Motion was approved with a unanimous vote with the following three conditions:***

1. The variance, as approved by the Board of Zoning Appeals, is to reduce the required 7.5-foot east side yard setback by 4 feet to allow a 3.5-foot east side yard setback, for a new carport.
2. The variance shall only apply to the proposed carport, as shown in the documents submitted with this application.
3. If the carport is removed or replaced, this variance shall expire and all future development must be constructed in accordance with 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 the removal or replacement caused by a natural disaster or involuntary destruction of the carport.

**10:06 Recess**

**10:10 Resume**

**VAR-24-015**

Robert Eichner is requesting a variance to reduce the required 15-foot rear yard setback by 3.1 feet to allow an 11.9-foot rear yard setback, for a replacement pool cage, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at 24357 Treasure Island Boulevard, in Punta Gorda, and is described as Lot 27, Block F, of the Pirate Harbor Subdivision, located in Section 19, Township 42 South, Range 23 East. The Parcel ID for subject property is 422319455006.

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

**Applicant Presentation**

**Robert Eichner, applicant, has been sworn.** Mr. Eichner said Elizabeth did a great job explaining and does not really have anything else to add.

**Mr. Rouse** said he has a comment, you guys got beat up by Milton horribly too, I've driven by and feel sad for what happened there after.

***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. Rouse. 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 Turner Rouse and seconded by Andrew Filieo that Petition VAR-24-015 be APPROVED based on the Community Development Staff Report dated October 2, 2024, 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 three conditions recommended by staff.***

***Motion was approved with a unanimous vote with the following three conditions:***

1. The variance, as approved by the Board of Zoning Appeals, is to reduce the required 15-foot rear yard setback by 3.1 feet, to allow an 11.9-foot rear yard setback, for a replacement pool cage.
2. The variance shall apply to the existing swimming pool and pool deck, and replacement pool cage, as shown in the documents submitted with this application.
3. If the replacement pool cage or existing swimming pool or pool deck is removed or replaced, this variance 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 the removal or replacement caused by a natural disaster or involuntary destruction of the swimming pool, pool deck, or pool cage.

#### **SE-24-019**

Z Development Services, representative for Boos Development Group & Dubbland Development, Inc., is requesting a special exception to allow outdoor storage and display of retail items, in the Commercial General (CG) zoning district. The property is located at 574 Tamiami Trail & 16119 Chamberlain Boulevard, in Port Charlotte, and is described as Parcels P1 & P1-1, Block 1180, of the Port Charlotte Subdivision, Section 30, located in Section 02, Township 40 South, Range 21 East. The Parcel IDs for subject property are 402102356014 & 402102356001. A full legal description is available on file.

#### **Applicant Presentation**

**Robert Ziegenfuss, representative for Boos Development Group & Dubbland Development, Inc., said he was sworn.** Mr. Ziegenfuss said thank you Elizabeth for that great explanation and for working with us as we've applied for this special exception. I want to start out with number one, we do agree with all the staff recommendations of approval here and the conditions of approval. Wanted to add a little bit more and kind of go through obviously the basic idea for this special exception. Is that the board has a chance to look at these on a case-by-case basis. Every site is different and the request for outdoor storage is a reasonable thing to be sitting in front of this board today. To explain, this cases special conditions and the idea of outdoor storage, where it can be placed and it being a Tractor Supply is a corporate entity. Talks about the neat fashioned storage, the surrounding area, the protection of the residents and the proper site design. He discusses the canals, landscaping and fence along with the placing of the pond on the site plan. Explains no livestock being sold or feed for livestock would be stored outside and could lead to critters. All the feed products will be sold inside.

**Mr. Rouse** said how deep is the retention pond.

**Mr. Ziegenfuss** said we are not in final design yet, we need to get the geo technical report, we do expect it to be a wet pond. Generally speaking, your depth to the water you're going to see a 3-4 foot depth from the top of berm down to the water level. Then the water level is usually in the 6-10 foot range of standing water.

***Chair McVety opened the meeting to Public Comments.***

#### **Public Input**

**Neil Mihalich, have been sworn in, said after taking a look at the fact that a Tractor Supply is going to be at the corner there. One of the things that stood out to me, and we live off of Tazowill Drive.** Mr. Mihalich said which is just after where the Tractor Supply is going to be. It says there is no public threat to public safety and living right there knowing that Chamberlain and 41. There is a lot of accidents that take place there. There is so much traffic that goes through there and it's so difficult for cars to get through as it is. My main concern is with any type of storage that's going on here at the Tractor Supply anything with the parking lot. I don't know what the plan is to be able to make this safer and make it a safer situation. I think that the amount of traffic that is going to be going through there definitely poses a threat to public safety. I believe there should be a light at 41 and Chamberlain. It's a very dangerous situation and I don't think any of the products that will necessarily be outside here would pose a risk. I am definitely very nervous about living right there and knowing that so many accidents occur there already. I think it's just going to be setting us up for even more problems at that street.

**Chair McVety** said so you are not against Tractor Supply you just don't want something to be there because.

**Mr. Mihalich** said I am not against Tractor Supply my main concern and I don't know if this is the forum for it, but I would like it to be on the record. Is that the traffic is so bad there, that I think we need a light there.

**Chair McVety** said this is not the place for that.

**Marisol Mihalich, I also live at 360 Tazewell Drive. Mrs. Mihalich** said I agree with everything that Neil said with the need for there to be a light because there is already traffic that is very dangerous.

**Chair McVety** said we're just here to approve outside storage.

**Ms. Nocheck** said that we did receive one email from an adjacent property owner who is unable to attend, and I will label this as exhibit K for the record.

**Beverly Kay Wensel, I live at 545 Pembroke Drive, I am an adjacent property owner to this. Ms. Wensel** said just looking at your criteria that you said for yourself. This isn't going to meet the criteria for a variance. I don't know if you are familiar with this property was combined a year or two ago. It was small commercial properties that were very small. I thought that they maybe doctor's or dentists' office and the county approved combining all those lots and that little piece of road into one piece of property that goes all the way to Tamiami Trail. I feel like it's happening in increments and now this is the final and may not be the final. This is an additional increment to destroy what was there planned to start with. It would create a unique hardship on me because my property is right there at the canal. The question I have is what on that plat is the purple going around down the canal on both sides. It said eight foot.

**Ms. Nocheck** said are you referring to this line and they both discuss the type D buffer and eight-foot opaque fence.

**Chair McVety** said are you against Tractor Supply going.

**Ms. Wensel** said yes.

**Chair McVety** said the development of just Tractor Supply, would you be ok with something else going there like a gas station.

**Ms. Wensel** said no I would be ok with doctor's offices going in there which is what I naively originally thought because of the size of the lots that were originally there.

**Chair McVety** said it's bigger now because they killed and combined it and they discussed this.

**Mr. Cullinan** said just a little bit of background yes it had been platted as smaller lots around that cul-de-sac that the pavement is still there. That went through a plat vacation, the plat vacation process was advertised, went through the public hearing process through and the board found that it was in the county's better interest to have it a large parcel. Actually, that's a number of provisions of our comprehensive plan because of how the small lots were created, they don't make for good development for commercial development. We actually do encourage people to try to make larger lots



out of these smaller pieces for better overall development. With respect to a previous speakers comment about traffic light at 41 and Chamberlain. I used to live off of Chamberlain in North Port myself and I know what that's like. The uses are by right commercial uses, FDOT would control the timing and installation of any light there. I don't have any knowledge of anything being in the plans for that. There is a lot of criteria that light installations are based on. Back to this one though, the only reason we are here today is for the outside storage aspect of it. The Tractor Supply, a gas station, a restaurant any type of use in the forty plus allowed uses within the code could go there by right with no public hearings. The only reason that there have been any public hearings relating to it was to vacate because it had never developed. It almost couldn't develop when you have to factor in parking, landscaping, stormwater on those small individual lots. There are a lot of provisions that have looked for that, this type of consolidation.

**Ms. Wensel** has a discussion with **Chair McVety** and **Mr. Cullinan** pertaining to a variance vs. special exception and confusion on which type of item she was here for.

**Kathie Carter, I live on Pembroke Drive also. Ms. Carter said after hearing all of it and I was sworn in also. Ms. Carter** said after hearing all of this I only have one question. During the hurricane which we have had a lot of this year and maybe another one coming next week. What happens to all the stuff outside, is it just gonna blow into our homes.

**Chair McVety** said he will ask that question.

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

Elizabeth Nocheck presented the recommended conditions for the petition.

**Mr. Ziegenfuss** said they do secure it or remove it from the facility and store it away if a hurricane is coming. They don't want to have their products damaged during the hurricane. They will make sure all is secured as well. We will be doing a traffic study we will be having to permit this not only with the county's transportation staff or engineering staff. We're also going to be going through the department of transportation and permitting through them. Since we will be trips on Tamiami Trail that will be added due to this project so they will be reviewing it and scrutinizing it closely as well. I will add for the folks that came up here and spoke and are concerned. One thing about it and mentioned this property can be developed, it's a commercial development if something were to come without outdoor storage. It could develop without coming before any board or any public hearing. The one good thing about this process for the residents of the area is that, through this special exception as I mentioned in the beginning it allows you the ability to put these stipulations on our approval with these increased landscaping requirements. That we are agreeing to here to help protect those residents more in the situation where a special exception would not be needed. I just wanted to make mention of that for those here in the audience as well. I am here to answer any other questions you might have.

#### **Board Member Comments and Questions**

None

***ACTION:*** A motion was presented by Andrew Filieo and seconded by Steve Vieira that Petition SE-24-019 be APPROVED based on the Community Development Staff Report dated October 2, 2024, 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 sixteen conditions recommended by staff.***

***Motion was approved with a unanimous vote with the following sixteen conditions:***

1. The Special Exception, as approved by the Board of Zoning Appeals, is to allow outdoor storage and display of retail items as an accessory to a retail store and extends only to the lands included in the Site Plans and legal description submitted with this application.
2. The **Concept Plan** (Exhibit H) 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 Site Plan Review, parking, vegetation removal, fencing, stormwater management, and landscape plan approval.
3. The outdoor storage and display areas are limited to a total of 31,500-square feet.
4. The outdoor storage of animal feed, debris, heavy machinery, or hazardous materials is prohibited.
5. Items permitted for outdoor display in front of the retail store may include plants, trees, pottery, statuary, and customary garden accessories. Lawn mowers, dog kennels, garden carts, grills, bagged mulch, and other similar products may also be displayed in these areas. All items displayed outside of the fenced storage area shall be maintained so as not to create junk-like conditions.
6. Items permitted for outdoor display in the area labeled as “permanent trailer equipment display” on the **Concept Plan**, may include lawn mowers, open and enclosed trailers, all-terrain vehicles, golf carts, and similar vehicles or equipment. A maximum of 15 vehicles may be displayed in this area at any one time.
7. Items permitted for outdoor storage and display in the areas labeled as “fenced outdoor display area” and “rear storage area” on the **Concept Plan** may include fencing, farm/ranch and livestock products and equipment, trailers, small machinery, lawn and garden equipment and machinery, bulk landscaping materials and equipment, and other related miscellaneous and seasonal items. Materials stored on racks or in bins, stacks, or piles shall not exceed 8 feet in height.
8. Open storage of fencing and similar items used for property improvements such as piping or drainage products, non-bagged mulch, stone, pallets of sod, or other bulk landscaping items is not permitted outside of the fenced storage area.
9. Only commercial vehicles owned, rented, or sold by the business operating on subject property may be stored on site. Rental of storage spaces to other commercial vehicles is prohibited. Small machinery, such as bobcats, skid steers, telehandlers, excavators, front end loaders, and forklifts may be stored on site. Rental of said machinery shall also be permitted by the business operating on subject property.
10. Outdoor storage shall be limited to the areas shown on the **Concept Plan**, and any change to the location(s) of outdoor storage on subject property shall require the modification of the special exception.
11. A “Type D” landscape buffer with a minimum 6-foot-tall sight-obscuring (fully opaque) fence or wall, shall be constructed and planted around the perimeter of the areas to be used for outdoor

storage, as shown on the **Annotated Concept Plan** (Exhibit I). The Type D buffer may be placed adjacent to the north and east property lines, between the stormwater retention pond and the outdoor storage areas, or a combination thereof. The use of chain link fencing as part of the required buffers is prohibited. All required landscaping shall be planted on the outside of the fence or wall. Existing vegetation may be used towards the required buffer plantings. Final design of the required buffers shall be determined during the Site Plan Review process.

12. An 8-foot-wide perimeter landscape strip with a continuous hedge row of at least 3 feet in height shall be planted along the south and west property lines, as shown on the **Annotated Concept Plan** (Exhibit I). Any proposed fencing shall be located behind the required trees and shrubs.
13. Any perimeter outdoor lighting shall be directed towards the interior of the property.
14. Any building(s) shall meet or exceed all applicable Commercial Design Standards set forth in Chapter 3-5, Article XXIV, as may be amended. Storage/shipping containers may not be kept on subject property unless enhanced to meet the Commercial Design Standards.
15. 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.
16. Any major changes or additions to this special exception shall require a modification of the special exception, including a change in type of business located on site. A change in ownership shall not require the modification of the special exception, provided the business operations as a retail establishment offering lawn and garden or similar property maintenance supplies or similar products remain. Minor changes or additions, such as accessory uses or structures, may be approved by the Zoning Official.

#### **SE-24-020**

John Cascio, representative for JA Cascio Enterprises LLC, is requesting a special exception to allow outdoor storage for a building trades contractor, in the Commercial General (CG) zoning district. The property is located at 27016 Rushmore Avenue, in Punta Gorda, and is described as Lots 25 – 30, Block 34, of the Harbour Heights Subdivision, Section 5, located in Section 15, Township 40 South, Range 23 East. The Parcel ID for subject property is 402315357012.

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

#### **Applicant Presentation**

**John Cascio, representative for JA Cascio Enterprises LLC, was sworn in. Mr. Cascio said I really don't have anything to add I agree with everything.**

***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 Ms. Beyer. The public comments was closed with a unanimous vote.***

Elizabeth Nocheck presented the recommended conditions for the petition.

### **Board Member Comments and Questions**

**Chair McVety** said about combining lots to build, he has six lots here. I don't know what you could build on one lot. It's twenty-five foot wide.

**Mr. Cullinan** said that's one of the reasons why we have the provisions and we do encourage the combining of lots. Just like residential lots were platted out twenty-five, fifty, eighty.

**Chair McVety** said and Harbour Heights is forty-foot and discusses with **Mr. Cullinan**.

**Mr. Vieira** said I know we've gone around on this a lot, with the previous owner. I have a lot of apprehension about this, not against the business going in but the site development. We are looking at some initial improvements, no environmental plan and I'm not even sure that you can relocate gopher tortoises inside a landscape area that your required to build. That is in the narrative, the other issue is we're taking down an eight-foot chain link fence that has vines growing all around it. Which was kind of a screen, but we want to replace it with a six-foot opaque fence and then allow stacking to be eight feet. I looked at the photographs of the septic tanks that are going to be stored on there. They certainly exceed six feet in height so you know allowing a six-foot opaque fence I wouldn't go for that. I would have to have an eight foot and the timeline. That is the other thing that concerns me, we've got a timeline by the applicant zero to six months they'll do x. Then from six months to thirty-six months we may build a building. In my mind what I'm doing is I'm giving somebody the ability for three years to have an open storage yard and no building. The timeline is too far for me to even support this, I think that timeline needs to be tighter. How the county wants to work that out if it's approved if fine, but thirty-six months for me is way out of line. It just doesn't jive with the rest of it., it leaves it open to a lot of miss use of the property in my mind. I just think that we ought to reconsider that, those are my objections, I can't support the application as it's written, just under those circumstances by itself.

**Mr. Cullinan** said just with any other petition you have the right to modify our proposed conditions. You are correct there is a lot of history. I am looking at the eagle view shots that were done by the property appraiser from October of this year. It appears cleared off as of now and discussion takes place with **Mr. Vieira**.

**Chair McVety** said that is turning into a little industrial park though right.

**Mr. Vieira** said Granite company has moved onto Broadpoint Drive and built a new facility there. They did that in less than eighteen months. We approved that here and we also approved that in planning and zoning I believe. They built and constructed in eighteen months, I'm not sure if they actually have the certificate of occupancy at this point in time. It appears I see activity in there, but I don't know if they actually have the CO yet.

**Chair McVety** said sir, if you could just go over your timeline for us of what you would like to do with this property, to answer his questions please.

**Mr. Cascio** said absolutely, the timeline it was my understanding that was y'all's timeline that something needed to be done prior to thirty-six months. That is why I used that with respect to your concern about the fence I believe it's in our proposal. We are proposing an eight-foot-high PVC fence.

**Mr. Vieira** said your narrative says six foot.

**Mr. Cascio** said does it say six foot.

**Ms. Nocheck** said the narrative does say eight feet staff recommends six feet at the direction of the county attorney's office.

**Mr. Cascio** said my intention was to absolutely to put an eight-foot fence up. If you wanted a tighter timeline, I get that. Please don't hold it against me, it's done by others. I fully intend to make it beautiful; I fully intend to follow all the rules. I find it spell binding that somebody would put a chain link fence knowing that they couldn't put a chain link fence. I don't know why you would invest the money in that knowing that it's not going to be approved.

**Mr. Vieira** said I'm not suggesting that you got cut from the same cloth as the gentlemen before you, I'm not suggesting that at all. I live in that neighborhood, and I want to make sure that it's to protect the neighborhood. I don't want to see a dumping ground where somebody comes in and we approve something and give you three years. You make some minimal improvements as we suggest you do and then flip the property. Maybe you can't build the building or can't do something so I'm looking for more skin in the game if you will.

**Mr. Cascio** said sure.

**Mr. Vieira** said just to protect the surrounding neighborhood and has a small discussion with **Mr. Cascio**.

***ACTION: A motion was presented by Steve Vieira and seconded by Andrew Filieo that Petition SE-24-020 be APPROVED based on the Community Development Staff Report dated October 2, 2024, 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 it includes all eleven conditions recommended by staff and I would like to see that an eight foot opaque fence or concrete wall be installed. Replacing item four it would read minimum eight-foot-tall obscuring opaque fence or wall. I would like to see that the timeline be adjusted down from thirty-six months down to twenty-four months for development.***

***Motion was approved with a unanimous vote with the following eleven conditions:***

1. The Special Exception, as approved by the Board of Zoning Appeals, is to allow outdoor storage for a building trades contractor and extends only to the lands included in the Site Plans and legal description submitted with this application.
2. The Concept 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 Site Plan Review, right-of-way access, vegetation removal, fencing, stormwater management, and landscape plan approval.
3. The storage of debris, semi-trucks, or hazardous materials is prohibited.
4. A "Type D" Landscape Buffer with a minimum 8-foot-tall sight-obscuring (fully opaque) fence or wall, shall be constructed and planted around the perimeter of the area to be used for outdoor storage, as shown on the **Concept Plan** (Exhibit G), provided by the applicant. The use of chain link fencing as part of the required buffer is prohibited.
5. Materials stored in stacks or piles shall not exceed eight (8) feet in height.
6. Any perimeter outdoor lighting shall be directed towards the interior of the property.

7. Any future building(s) shall meet or exceed all applicable Commercial Design Standards set forth in Chapter 3-5, Article XXIV, as may be amended.
8. The outdoor storage use may not be used until all required improvements are completed, including the required buffers, and a Certificate of Occupancy/final inspections have been issued for the storage yard.
9. The outdoor storage use shall be limited to vehicles, equipment, and materials owned by the business(es) operating on subject property. Storage spaces may not be leased or sold to other individuals or businesses.
10. This Special Exception is granted for a term of two (2) 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.
11. Any major changes or additions to this special exception shall require a modification of the special exception. A change in type of outdoor storage shall require a modification of the special exception. Minor changes or additions, such as accessory uses or structures, may be approved by the Zoning Official.

V. Public Comments –  
None

VI. Staff Comments –  
**Mr. Cullinan** said Happy Thanksgiving everybody and hope everybody faired well during the month of October when we were not able to have our meeting. Good luck to everybody next week onward.  
**Ms. Nocheck** said please accept my Happy Thanksgiving wishes to you and your families as that is coming up. I'm sure we are all thankful for hurricane season hopefully ending soon. Next month we have two petitions, and they are both towers.

VII. Member Comments –  
None

XII. Next Meeting  
*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, December 11, 2024 at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 11:22 a.m.

Respectfully submitted,  
Kimberly Sargent, Recorder  
/kas

  
\_\_\_\_\_  
Blair McVety, Chair

Approval Date: 12-11-24