



MINUTES

Charlotte County Board of Zoning Appeals

Wednesday, January 8, 2025 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
Kimlyn Walker, Asst. Co. Attorney
Elizabeth Nocheck, AICP, Sr. Planner
Kimberly Sargent - Recorder

I. Call to Order

Chair McVety called the January 8, 2025, 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 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.

VI. Approval of Minutes

ACTION: A motion was presented by Mr. Filieo and seconded by Mr. Vieira to approve the minutes of December 11, 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 January 8, 2025, Board of Zoning Appeals meeting none were submitted.

VIII. New Business

The following petitions were advertised on December 24, 2024: VAR-24-016, VAR-24-017, VAR-24-0108, VAR-24-019, SE-24-025, and SE-24-026.

Chair McVety said we are switching and will hear SE-24-025 first.

SE-24-025

Amber & Robert Kaleda, representatives for B and B Pet Resort, are requesting a special exception to allow a pet boarding facility with an outdoor dog run, located in the Commercial General (CG) zoning district. The property is located at 13425 Muriel Avenue, in Port Charlotte, and is described as a portion of Tract A, of the Port Charlotte Subdivision, Section 66 First Replat, located in Section 05, Township 41 South, Range 21 East. The Parcel ID for subject property is 412105433001. A full legal description of subject property is available on file.

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

Chair McVety asks was this always zoned CG or was it originally residential.

Ms. Nocheck said as far back as I can find it's been commercial general, they both discuss.

Mr. Vieira asks could you put the photograph up of the barrier between, is that already an existing class D landscape area from the previous.

Ms. Nocheck said I believe this might be the fence that McDonald's is required to have, they both discuss.

Mr. Cullinan said that is what the applicant is requesting. We are requesting a full type D buffer on their property as well. The applicant is requesting to reduce that.

Mr. Vieira asks about the chain link fence. Ms. Nocheck said that would not be allowed and they discuss.

Mr. Cullinan said after the recent storms what is and is not existing anymore is blurry.

Applicant Presentation

Robert Berntsson, Big W Law Firm, representative for the applicants, said he has been sworn in. Mr. Berntsson said I will accept Ms. Nocheck as an expert. I do have one question, Elizabeth you cited two studies with the World Health Organization study. Can you tell the board what was the primary noise that was detrimental in that study.

Ms. Nocheck said I believe it was a study of various noise types including environmental noises, such as traffic, and impacts that all of those may have. But they do specifically address dog barking in the study.

Mr. Berntsson said yes dog barking is mentioned however the primary noise produced recognized in that study is traffic noise. This property is just off of 776 and along Coliseum Blvd. He explains about how his client is going to operate the pet resort and what is involved with that. Talks about them not wanting to do a type D buffer, the fence and reserve time for rebuttal.

Mr. Vieira asks Mr. Berntsson are you proposing that there is no need for the applicant to put in any type of landscape area.

Mr. Berntsson said no, so we are absolutely, understand we have to put in the type D buffer on the east and west side of the property. The existing vinyl wall along the east side of the property is actually on

the property line and that is my client's fence. It has to be moved in, in order to provide a type D buffer because where it is you can't put the landscaping on the other side. We are accepting the type D buffer.

Chair McVety opened the meeting to Public Comments.

Public Input

Mike Payton, I live directly to the east of this said property, I was sworn in. Mr. Payton said here I brought a copy it's a little bit hard with today's society to get an actual written petition. I have copies for all of you. Explains seventy eight percent of the public and community are against this idea. Twenty two percent is for it. He explains the pictures that are misleading, and they are trying to compare the business to McDonald's. Talks about the business Banditos near by and the noise the band puts out. Talks about the measurements of his house and bedroom from where the business will be. He states this is part of our HOA and the neighborhood, gives the measurements for this, including the buffer and McDonald's which is not in compliance due to the hurricanes. The fence was fixed from me and not from McDonald's because they would not fix it. My house is now unsellable and explains all that is involved.

Lora Williamson, was sworn in, I live within the thousand feet. Ms. Williamson talks about his house, and it will be toast. The value will totally be being down and all of our surrounding homes because when they do comp's to sell, you know how it goes. Talks about the traffic from all directions not even including on the highway, the noise of all the dogs barking, the smell of all the poops and where will all the waste go. The value of my house will go down also which I don't want that. The fence won't stop noise or smell and the next hurricane the fence will get knocked down.

Eric Williamson, I have been sworn in, I live within the thousand feet. Mr. Williamson said Mr. Payton and Lora made good points. We are in an HOA and it's totally appropriate to have fifty dogs crapping outside in an HOA community and all that noise and waste are all concerns. I won't repeat but this is not good for the community and the property value. My vote is a no go on this.

Unknown male, said the main entrance to the gardens of gulf cove where we have almost one thousand homes. Talks on the development and the road coming down, and at the end of that street which is Rori. I live it's approximately fourteen homes on that street, we have had problems with dogs in some of those homes, there is small dogs and seem to bark at their shadow. The owners seem to not even hear them. So, when this proposal came out, we have a problem. Talks about the distance of the homes on that street, we can hear traffic on the main highway which it's the main highway at our development. I agree with the attorney that was here, he said something to the effect that putting a second buffer zone isn't going to do much. A buffer zone when a dog barks you hear across and your talking view not sound. Anyone in the area is going to hear, talks about the center for children in neighborhood and this shouldn't be allowed.

Asst. Co. Atty. Thomas David said the gentlemen didn't state his name for the record, could you please state your name.

Richard Liebel and I will mark it down here.

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

Rebuttal

Mr. Berntsson said this is going to be a pet resort and a well-maintained facility that will have supervision at all times. If a dog poops it is immediately cleaned up and disposed of properly. There are rules and regulations on how these facilities are run in order to be properly licensed. They will follow all of those rules. They are putting in state of the art technology, they will be separating the play areas to reduce socialization between the dogs. The dogs when they are outside will always be under supervision that will ensure that there is not excessive barking, noise or excrement left at the facility. Explains the layout of the house next to it and talks about all of the approved uses that can be utilized for this property without a special exception. We request the board accept this special exception with a modification of the condition not requiring a type D buffer along the rear property line adjacent to the McDonald's which has a fence currently in place. Talks about the landscaping be put back in place for that site.

Mr. Vieira said who is the health organization that regulates this type of, is it Charlotte County Health is it the state.

Mr. Berntsson said if there is a problem there would be. There are guidelines, the kennel club things of that nature that provides guidelines on how you operate the facility.

Mr. Vieira said are they subject to periodic inspections. They both discuss.

Mr. Filieo said does the applicant have prior experience of operating a pet resort and if so where can we look that up.

Mr. Berntsson stated they indicated they did train in Texas with a facility there and they were employed there and trained there. They both discuss on this along with the play periods for the animals.

Amber Kaleda, applicant, I have been sworn in. **Mrs. Kaleda** said I did some extensive training in Houston, Texas at a top-notch resort. Have been to many vendor events and training events over the years. I've also worked at a local kennel here in Englewood for two and half years. Have rescued animals for over thirty and have had two farms with Equines, many dogs. Worked with a dog trainer on a regular basis who is a canine police officer here in Charlotte County. I understand the residents' concerns, I tried to reach out to one and never got a response. Just to reassure everyone, we are putting our heart and sole into this business. It's all about taking care of the dogs, me myself who has dog's myself when I go somewhere. My top priority is to make sure that my dog's are well kept. Every well ran facility that I have been to that house more than two hundred animals. That have one hundred percent outdoor play areas, that's what they do, there day care is fully outside. None of the dogs are barking, the only dogs that are barking are the ones in the neighboring properties. The residents because they may not have control of the situation. If dogs are enriched, entertained, happy, healthy they are not going to be barking all day. If we have one that comes in that might be an excessive barker then he won't be outside for more than five or ten minutes to have a potty break. She goes over the play times and how the facility will be run.

Chair McVety said they have a question about the smell.

Mrs. Kaleda said we are installing canine turf around the entire property underneath that turf is four inches of gravel. We also have a clean wise wet vac system, that every time a dog goes to the bathroom, first of all when we let them out, they are all going to be out individually in the mornings one at a time. Not everybody will go and do your business, every time a dog goes to the bathroom it gets

picked up. The area is cleaned with what's called triple two which is a non-damaging natural deodorizer that is safe for dogs. She explains how that will be used and when.

Mr. Berntsson said with that we will conclude our testimony and respectfully request approval with a modification of condition three to not require a type D buffer along the rear of the property line abutting McDonald's.

Elizabeth Nocheck presented the recommended conditions for the petition.

Mr. Berntsson said for clarification of your condition number seven, you said it changed in configuration. Clearly, we are showing it through the site plan it's going to change. So, your intention there is an enlargement.

Ms. Nocheck said that is correct. They both discuss.

Mr. Cullinan said one of the reasons why we were requiring the fence and while we understand the alley effect that Mr. Berntsson referenced. You can look directly down that alley where you would see, hear the noise may be funneled out by bouncing off that fence directly to Coliseum Blvd. He asks Elizabeth to go back to the applicant's photos and explains with Mr. Berntsson and a discussion takes place.

Ms. Nocheck labels that as exhibit H for the record.

Asst. Co. Atty. Thomas David asked the Chair if he could read a couple of things into the record. Now that he has his document for the speech and reads it for everyone to hear and for the board to understand. He goes over a prior case law.

Mr. Vieira asks Ms. Nocheck what's the total square footage of the entire property. Ms. Nocheck starts to answer. Mr. Berntsson answers 14,559 square feet. Ms. Nocheck said 0.33 acres. **Chair McVety** said a standard lot is 10,000 square feet and it's fourteen thousand and change, so it's almost a lot and a half.

Mr. Cullinan said I wish I could say that is uncommon but all along 776, 41 and many areas that is relatively common where the commercial and, in some places, even industrial back directly up with.

Asst. Co. Atty. Thomas David said I believe the testimony phase of this hearing is completed. So, I would like to suggest to the board at this point in the proceeding the appropriate place is to do a motion and then you can debate among yourselves at that point.

ACTION: A motion was presented by Andrew Filieo and seconded by Steve Vieira that Petition SE-24-025 be DENIED based on the Community Development Staff Report dated January 1, 2025, the evidence and testimony presented at the hearing and finding that the applicant HAS NOT MET the required criteria for the granting of the Special Exception and reference back to item two and item three.

Motion was denied with a unanimous vote.

Board Member Comments and Questions

None

VAR-24-016

Stephen & Lillian GaNun are requesting 2 variances: (a) to reduce the required 15-foot rear yard setback by 2.5 feet to allow a 12.5-foot rear yard setback, for a replacement pool cage and to allow an existing swimming pool to remain “as-is” in its current location on subject property; and (b) to reduce the required 7.5-foot east side yard setback by 1.3 feet to allow a 6.2-foot east side yard setback, to allow an existing single-family residence to remain “as-is” in its current location on subject property, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at 9498 Modesto Circle, in Port Charlotte, and is described as Lot 10, Block 4505, of the Port Charlotte Subdivision, Section 81, located in Section 22, Township 41 South, Range 21 East. The Parcel ID for subject property is 412122307009.

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

Chair McVety said to Mr. Cullinan that back in 2000 the seawalls were put back three feet from the contour line and the measurement should have been three feet in front of the contour line. They have a discussion on this.

Applicant Presentation

Lillian GaNun and Stephen GaNun, applicants, Mrs. GaNun said we had our house built in 2000 and it’s been that way ever since we lived there. We have made no other changes to it and we are just requesting the variances so that we can replace our pool cage that was blown down by hurricane Ian and our house to remain as is.

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 Mrs. Beyer. 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 Steve Vieira and seconded by Andrew Filieo that Petition VAR-24-016 be APPROVED based on the Community Development Staff Report dated January 1, 2025, 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 variances, as approved by the Board of Zoning Appeals, are to **(a)** reduce the required 15-foot rear yard setback by 2.5 feet, to allow a 12.5-foot rear yard setback, for a replacement pool cage and to allow the existing swimming pool and pool deck to remain “as-is” in their current locations on subject property, and **(b)** to reduce the required 7.5-foot east side yard setback by 1.3 feet to allow

a 6.2-foot east side yard setback, to allow an existing single-family residence to remain "as-is" in its current location on subject property.

2. The variances shall apply to the existing swimming pool and pool deck and replacement pool cage, and the existing single-family residence, as applicable, as shown in the documents submitted with this application.
3. If the replacement pool cage or existing swimming pool, pool deck, or single-family residence is removed or replaced, the applicable 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 swimming pool, pool deck, pool cage, or single-family residence.

VAR-24-017

Margaret & David Kleinknecht are requesting a variance to reduce the required 15-foot rear yard setback by 4 feet to allow an 11-foot rear yard setback, for a new swimming pool, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at 9218 Newnan Circle, in Port Charlotte, and is described as Lots 5 & 6, Block 4528, of the Port Charlotte Subdivision, Section 81, located in Section 22, Township 41 South, Range 21 East. The Parcel ID for subject property 412122401001.

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

Applicant Presentation

Margaret Kleinknecht, applicant, said she was sworn in. Mrs. Kleinknecht said Elizabeth has done a phenomenal job quite honestly and so I don't think there is anything else I can add.

Chair McVety said I just need to mention one thing, you need to be big careful when they dig the pool that they don't hit the deadman of the seawall. Which probably is right where the pool is going.

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, Mrs. Beyer moved to close the public comments, seconded by Mr. Vieira. 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 Nichole Beyer and seconded by Steve Vieira that Petition VAR-24-017 be APPROVED based on the Community Development Staff Report dated January 1, 2025, 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 15-foot rear yard setback by 4 feet to allow an 11-foot rear yard setback, for a new swimming pool, pool deck, and pool cage.
2. The variance shall apply only to the proposed swimming pool, pool deck, and pool cage, as shown in the documents submitted with this application.
3. The variance is granted for a term of three (3) years from the date of approval from the Board of Zoning Appeals; however, the variance shall not expire if the owner commences the proposed development on or before the variance's term expires.
4. If the swimming pool, pool deck, or pool cage 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.

10:33 Recess

10:40 Resume

VAR-24-018

Joseph Rego, representative for the Diocese of Venice, is requesting 2 variances: (a) to reduce the required 25-foot front yard (west) setback by 5 feet to allow a 20-foot front yard setback, and (b) to reduce the required 15-foot north side yard setback by 8 feet to allow a 7-foot north side yard setback, for an 8-foot-tall fence, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at 21505 Augusta Avenue, in Port Charlotte, and is described as Tract A and Lots 51 – 57 of Block 2779, and Lots 1 – 8 of Block 2789, of the Port Charlotte Subdivision, Section 33, located in Section 15, Township 40 South, Range 22 East. The Parcel ID for subject property is 402215482001. A full legal description of subject property is available on file.

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

Applicant Presentation

Joseph Rego, representative for the applicant. Mr. Rego said Ms. Nocheck thank you, I think she gave all the details on this situation. I do however have with me a letter from 2018 from Charlotte County Sheriff's Department recommending taking our fences from 6 feet existing to 8 feet. That was the reasoning behind the schools purchasing the 8-foot fence back in September of 2023. Also included here are copies which you may or may not have in front of you, the crime reports for the neighborhood. I will gladly answer any questions you have at this time.

Chair McVety opened the meeting to Public Comments.

Public Input

Louise Raterman, I live across the street from this property. Ms. Raterman said I have lived there for more than forty years. The staff is recommending that you grant this request, it's a very large set back forgiveness. From fifteen feet to seven feet on one side the residential side that's more than half of what is required. I am here because I object to a game player who has deep pockets, who can hire an agent to come in to get off the regulations that most people have to go by. It is supposed to be an undeniable hardship, and goes over this and explains the narrative, inconvenience. Talks about the fencing in September of 2023 that is more than one year ago. In June of last year, the applicant removed all of the trees about the perimeter that are actually listed in the application on page 7.

Explains about the list of 164 trees and in the image that Elizabeth just showed and those are not there. They were all removed, horrifying. The volunteers, employees, parents, and children at the church and this took weeks. These trees were planted by a member on the congregation and our county administrator in the 90's. She mentions many people who planted all of these trees, and I went across the street and watered them with a bucket. The removal took all summer, and they also removed all the black top to do the parking lot. Talks about the fencing being installed along with sod and removed other trees. They planted new trees in August just a couple of palms. I just received this notification by mail 5 days ago and I would like to ask for an additional three minutes for a neighbor Isabel who can't be here. Discusses the fence and security, talks about local boys wanting to use the basketball hoops over at the church. She explains a lot of history of different issues going on and has pictures to show, just two sets.

Ms. Nocheck said we are going to label the exhibit produced by Mr. Rego as exhibit H. The exhibit produced by Ms. Raterman as exhibit I.

There being no further requests to speak for or against the petition, Mr. Vieira moved to close the public comments, seconded by Mr. Smallwood. 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 Andrew Filieo and seconded by Steve Vieira that Petition VAR-24-018 be APPROVED based on the Community Development Staff Report dated January 1, 2025, 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 variances, as approved by the Board of Zoning Appeals, are **(a)** to reduce the required 25-foot front yard (west) setback by 5 feet to allow a 20-foot front yard setback, and **(b)** to reduce the required 15-foot north side yard setback by 8 feet to allow a 7-foot north side yard setback, to allow for installation of an 8-foot-tall fence.
2. The variances shall apply only to the fence as shown in the documents submitted with this application. These variances do not allow for installation of other structures and must be amended if the applicant determines at a later date to construct or reconstruct new or existing structures that would abut the varied setbacks.
3. If the fencing 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 fence.

Mr. Vieira said I remembered two to three years ago when we had this application before us to build the gymnasium. I think prior to that is the Sheriff's report recommending that they take security measures on it. We have had other schools come before us for extensions of their campuses and I

purposely brought up security and I think this is paramount here. I think that the end product will justify the means in this case and feel that it's an item that we do need to approve for school security.

VAR-24-019

Kathleen Berkey, Esq., AICP, representative for Tamarind Gulf & Bay Condominium Association, Inc., is requesting 3 variances: (a) to reduce the required 30-foot front yard setback by 25 feet to allow a 5-foot front yard setback, (b) to reduce the required 10-foot north side yard setback by 5.5 feet to allow a 4.5-foot north side yard setback, and (c) to reduce the required 5-foot north peripheral landscape strip by 0.5 feet to allow a 4.5-foot north peripheral landscape strip, for replacement carports and to allow existing carports to remain in their current locations on subject property, in the Manasota Multifamily-7.5 (MMF-7.5) zoning district. The property is located at 2955 N Beach Road, in Englewood, and is described as the Tamarind Gulf & Bay Condominium Phases I – IV, located in Section 01, Township 41 South, Range 19 East. The Parcel ID for subject property is 411901702000.

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

Mr. Vieira said the Planning and Zoning board took some action a couple of months ago regarding Manasota Key. How does this overlay or become part of what was passed by.

Mr. Cullinan said it helps to reduce some of the required setbacks needed but because the majority of the changes for replacement in the same footprint was for the primary structures. It excluded accessory structures.

Applicant Presentation

Katie Berkey, representative for the applicant, has been sworn in. **Ms. Berkey** said I am a land use and zoning attorney, and I am also board certified in city, county and local government. I am also a certified land planner as Ms. Nocheck is. I accept Ms. Nocheck as an expert in land use and zoning as well. Explains the variance relief regarding the carports that had been damaged from Hurricane Ian. Mentions about the carports that were not damaged and if a future casualty event that they would be legitimized as a function of this variance instead of handling carport by carport. Size will be the same and will be identical in color and appearance. We respectfully request approval subject to the conditions and we take no issue with each of those. I would like to reserve time for rebuttal if there is public comment.

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. Filieo. 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 item number two, does that mean that through a maintenance program or because of a deteriorating factor that the applicant has to come back and modify this variance or special exception. A discussion takes place about this with Mr. Cullinan and Ms. Nocheck speaks on involuntary destruction.

ACTION: A motion was presented by Andrew Filieo and seconded by Steve Vieira that Petition VAR-24-019 be APPROVED based on the Community Development Staff Report dated January 1, 2025, 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 variances, as approved by the Board of Zoning Appeals, are: **(a)** to reduce the required 30-foot front yard setback by 25 feet to allow a 5-foot front yard setback, **(b)** to reduce the required 10-foot north side yard setback by 5.5 feet to allow a 4.5-foot north side yard setback, and **(c)** to reduce the required 5-foot north peripheral landscape strip by 0.5 feet to allow a 4.5-foot north peripheral landscape strip, for replacement carports and to allow existing carports to remain "as-is" in their current locations on subject property.
2. The variances shall apply only to the carport structures as shown in the documents submitted with this application. These variances do not allow for installation of other structures and must be amended if the applicant determines at a later date to construct or reconstruct new or existing structures that would abut the varied setbacks.
3. If the carports are 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 carports.

SE-24-026

Mary Sprague, P.E., representative for Joanna Fil, is requesting a special exception to allow the outdoor storage of vehicles, including boats, trailers, and recreational vehicles, in the Commercial General (CG) zoning district. The property is located at 4254 N Access Road, in Englewood, and is described as Lots 59 – 61, Block 3697, of the Port Charlotte Subdivision, Section 63, located in Section 01, Township 41 South, Range 20 East. The Parcel ID for subject property is 412001377002.

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

Mr. Vieira asks Mr. Cullinan can you tell me about the thirty-foot wide platted alley way. Is that a right of way for utility construction at a future date or is that separate from what a common right of way would be along the rear, the north side of the property.

Mr. Cullinan said that is already constructed, people are driving on it and some of the properties immediately on the other utilize it to access their garage and some other areas. It could have utilities in it as well, I am not sure of. They both have a discussion.

Applicant Presentation

Mary Sprague, representative for the applicant, was sworn in. Ms. Sprague said the proposed project is as Elizabeth said an outdoor vehicle storage, there maybe some RV's in there. It's a small site, so it's not expected to have some very large RV's or anything like that. The use is nearly identical to parking lots that you see along there, Winn Dixie is seven hundred feet to the west. Vehicles here will remain for extended periods of time vs. a parking lot which the cars are obviously coming and going on a daily basis. One correction to Elizabeth's traffic it's nine trips per day that's five vehicles in and four out is how it's projected. So, you are looking at a maximum of five vehicles per day on this lot. You can imagine the other uses along here the traffic is much higher. Security cameras, lighting, locked gates are

proposed to be designed per the county requirements. None of the lighting will shine on adjacent properties. I have one question, if possible, if the special exception is approved. On the east and west side these are all commercial general properties and chances are when they build, they are vacant. When they build, they will have the parking lots in the front and the building in the back. I would ask that instead of the ten-foot landscape buffer on the east and west that it could be strictly the minimum set back and install the fence. Talks about the buffers, required paved drive for access to the interior they are losing anywhere from 30-50 percent of usable land.

Mr. Cullinan said just for reference this was discussed back when the code changes were made to the landscaping code in order for industrial sites to be able to minimize their side and rear as long as they weren't abutting a road or residential. For outdoor storage, the Board of County Commissioners was specific that because the commercial properties are typically on major roadways that they wanted to keep the requirements. Talks about the minimum requirements in a special exception and they could come forth and apply for a variance.

Asst. Co. Atty. Thomas David said if I could just echo what Shaun is saying there. Section 3-9-100.1D are special provisions under the code which is the board adopted for perimeter of all outdoor storage yards shall be buffered by a type D buffer. Regardless of with of any adjacent road or easement. You are not permitted to vary that in any way, it always has to be a type D buffer complying with all the requirements of the type D buffer including the six-foot fence. Once an application is submitted with a six-foot fence showing a type D buffer then that's a sufficient application under our code.

Ms. Sprague said I understand that. I have included in my application a photo of an RV storage yard I did down in South Guld Cove. You can see even if an RV is in there, you really can't see much of it. You have the trees that are required in the buffer and a majority of the vehicles in this storage area will be cars, small boats, things that will be below the six-foot fence.

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. Filieo moved to close the public comments, seconded by Mr. Vieira. 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 Steve Vieira and seconded by Phillip Smallwood that Petition SE-24-026 be DENIED based on the Community Development Staff Report dated January 1, 2025, the evidence and testimony presented at the hearing and finding that the applicant HAS NOT MET the required criteria for the granting of the Special Exception.

Motion was denied with a unanimous vote.

IX. Public Comments –
None

X. Staff Comments –
Ms. Nocheck said my Valentine's gift to you is we will not have a February BZA meeting.

Mr. Cullinan said I would like to welcome Mr. Smallwood to the Board of Zoning Appeals.

XI. Member Comments –
Chair McVety said welcome aboard.

XII. Election of Officers –

- Chair
- Vice-Chair
- Secretary

Asst. Co. Atty. Thomas David said I will take over the chair gavel for the purpose of election of officers and opens the floor.

Mr. Vieira made a motion that the present group of individuals remain in place for the entire year of 2025, Chairman is Mr. McVety, Vice-Chairman is Mr. Vieira, and Secretary is Nichole Beyer and seconded by Andrew Filieo. Motion was passed with a unanimous vote.

XII. Next Meeting
*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, March 12, 2025** at 9:00 a.m., in Room 119.*

There being no further business, the meeting **ADJOURNED** at 11:48 a.m.

Respectfully submitted,
Kimberly Sargent, Recorder
/kas



Blair McVety, Chair

Approval Date: 3-12-25