



# MINUTES

## Charlotte County Board of Zoning Appeals

Wednesday, July 10, 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 Vieira called the July 10, 2024, meeting of the Board of Zoning Appeals to order at 9:00 a.m.

### **II. Pledge of Allegiance**

Chair Vieira led the members and the audience in reciting the Pledge of Allegiance.

### **III. Roll Call**

Roll call was taken; a quorum was present. Mr. McVety and Ms. Beyer are absent.

### **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.

Asst. Co. Atty. Thomas David said just to note for the record that the agenda that is posted online does not show that petition SE-24-009 will be continued.

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

**ACTION:** A motion was presented by Mr. Filieo and seconded by Mr. Rouse to approve the minutes of June 12, 2024, meeting of the Board of Zoning Appeals which passed with a unanimous vote.

Mr. Cullinan said that Petition SE-24-012 has been formally withdrawn for Doodie Calls, Inc. the special exception. So, if anybody is here for that item today it will not be heard they have withdrawn.

### **VII. Disclosure Statements**

Ex-parte forms indicating site visits concerning the petitions being presented before the July 10, 2024, Board of Zoning Appeals meeting none were submitted.

**VIII. New Business**

**The following petitions were advertised on June 25, 2024: SE-24-009, SE-24-010, SE-24-011, SE-24-012, VAR-24-011, and VAR-24-012.**

**SE-24-010**

Steven Grant, representative for Greentopps Landscape Maintenance & Tree Service 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 17368 Abbott Avenue, in Port Charlotte, and is described as Lots 18 – 22, Block 1086, of the Port Charlotte Subdivision, Section 16, located in Section 01, Township 40 South, Range 21 East. The Parcel ID for subject property is 402101454004.

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

**Chair Vieira** said I just have one question, is the construction of a building or an office a requirement under the rezoning.

**Mr. Cullinan** said no sir they could construct the building, keep everything internal without having to do any special exception. The special exception is for the outdoor aspect of it. They're not required to put a building up if they choose to in the future, it would just be through site plan review.

**Mr. Vieira** said so the eight-foot fencing that is going to go around the property is the barrier.

**Mr. Cullinan** said that is correct.

**Applicant Presentation**

**Steve Grant, representative for Greentopps, said he was sworn in.** **Mr. Grant** said I just want to thank Ms. Elizabeth for such a nice presentation.

**Asst. Co. Atty. Thomas David** said sir could you please state your name and address for the record.

**Mr. Grant** said I don't have anything to add to what she said, everything is exact.

**Mr. Vieira** said can I ask you, there are eleven conditions applied to this recommendation are you in agreement with all eleven of those, have you had a chance to review them.

**Mr. Grant** said yes sir.

**Mr. Vieira** said are you in agreement with them.

**Mr. Grant** said yes sir.

***Chair Vieira 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. 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 Steve Vieira and seconded by Turner Rouse that Petition SE-24-10 be APPROVED based on the Community Development Staff Report dated July 3, 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 eleven conditions recommended by staff.***

***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, dump trucks, shipping containers, or hazardous materials is prohibited.
4. A "Type D" Landscape Buffer with an 8-foot-tall sight-obscuring (opaque) fence or wall, shall be constructed and planted around the perimeter of the site, 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. Items stored in stacks or piles shall not exceed 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 has been issued.
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 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.

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.

**SE-24-011**

Robert Berntsson, representative for Placida Meridian, LLC, is requesting a special exception to allow a clubhouse, in the Residential Multifamily-10 (RMF-10) zoning district. The property is located at 13150 Ribbonfish Court, in Placida, and is described as Tract 11, of the Rotonda Springs Subdivision, located in Section 09, Township 42 South, Range 21 East. The Parcel ID for subject property is 422109205001.

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

**Applicant Presentation**

**Robert Berntsson, representative, said he was sworn in.** Mr. Berntsson said we accept Ms. Nocheck as an expert in planning matters. I think she's covered it pretty well; my client intends, you saw the one map that showed the yellow and blue lots. The blue areas are multi-family residence, yellow are single-family residence that will all be the vast majority of the single-family and all of the multi-family would be offered as rental properties. My client is in the business of constructing rental communities. If we were coming in and we were platting this as the original community, we could put the clubhouse as of right. But because the property is already zoned and it's not a new development that's coming in showing the clubhouse the special exception is required. We are excepting all of the conditions and I think Elizabeth has covered everything very well. I am happy to answer any questions and reserve time for rebuttal.

**Mr. Vieira** said I do have a question; I have not been out there in quite some time to be honest with you. Is there anything constructed out that way it's been a desolate area forever.

**Mr. Berntsson** said right there are utilities as far as water, sewer and electric so that will be available for the development. It's my understanding but as far as development of homes, you could see the closest one is a mile and a half away.

**Mr. Vieira** said is utilities provided by CCU.

**Mr. Berntsson** said yes.

**Mr. Vieira** said water and sewer both.

**Mr. Berntsson** said yes.

**Mr. Cullinan** said the electric lines were just run within the past year, so this area had been without power. That is the reason there is no development out there.

**Mr. Berntsson** said I know from experience some people that just had a lot and wanted to build, the cost was prohibited for a single-family residence to bring the electric all that distance. But it's out there now.

***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. 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 on condition number ten, the outdoor storage of materials, vehicles etc. does that negate or eliminate the request to have ride share and that sort of thing.

**Ms. Nocheck** said yes, and they both discuss.

***ACTION: A motion was presented by Andrew Filieo and seconded by Turner Rouse that Petition SE-24-011 be APPROVED based on the Community Development Staff Report dated July 3, 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 twelve conditions recommended by staff.***

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

1. The Special Exception, as approved by the Board of Zoning Appeals, is to allow a clubhouse, 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, environmental review, vegetation removal, stormwater management, and landscape plan approval.
3. A Temporary Use Permit shall be required for any event planned to exceed 75 guests.
4. A Type B buffer shall be planted and maintained along the north, east, and west property lines. Final design of the buffer shall be determined during the Site Plan Review process.
5. Any outdoor lighting shall be located and shielded so as to direct light away from adjacent residential properties.
6. All outdoor speakers shall be directed away from adjacent residentially-zoned properties. Outdoor speakers may not be placed within 100 feet of the property line of any adjacent residentially-zoned property.
7. On Sundays through Thursdays, amplification of outdoor music shall cease by 9:00 PM. On Fridays and Saturdays, amplification of outdoor music shall cease by 10:00 PM.
8. Outdoor events held at the clubhouse shall end by 10:00 PM on Sundays through Thursdays, and 11:00 PM on Fridays and Saturdays.
9. Car and dog wash activities shall not occur within 200 feet of the wetlands on and adjacent to subject property.

10. Outdoor storage of materials, vehicles (except electric bikes and scooters), equipment, debris, or other items is prohibited on subject property.
11. 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.
12. Any major changes or additions to this special exception shall require a modification of the special exception. A change in ownership shall not require the modification of the special exception, provided the general operations of a clubhouse for the surrounding residential community remain the same. Minor changes or additions, such as accessory uses or structures, may be approved by the Zoning Official.

**9:41 Break**

**9:48 Resume**

**VAR-24-011**

Bobbi Jean Wilt, representative for WJHFL LLC, d/b/a Century Complete, is requesting a variance to reduce the required 25-foot front yard setback by 3 feet to allow a 22-foot front yard setback, to allow a new single-family residence to remain "as-is" in its current location, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at 27324 Senator Drive, in Punta Gorda, and is described as Lot 20, Block 55, of the Tropical Gulf Acres Subdivision, Unit 4, located in Section 03, Township 42 South, Range 23 East. The Parcel ID for subject property is 422303451014.

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

**Mr. Vieira** said does the statement in the information that says that refers to the square footage of the lot and that there is an existing right of way in front and is not generally applicable to these such parcels. Can you tell me Shaun if you would, what we're dealing with here, I guess we're looking for relief as if a right of way doesn't exist. Are there right of ways in front of those parcels in Tropical Gulf Acres.

**Mr. Cullinan** said yes there is rights of way, I think what the statement was referring this subdivision Tropical Gulf Acres were subdivided at 60 by, there more rectangular than our normal lots. There 60 by 130's instead of our normal 80 by 120, 125's, there a little bit. But the entire subdivision was platted out that way.

**Mr. Vieira** said so there is a right of way.

**Mr. Cullinan** said correct.

**Mr. Vieira** said for drainage or utilities or whatever the case may be.

**Mr. Cullinan** said that is correct.

**Ms. Nocheck** said just to clarify that was in the applicant's narrative not in the staff report. I think that was a misunderstanding of the property.

**Mr. Vieira** said I was reading ahead and was just trying to wrap my head around you know how we got this far along in the point, and I didn't know if this was being used as a way to mitigate the fact that were still encroaching in the right of way.

### **Applicant Presentation**

**Scott Gilliam, representative for the applicant, with Century Complete, yes, I have been sworn. Mr. Gilliam** said I would like to thank Elizabeth very much for your preparation. We did cease construction as soon as we found out from the surveyor that we had encroached thirty inches, two and a half feet. We did not continue, the encroachment is just the, it's not the garage portion of the home. It's the area part of the house on the right-hand side.

**Mr. Vieira** said where the windows are.

**Mr. Gilliam** said yes and the front door, that's the encroachment portion. As soon as we figured out that it was encroached, we stopped, we did not continue to build the structure. It's just under roof and dried in.

**Mr. Vieira** said that's the way it sits today.

**Mr. Gilliam** said yes, and we are not in the right of way, we are encroaching two and a half feet too far.

***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. Rouse 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**

**Chair Vieira** asked the applicant, have you had an opportunity to read and understand and do you agree with the recommendations by the staff.

**Mr. Gilliam** said yes, we have.

***ACTION: A motion was presented by Andrew Filieo and seconded by Turner Rouse that Petition VAR-24-011 be APPROVED based on the Community Development Staff Report dated July 3, 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 25-foot front yard setback by 3 feet to allow a 22-foot front yard setback, to allow a new single-family residence to remain "as-is" in its current location on subject property.
2. The variance shall only apply to the single-family residence, as shown in the documents submitted with this application.

3. If the single-family residence 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 single-family residence.

**VAR-24-012**

Dylan Curry, representative for Synergy Homes LLC, is requesting a variance to reduce the required 15-foot rear yard setback by 4.1 feet to allow a 10.9-foot rear yard setback, for a new single-family residence, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at 16196 Branco Drive, in Punta Gorda, and is described as Lot 13, Block 347, of the Punta Gorda Isles Subdivision, Section 16, located in Section 29, Township 42 South, Range 23 East. The Parcel ID for subject property is 422329282017.

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

**Mr. Vieira** said what are the side yard setbacks in that area.

**Mr. Cullinan** said seven and a half feet.

**Mr. Vieira** said seven and a half feet, and the front set back.

**Mr. Cullinan** said twenty-five.

**Applicant Presentation**

**Dylan Curry, representative for the applicant, with Synergy Homes LLC, said he was sworn.** **Mr. Curry** said the only reason I purchased this property, I operate in this HOA quite frequently. I actually built a home for a couple of the HOA members current and past. They promised me that this wouldn't be an issue, it's the only reason I bought this property. We are a small builder; we only have three models. This is a model that fits in this HOA, it's only fifty-three feet deep which is pretty shallow. Our other models are sixty-five foot deep, fifty-seven foot deep. The lanai on the back is something that the HOA prefers us to put on there. The actual elevation is something that they've requested from the architectural committee. That's the only reason that we did this, and if you notice the front of the house the driveway and everything else, we have moved this house around probably six or seven times with my civil engineer to try to make it fit. That's all we can do with this particular lot, the lot is way too short, and the green belt in the back is obviously owned by the HOA and that's where this whole process began. I was assured by multiple members past and present on they granted this in the past and it wouldn't be an issue for me to build a home there. That's the only reason that we pursued it like we have. I would also add that the land behind the house is a green belt and there's a large drainage ditch. Then there is a large property that I believe is owned by TIFF. There is nothing that is going to happen behind the home.

**Mr. Vieira** said you said you've moved it around several times there's no way using the side yard setbacks in the front set back that house can be moved.

**Mr. Curry** said no sir, we've moved it, we played with this quite a bit, I mean I am not to be perfectly honest I'm not happy with the way the driveway is. We are probably going to have to widen that or do something with it to actually accommodate somebody to be able to enter the garage. I don't like cul-de-



sac lots, I don't prefer them, someone request that I get a lot with a large natural area at the rear and so we got this lot for that purpose. Just to have somebody that would have a large space facing west at the rear. Obviously, I am regretting it, for a long time here at this point. We are a mom-and-pop builder, I have three models that's all I build. We've done a quite a bit of work in Charlotte County, but you can see that I just have three models, that's all we build. So, for me to redesign a home is pretty cost inducive and it's just not something I prefer to do. If I have to I will but this home is a great home for that particular neighborhood. The price point works, the HOA likes it, the neighbors like it, it just works it's a nice little four-bedroom house.

**Mr. Filieo** said have you considered with the current layout, the removal of the lanai from the structure.

**Mr. Curry** said the HOA themselves we have that model with the patio and the HOA themselves prefers that lanai and so do I. It's just a nice space to have for grilling, just to be outdoors, this is western exposure. Sit down in the morning with your coffee and watch the sun come up. It's a nice feature, yes it can be removed it takes a lot away from the house.

**Chair Vieira** 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. Rouse. The public comments was closed with a unanimous vote.*

Elizabeth Nocheck presented the recommended conditions for the petition.

**Board Member Comments and Questions**

**Chair Vieira** said just thinking out loud here I read in the material that the lanai is built as part of the structure under the roof, and I think it's ten by sixteen or I am not sure of my dimensions. I'm just thinking out loud here why the lanai couldn't still be built under roof at a smaller dimension to accommodate. Just thinking out loud I think that the HOA or POA could have been a little bit more helpful in the applicant's desire to get this variance. One line from the POA just doesn't do it for me even though the applicant has said that they spoke with the POA on numerous occasions, and they had assurances from them. It's not here and there in the material that's come before the board.

**Asst. Co. Atty. Thomas David** said Mr. Chair as I note when I do my spiel at the beginning of the hearing, you're not allowed to consider deed restrictions, in other words the counties setbacks are baseline and the fact that they would allow it, allow an encroachment is not relevant to your decision making unfortunately.

**Chair Vieira** said I understand now, I'm sorry I should have gotten to the point. I was heading that way because earlier I had asked about side setbacks and front setbacks, and I was trying to find a solution to the problem here. I don't think there is a hardship here quite frankly and I can't support the item on the agenda.

**Mr. Filieo** said I was thinking along the same lines as you, and my line of questioning to the applicant was could the lanai be removed. The real question that should have been asked and I apologize for not asking it. Is has the applicant considered a redesign of the lanai based on the setback requirements for

this lot and would they consider it and present it to the POA for their consideration as well. That could easily remedy all the problems that he is having here.

**Mr. Curry** said to make the lanai stay outside the setback it would literally be so small it wouldn't function. That's the problem, right now it's only ten foot deep, so if we shrunk it to move it out of that setback, you're probably talking about like the five and half six-foot lanai. Which is just not functional, that's the issue. As far as the POA and HOA we did send Miss Elizabeth a list of phone numbers and contacts of individuals that have verbally, and I think in writing giving me their blessing sort of speak. I know that it is the county's property at the end of the day. But what we are encroaching on is HOA property and that's what I felt was relevant.

**Mr. Cullinan** said while you're deliberating just for reference there was included in here, the HOA approval.

**Asst. Co. Atty. Thomas David** said included in where Shaun, what are you talking about.

**Mr. Cullinan** said in this item he had references to people approving it, or in favor of it. There is a formal it is exhibit "C3" it's part of their narrative that the HOA was in favor of the variance. I just want to put that out there that we weren't hiding anything.

***ACTION: A motion was presented by Turner Rouse and seconded by Andrew Filieo that Petition VAR-24-012 be DENIED based on the Community Development Staff Report dated July 3, 2024, the evidence and testimony presented at the hearing and finding that the applicant HAS NOT MET the required criteria for the granting of the Variance.***

*Motion was denied with a unanimous vote.*

**IX. Public Comments –**  
None

**X. Staff Comments –**  
**Ms. Nocheck** said we will have an August meeting there could be anywhere between 2-7 petitions.

**XI. Member Comments –**

**Mr. Filieo** said I'm disappointed that we were not able to consider SE-24-009 today as scheduled today on the agenda, is there any reason why the board members here were not notified prior to that this is being postponed. I feel it's improper for a continuance where the item has already been placed on the agenda for our consideration.

**Asst. Co. Atty. Thomas David** said the rules of procedure allow for a request for continuance to be submitted by an applicant prior to the hearing. So, that was why it's allowed under the rules, to the extent that the board wishes to have notice of that in advance. I think we can ask staff to send an email out with an updated agenda the day before, this was a last-minute request. I think it was based on the fact the applicant had an expert witness who was not able to be here. It was fundamentally related to the issues in the application. So, I think it would have been problematic to force the matter to go forward with out their expert witness being available might have impacted the due process of the application and regardless of whether we would have heard it or not.

**Mr. Filieo** said I understand.

**Asst. Co. Atty. Thomas David** said they have to pay to continue it.

**Mr. Filieo** said I understand we've done a continuance for him before so raised the question to me.

**Asst. Co. Atty. Thomas David** said we're happy to answer the question sir any time.

**Mr. Cullinan** said I apologize we should have sent notification to you folks that won't happen again in the future.

**XII. Next Meeting**

*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, August 14, 2024 at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 10:24 a.m.

Respectfully submitted,  
Kimberly Sargent, Recorder  
/kas

  
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Blair McVety, Chair

Approval Date: 8-14-22