



# MINUTES

## Charlotte County Board of Zoning Appeals

Wednesday, June 9, 2021 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:**

Steve Vieira, Secretary  
William Abbatematteo, Vice-Chair  
Larry Fix  
Blair McVety, Chair (absent)  
John Doner

### **Staff:**

Shaun Cullinan, Planning/Zoning Official (absent)  
Thomas David, Asst. Co. Attorney  
Stacy Bjordahl, Asst. Co. Attorney  
Elizabeth Nocheck, AICP, Sr. Planner  
Heather Bennett - Recorder

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

*Vice-Chair Abbatematteo* called the June 9, 2021 meeting of the Board of Zoning Appeals to order at 9:00 a.m.

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

*Vice-Chair Abbatematteo* 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**

*Heather Bennett* swore in all persons who wished to provide testimony.

### **V. Approval of Minutes**

***ACTION:*** A motion was presented by Mr. Fix and seconded by Mr. Vieira to approve the minutes of May 12, 2021 meeting of the Board of Zoning Appeals which passed with a unanimous vote.

### **VI. Disclosure Statements**

Ex-parte forms indicating site visits concerning the petitions being presented before the June 9, 2021 Board of Zoning Appeals meeting were submitted.

### **VII. Introduction of Staff/Comments**

*Vice-Chair Abbatematteo* introduced staff. *Elizabeth Nocheck, Sr. Planner*, read the Zoning rules, *Asst. County Attorney David* and *Vice-Chair Abbatematteo* 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.

**VIII. New Business**

***The following petitions were advertised on May 25, 2021: SE-21-010 and SE-21-011***

**SE-21-010**

Mostyn Engineering, agent for Marie Bronson, is requesting a special exception to allow an outdoor storage of vehicles and trailers in the Commercial General (CG) zoning district. The property is located at 3221 S. Access Road, Englewood, and is described as Lot 43, Block 3467, of the Port Charlotte Subdivision, Section 74, located in Section 03, Township 41 South, Range 20 East.

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

**Applicant Presentation**

**Patrick Mostyn, P.E., agent for the applicant,** said he was sworn in. **Mr. Mostyn** said they would like to put up a fence for the storage business. The owner is a general contractor and they need accessory storage for their business. He said recommendation #4, as to who can use the operation, my only comment would be maybe we can condition it on where it says "company employees for the business operated as the salon and spa, whatever business might come in when the owner sells the salon, that the special exception would be allowed for whatever business comes in when the salon is sold". Meaning, if she sold it to a lawyer's office in the future, I don't think it matters.

**Asst. Co. Attorney David** said usually special exceptions do not run forward with the land.

**Asst. Co. Attorney Bjordahl** said normally when we look at the special exceptions, it is based on the application and the narrative and facts. Then we create the conditions according to their request. In this instance, it may be appropriate to eliminate the salon and spa and put the employees of the business operated on the subject property, so it would be addressed to the address for their concern.

**Mr. Vieira** asked what would prevent a general contractor moving in there and then storing heavy equipment on site, those types of things. How do we prevent that from happening?

**Asst. Co. Attorney Bjordahl** said condition #5, specifically says outdoor storage of materials or heavy machinery is prohibited.

**Mr. Vieira** asked so if we change #4, it will have no bearing on #5?

**Ms. Nocheck** said it would still be prohibited from having outdoor storage of materials or heavy machinery.

**Asst. Co. Attorney David** said I think the request is to amend #4 to say "outdoor storage areas may only be used for parking of vehicles and trailers of the property owner and company employees for the business operated on the subject property" of the amendment for condition #4. He asked if the applicant is accepting the conditions?

**Mr. Mostyn** replied yes.

**Tim and Marie Bronson, applicants, said they were sworn in.** They were not asked any questions and did not have anything to say. Their agent spoke for them.

***Vice-Chair Abbatematteo opened the meeting to Public Comments.***

**Ms. Nocheck** said she received 2 emails on this petition. She handed out a copy to the Board.

**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. Fix. The public comments was closed with a unanimous vote.***

Elizabeth Nocheck presented the recommended conditions for the petition.

**Board Member Comments and Questions**

**Mr. Abbatematteo** asked if the combining of both properties needs to be a condition or is that in the normal regular process?

**Ms. Nocheck** said we could add it as a condition.

**Asst. Co. Attorney David** said it is not necessary because this is essentially a primary and ancillary use. The kill and combine concept is related to the tax ID. When you add them together, you are not changing the ownership, it doesn't help us here. If someone else wanted to separate the two lots, they would have to come back for another special exception if you added that condition to this request.

There was discussion about the two lots being separate or added together. What uses are on them now and what would happen if they were killed and combined. The salon property is the primary and the ancillary structure to the salon itself and tying them together. He felt they should table this item and bring it back after the second petition, then come back with the answer.

***ACTION: A motion was presented by Steve Vieira and seconded Larry Fix to table this discussion/petition and hear this after we hear the second petition, approved with a unanimous vote.***

*(the following is what was discussed after the 2<sup>nd</sup> petition was heard)*

**Stacy Bjordahl, Asst. Co. Attorney** said we did redraft condition #4 based on some of the comments and testimony concerning the limitations of the storage and associated business. The condition we would now propose reads as follows: "the outdoor storage area may only be used for the parking of vehicles and trailers of the property owner and company employees for the business operated on the adjacent property identified as lots # 44 and # 45, Block 3467 Port Charlotte Subdivision Section 74, Plat Book 6, Pages 32A-32D, also known as 3213 South Access Road." That is the legal description of the Headhunter Salon which is operated by the applicant.

**Mr. Abbatematteo** said before we ask the applicant to come up, any questions by the Board members on this modification?

**Mr. Abbatematteo** asked the applicants if they understand this change and accept it?



**Mr. & Mrs. Bronson** said no, they had no questions and accept the change.

**Ms. Nocheck** said just for clarification, if they choose to sell the property in the future, and they only sold the 2 business lots, that lot would not be able to be used by anyone, as written by this condition change (unless they came back for a modification to this Special Exception).

***ACTION: A motion was presented by Larry Fix and seconded by Steve Vieira that Petition SE-21-010 be APPROVED based on the Community Development Staff Report dated June 2, 2021, 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 eight conditions recommended by staff. (condition #4 as modified)***

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

1. The special exception, as approved by the Board of Zoning Appeals, is to allow the outdoor storage of vehicles and trailers 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, are 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 outdoor storage area may not be rented out to another person or entity, or open to the public.
4. The outdoor storage area may only be used for the parking of vehicles and trailers of the property owner and company employees for the business operated on the adjacent property identified as Lots 44 and 45, Block 3467, Port Charlotte Subdivision, Section 74, Plat Book 6, Pages 32A-32D, also known as 3213 S. Access Road. Overnight parking of company vehicles shall be permitted.
5. Outdoor storage of materials or heavy machinery is prohibited.
6. A "Type D" Landscape Buffer with a six-foot high sight-obscuring fence or wall, shall be constructed and planted along the north, south, and east property lines.
7. This Special Exception is granted for a term of three years from the date it receives 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.
8. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions, such as accessory uses or structures, may be approved by the Zoning Official.

**SE-21-011**

Lauren Robie, agent for Hope Eternal Gardens, LLC., is requesting a special exception to allow the following uses, as ancillary uses to a cemetery, which is a permitted use: outdoor market and exhibition space, bed and breakfast with four bedrooms, and retail sales of cemetery-related products, in the Agricultural (AG) zoning district. The property is located at 47990 Bermont Road, Punta Gorda, and is described as Lots L1, L2, L3, L4, L5, L6, and L7, of the Midland Acres Subdivision, located in Section 36, Township 41 South, Range 26 East.

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

**Mr. Abbatematteo** asked about the 4 houses and the density.

**Ms. Nocheck** said there will only be 4 houses. One will be a bed and breakfast.

**Mr. Vieira** said on the site plan, item #27 shows a superintendent cottage. Is that a resident unit?

**Ms. Nocheck** said the superintendent cottage is the bed and breakfast where the superintendent has to live.

### **Applicant Presentation**

**Ed Wotitzky, Esq., representative for the applicant**, said he was sworn in. **Mr. Wotitzky** said the staff report stated accurately what the proposal is for this project. This is a green cemetery in an area in the County that is uniquely appropriate for this type of use. The 3 special exceptions being requested are to enhance the ability of this property to be utilized more properly and functionally as a cemetery property.

**Lauren Robie, representative for Hope Eternal Gardens**, said she was sworn in. Ms. Robie said she would be happy to answer any questions.

**Mr. Vieira** said he wanted to congratulate you on the ingenuity that went into the design of this whole area. The concept was new to me so I did a little research and looked into the green burial council. He asked if the cemetery would be completely green? I see a section of urns, are they decomposing as well?

**Ms. Robie** said the green burial council has 3 different levels of a green cemetery. The one we are looking for is called a hybrid. We are uniquely well above the national average, with over 80% cremation within our area. We realized we could not ignore our surroundings. One area is the wall of garden. With cremation high rises. The remainder of the site is truly green burials, biodegradable urns, and caskets.

**Asst. Co. Attorney David** said all of this will still be regulated by the State of Florida. Any kind of impact to ground water, all has to go through permitting. The applicant will have to show they went through that process.

**Ms. Robie** did ask if the property management could be in one of the houses, not in the bed and breakfast house?

**Asst. Co. Attorney David** said you have 4 houses and can use them as you wish. Your attorney can help you with those rules.

***Vice-Chair Abbatematteo 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. Doner. 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 Larry Fix that Petition SE-21-010 be APPROVED based on the Community Development Staff Report dated June 2, 2021, 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 the following uses, as ancillary uses to a cemetery, which is a permitted use: outdoor market and exhibition space, bed and breakfast with four bedrooms, and retail sales of cemetery-related products; and extends only to the lands included in the Site Plans and legal description submitted with this application.
2. The Site Plans submitted by the applicant, as part of the petition, are 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, environmental, parking, building, ADA compliance, right-of-way access, utilities, stormwater, landscaping, and transportation.
3. No special exception use approved herein may be established until the subject property is licensed and operating as a cemetery.
4. The bed and breakfast shall be operated in accordance with the regulations set forth in Section 3-9-69(g)(3), as may be amended. The owner representative of the property may satisfy the requirement of the property owner residing on site. The bed and breakfast shall account for one (1) density unit.
5. The maximum density for subject property is limited to four (4) density units. Any new dwelling units shall be constructed in accordance with all applicable zoning codes and the Florida Building Code. The applicant is advised that if the proposed dwellings are concentrated on the site, they may not be subdivided and transferred in the future unless the minimum lot size for the Agricultural zoning district is met.
6. Any special event held on site exceeding 200 guests shall require a Temporary Use Permit.
7. Any outdoor lighting shall be located and shielded so as to direct light away from adjacent properties.
8. All outdoor speakers shall be directed away from adjacent properties. Outdoor speakers may not be placed within 500 feet of any property line.
9. Amplification of outdoor music shall cease by 9:00 PM Sundays through Thursdays. Amplification of outdoor music shall cease by 11:00 PM on Fridays and Saturdays.

10. Retail sales shall be limited to items related to the plant nursery and other cemetery-related products. Food and merchandise vendors as part of a special event shall be exempt from this condition.
11. This special exception is granted for a term of five years from the date it receives 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. Minor changes or additions, such as accessory uses or structures, may be approved by the Zoning Official.

**Mr. Fix** made a motion to take the first Special Exception request (SE-21-010) off the table and finish considering that petition, seconded by **Steve Vieira** with a unanimous vote.

IX. **Public Comments** –  
None

X. **Staff Comments** –  
**Ms. Nocheck** said we have 4 items for next month's meeting.

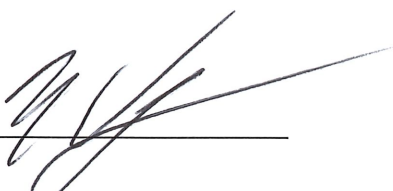
XI. **Member Comments** –  
None

XII. **Next Meeting**  
*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, July 14, 2021 at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 10:25 a.m.

Respectfully submitted,  
Diane Clim, Recorder  
/dlc

  
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Blair McVety, Chair

  
Approval Date: July 14, 2021