



MINUTES

Charlotte County Board of Zoning Appeals

Wednesday, March 12, 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
Phillip Smallwood
Andrew Filieo

Staff:

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

I. Call to Order

Chair McVety called the March 12, 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 Mrs. Beyer to approve the minutes of January 8, 2025, 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 March 12, 2025, Board of Zoning Appeals meeting none were submitted.

VIII. New Business

The following petitions were advertised on February 25, 2025: VAR-25-001, VAR-25-002, and VAR-25-003.

VAR-25-001

James Pollock, representative for Peter Enklat, is requesting a variance to reduce the required 30-foot rear yard setback by 12.9 feet to allow a 17.1-foot rear yard setback, to allow an existing detached garage 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 305 Casale G Street, in Punta Gorda, and is described as Lots 10 & 11, Block 609, of the Punta Gorda Isles Subdivision, Section 20, located in Section 05, Township 40 South, Range 23 East. The Parcel ID for subject property is 402305303006.

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

Applicant Presentation

James Pollock, the applicant. Mr. Pollock said I’m the contractor in good faith I made a honest mistake I was focused more on the front set back than I guess I should have paid more attention to the back. As you can see in the pictures esthetically it’s more appealing. You can’t see the building when you drive on the street, it still looks like a residential street not industrial with the size of the building. I have passed all of my inspections except for this one. I made an honest mistake.

Chair McVety opened the meeting to Public Comments.

Public Input

Sondra Gonzalez, I have the property that is behind it and if you are at the pool area, it’s to the right of the building. I am a little upset about the variance I don’t think a general contractor makes a thirteen-foot mistake. I believe that this is an eyesore, you see pictures from the front it looks different from the back. I see a plain building there and at times in the summer when the little back door is rolled up. There has been grinding and welding going on in there. I don’t think it belongs in a residential area.

Chair McVety said the garage can be there just not in its location, if it was moved to where is was supposed to be, he could do what ever he wants in there.

Ms. Gonzalez said it doesn’t have to be appealing.

Chair McVety said we are only here for the location.

Ms. Gonzalez said I think it diminishes my property value, because I didn’t move into a residential to look at the back of a warehouse. I think all things being equal if other properties are for sale with the same size, condition and price. I think to be competitive I think I am going to have to lower the price of my house. Nobody wants to see that; I’m looking at that from my pool its terrible. I don’t think a thirteen-foot mistake is unintentional.

Mark Lasalle, I have been sworn in, I own the property directly behind this structure, 25833 Aysen. Mr. Lasalle said I have questions and concerns. Who actually made the decision was it the owner or the builder.

Chair McVety said you cannot ask questions; you can state your questions.

Mr. Lasalle said who made the decision to move the building where it is. Also mentioned his narrative, he wasn’t sure about the setbacks for the front. Why didn’t he call somebody at the county to get

clarification. Also, why was it not caught early on in construction process that it was in the wrong location, do you not have inspections to address that.

Chair McVety said the inspection process for certain things plumbing, electrical whatever and when he got the zoning inspection he failed. On the building inspection they are not surveyors.

Mr. Lasalle said so there is no way to capture that information prior to the final, that seems kind of silly.

Chair McVety said that is the way it works.

Mr. Lasalle said I agree with my other neighbor its right behind my house. If I was to put a pool back there someday it's just an industrial looking building. At the very least it should have some windows back there to give it a little bit more appeal. I don't like it and I don't think it's fair that people can do something like this and just get away with it. There has to be consequences there's gotta be something for that.

Chair McVety said he can have the building he just can't have it that far back.

Mr. Lasalle said I agree, I built a house last year, my pool cage had to be shorter because of the restrictions for the setbacks. I didn't make a choice and move it anyways; I followed the rules. I was brought up to obey the rules and I think everybody should obey the rules. So, I don't think he should be allowed to go forward. We live in a deed restricted area, keep our valuation up and keep the neighborhood looking nice. I think this is detrimental to the area as a look, its like an industrial building. Again, from the front maybe not so bad, but from the back terrible.

Chair McVety said we are not here about the looks, and both discuss.

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

Rebuttal

Peter Enklat, property owner, at 305 Casale G Street. **Mr. Enklat** said before building it when I purchased the property. It was meant to build a garage it was my ideal thing because we have no basements in Florida. So, I have a fifth wheel and seen other properties that have the same garages and everything, they look great. I made sure that it was esthetically good looking and everything. My contractor made a mistake, I don't really see that there is an issue with where it is at. I don't grind, I don't make any noise in the building maybe music. I work on my cars that is what I do and that's it.

Elizabeth Nocheck presented the recommended conditions for the petition.

Chair McVety said we do have a letter here from the Deep Creek Homeowners Association in support of their garage in your packet.

Mr. Smallwood said if a variance would have been asked for before the building was ever started would it have been granted properly.

Chair McVety said we don't know that.

Dep. Co. Atty. Thomas David said that answer sir is you cannot apply for a variance prior to construction. A variance is a corrective measure, you could apply but it would not meet the criteria.

Mr. Cullinan said we have always with new construction that a hard no for recommendations. When it is new construction for variances because something can be designed code compliant. May not be exactly what people want.

Board Member Comments and Questions

Mrs. Beyer said obviously as the contractor we all know you should have followed the rules right. If this was any of our properties, we would make sure our contractor followed the rules, it's part of the responsibility. The idea of ripping this thing down is pretty difficult for me so.

ACTION: A motion was presented by Nichole Beyer and seconded by Phillip Smallwood that Petition VAR-25-001 be APPROVED based on the Community Development Staff Report dated March 5, 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 3-2 vote with the following three conditions:
(Mr. McVety, Mrs. Beyer and Mr. Smallwood voted for approval - Mr. Vieira and Mr. Filieo voted against this approval)***

1. The variance, as approved by the Board of Zoning Appeals, is to reduce the required 30-foot rear yard setback by 12.9 feet to allow a 17.1-foot rear yard setback, to allow an existing detached garage to remain "as-is" in its current location on subject property.
2. The variance shall apply to the existing detached garage, as shown in the documents submitted with this application.
3. If the detached garage 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.

Chair McVety will recuse himself and pass the gavel to Vice-Chair Mr. Vieira.

VAR-25-002

James Benson, representative for David & Beth Greenig, is requesting a variance to reduce the required 15-foot rear yard setback by 4.6 feet to allow a 10.4-foot rear yard setback, to allow an existing swimming pool, deck, and cage to remain "as-is" in their current locations on subject property, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at 10162 Owl Head Circle, in Port Charlotte, and is described as Lot 20, Block 4473, of the Port Charlotte Subdivision, Section 81, located in Section 27, Township 41 South, Range 21 East. The Parcel ID for subject property is 412127226003.

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

Mr. Vieira said is any part of the boat lift or the docking contention here. I asked the question because we are talking about ten feet of uplands has eroded over time. So, I can't actually tell from the photograph whether the boat dock or the boat lift is in jeopardy as well.

Mr. Cullinan said no those are water dependent structures that are on the water. They were properly reviewed they meet the requirements for width of the canal and all of those things. The dock and lift appear there seven and a half feet off the side property line. It appears they meet all the requirements.

Mr. Vieira said could you explain to me the miscalculation on the high water.

Mr. Cullinan said if you recall this has been a long-storied history with South Gulf Cove. I've been here and in my thirteenth year here now and South Gulf Cove has been under the purview of the Army Core of Engineers, DEP and SWFWMD at various times throughout those thirteen years. Prior to me getting here into my first few years it was I believe DEP and they required a retaining wall; I believe it was three feet in from mean high water line. Then another agency took over and they were letting people go out into the water and reclaim some of the land. Not quite all of it but some of it, then Army Core stepped in, and they were going back to moving it back. I do not know who is reviewing at the state or federal level at this point, they are just every two to three years they toss it to somebody else. The seawall contractor was proposing what they felt they could get. There are provisions and statutes that state we could not hold up our approvals waiting for other state or federal agency approvals. With that once they got it put in the other entities should have been notified to amend their plans and that didn't happen. We are starting to see this more not just with this contractor because of that situation. We can't wait to see where those state or federal agencies is going to require them to put the seawall. Then we have to good faith this is where they're proposing they're the experts in that field. We base all of items on that, it's a chicken and egg type situation. We have looked at this a number of years probably about ten years we've been trying to figure out a good way to deal with this. Because it makes sense when somebody is building every bit at once. You build from the back forward and you don't have other big pieces like houses in the way and you're trying to do your pool or trying to do your seawall.

Mr. Vieira said trying to stabilize.

Mr. Cullinan said right but it is starting to lead to some of these now, we're finding more. I don't know if it's due to a change in agency review or agency policy. We are starting to see these a bit more.

Applicant Presentation

Jim Benson, applicant, I have been duly sworn in. **Mr. Benson** said thank you to the board members for your time and opportunity this morning. Ms. Nocheck laid it out perfectly this is as heard in the previous applicant an unattended consequence of you know building on this lot. We did as a contractor we did everything possible to make sure that we were following all the rules, following zoning requirements, following building code requirements etc. I think that we did that, we didn't build a large home on the property it is only 1,790 square feet under air. A 3/2 with a three-car garage and a typical pool for what you would see in this area. The only thing that really went sideways was there was not a typical time for us when we would typically do surveys are at the foundation planned and then at the final. There was really nothing required in the middle, so nobody really does any surveys that are required in the middle. There was just a lack of our knowledge as the contractor that the seawall had moved in a few feet. That is what put us in this situation.

Mr. Vieira said the question about we need to clarify a dimension am I correct.

Mr. Benson said it is to the outside of the seawall.

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. 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 Phillip Smallwood that Petition VAR-25-002 be APPROVED based on the Community Development Staff Report dated March 5, 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 15-foot rear yard setback by 4.6 feet to allow a 10.4-foot rear yard setback, to allow an existing swimming pool, deck, and cage to remain "as-is" in their current locations on subject property; and **(b)** to reduce the required 20-foot rear yard setback by 0.2 feet to allow a 19.8-foot rear 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, deck, cage, and single-family residence, as applicable, as shown in the documents submitted with this application.
3. If the swimming pool, deck, cage, 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, deck, cage, or single-family residence.

Mr. Vieira passes the gavel back to Chair McVety.

Ms. Nocheck said to the chair to be sure to put the mic's on when you are speaking. I was corrected by our wonderful staff on the TV side.

VAR-25-003

John & Alicia Landry are requesting two variances: (a) to reduce the required 15-foot rear yard setback by 0.8 feet to allow a 14.2-foot rear yard setback, to allow an existing swimming pool, deck, and cage to remain "as-is" in their current locations on subject property; and (b) to reduce the required 20-foot rear yard setback by 4.1 feet to allow a 15.9-foot rear 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 18398 Van Nuys Circle, in Port Charlotte, and is described as Lot 13, Block 4685, of the Port Charlotte Subdivision, Section 79, located in Section 31, Township 40 South, Range 22 East. The Parcel ID for subject property is 4022311290003.

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

Chair McVety said just an FYI the whole neighborhood from Collingswood to O'Hara to Midway. All those lots are very low, and all those lots are undersized because the way general development dug the canal. It is pretty much every lot in that neighborhood. Same thing in South Gulf Cove they didn't have enough dirt. Northwest Port Charlotte they have too much dirt.

Applicant Presentation

John Landry, applicant, and with my wife Alicia we own the property, I was sworn in. Mr. Landry said I don't know what went wrong or where. The seawall people told me that they put it at an angle like that because it was an old existing wood dock. I think I included a picture of that, didn't make it to here, I guess. That is the dock across from me and it was the same type of thing. The seawall guys put it into the dock and then they stepped on it, and it was rotten, so they pulled it out. That is what they told me and that's why it's on the angle. Looks like we hired the same pool guy as the previous variance, looks like there is a problem there. Just don't know and was looking for a couple of variances and like the consideration.

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

None

ACTION: A motion was presented by Andrew Filieo and seconded by Steve Vieira that Petition VAR-25-003 be APPROVED based on the Community Development Staff Report dated March 5, 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 15-foot rear yard setback by 0.8 feet to allow a 14.2-foot rear yard setback, to allow an existing swimming pool, deck, and cage to remain "as-is" in their current locations on subject property, and (b) to reduce the required 20-foot rear yard setback by 4.1 feet to allow a 15.9-foot rear 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 single-family residence, swimming pool, deck, and cage, as applicable, as shown in the documents submitted with this application.
3. If the existing swimming pool, pool deck, pool cage, 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.

IX. Public Comments –
None

X. Staff Comments –
Ms. Nocheck said we will have five petitions for you next month, we have three special exceptions and two variances. We will return to our regularly scheduled program of outdoor storage for part of it.

XI. Member Comments –
Mr. Filieo said to advise that I will not be in attendance at the next meeting, I have a training conference in Miami that I have to be at for the entire week.

Mrs. Beyer said I will not be here I am having surgery.

Chair McVety said is everybody else here because we need a quorum, we need the rest of us to be here.

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

There being no further business, the meeting **ADJOURNED** at 10:13 a.m.

Respectfully submitted,
Kimberly Sargent, Recorder
/kas



Blair McVety, Chair

Approval Date: _____

