



MINUTES

Charlotte County Board of Zoning Appeals

Wednesday, August 11, 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
John Doner (absent)

Staff:

Shaun Cullinan, Planning/Zoning Official
Thomas David, Asst. Co. Attorney
Stacy Bjordahl, Asst. Co. Attorney
Elizabeth Nocheck, AICP, Sr. Planner
Diane Clim - Recorder

I. Call to Order

Chair McVety called the August 11, 2021 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

Diane Clim 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 July 14, 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 August 11, 2021 Board of Zoning Appeals meeting were submitted.

VII. 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.

VIII. New Business

The following petitions were advertised on July 27, 2021: SE-21-015 and SE-21-016

SE-21-015

Robert Berntsson, agent for Farlow's on the Water and KF&LF Properties, LTD CO, is requesting a special exception to allow an overflow parking lot, in the Office Medical Institutional (OMI) zoning district. The property is located at **1980 S McCall Road**, Englewood, and is described as a portion of Lot 54, of the Englewood Gardens Subdivision, located in Section 05, Township 41 South, Range 20 East.

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

Applicant Presentation

Robert Berntsson, Esq., agent for the applicant, said he was sworn in. **Mr. Berntsson** said this site has been on the market for a long time. He did represent a few of the possible buyers but there was difficulty trying to develop the site. The last one we tried was a miniature golf course which would be a more intense use. This is a technical reason why we are here. The Code contemplates this. If Farlow's was on a small piece of property and could not fit all the parking, they could do this without coming before you. Because this is not the required parking we are putting here, it is overflow parking, that does not meet the conditional use definition. It's not just for the customers, the employees need to park also. There are shift changes, lunch staff is finishing up and the evening shift is coming in, and they basically use up the entire parking lot.

Mr. Fix said since you will have a high fence around the property, will there be any lighting for the employee's safety?

Mr. Berntsson said they have not put in yet for the final site plan, but the fence is only along the back property. There is lighting on McCall Road. They looked at the aerial to see where the lighting is.

Chair McVety opened the meeting to Public Comments.

Public Input

Kevin McDougal, who lives next to the parking site in question, said he was sworn in. **Mr. McDougal** said his concern is the type C barrier. The opaque wall. He would prefer the wall not a fence.

Ms. Nocheck said Peggy Benzing sent in an email opposing this approval.

Mr. Berntsson said the restaurant just purchased the other home next to them and they installed the white opaque fence, and that is what they will put around the parking lot.

There being no further requests to speak for or against the petition, Mr. Fix 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

Mr. Abbatematteo asked about 24 hour parking.

Shaun Cullinan, Planning and Zoning Official, said you can condition this to not have over night parking. The restaurant is not open for 24 hours, but someone could potentially park there over-night. There could be a car that won't start, and it would have to be left there until towed or fixed. It could be a problem if there was storage.

Mr. Berntsson said it doesn't happen often, but an employee may not feel well and go home with another employee until they get their car the next day. If it was a bank or something else, they could be there as a right.

ACTION: A motion was presented by William Abbatematteo and seconded by Larry Fix that Petition SE-21-015 be APPROVED based on the Community Development Staff Report dated August 4, 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.

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 an overflow parking lot 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, right-of-way access, stormwater management, landscape plan approval, vegetation removal, fencing, and parking.
3. The use of the subject property for overflow parking may only be used by an establishment located at 2080 S. McCall Road, which is currently operated as Farlow's on the Water.
4. A sign shall be posted at the entrance of the parking lot indicating the parking lot is for the private use of Farlow's on the Water restaurant.
5. If the overflow parking lot is not under the same ownership as Farlow's on the Water, a written agreement between the owners of the subject property and Farlow's on the Water which allows the use of subject property for overflow parking by Farlow's shall be submitted to the County for review and approval and shall be recorded prior to the use of the subject property as overflow parking.
6. A minimum Type C buffer with a six-foot tall opaque fence or wall shall be installed along the north property line of subject property.
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-21-016

Kyle Grimes, Esq., agent for Holiday Pools of West Florida, Inc., is requesting a special exception to allow an outdoor display area in excess of 300 square feet, in the Commercial General (CG) zoning district. The property is located at **1800 El Jobean Road**, Port Charlotte, and is described as Lots 11-14 and 58-64, Block 655, of the Port Charlotte Subdivision, Section 41, located in Section 12, Township 40 South, Range 21 East.

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

Mr. Abbatematteo asked about the 1,620 s.f. and if there is a cap?

Ms. Nocheck said there is not a cap in the Code, that is up to the discretion of the Board.

Applicant Presentation

Kyle Grimes, Esq., agent for the applicant, said he was sworn in. **Mr. Grimes** said he is the applicant for Holiday Pools of West Florida Inc. and this is for a display area in excess of over 300 feet. His client wants to construct a sample pool area and some of the pavers and products to be able to show the clients something in person instead of just looking at photos. The site is surrounded by other commercial uses. They made a few different site plans but this is the most practical spot for the display. The pool would only be 4 foot in depth. There will be paver decking and there is a screen around the area with a lock. There will be landscape buffering. They agree with the conditions in the staff report.

Mr. Grimes asked if condition #3 could be amended. That requests an alarm system on the cage door itself. He spoke to the client and the client said often the alarm is set off with winds moving the door around.

Mr. McVety asked who's idea was the alarm?

Mr. Cullinan said that was staff's recommendation due to the pool, they were looking at all the safety aspects.

Mr. Grimes said the yard itself is not fenced in but they are putting a lock on the screen door and they are proposing an alarm system that goes in the pool. If something goes in the pool, the alarm goes on. It will detect any motion in the pool and it will notify the receiver.

Mr. Cullinan said they are okay with that change.

Mr. McVety asked staff to make that change on the condition.

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. Fix 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 Larry Fix and seconded by William Abbatematteo that Petition SE-21-016 be APPROVED based on the Community Development Staff Report dated August 4, 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 seven conditions recommended by staff, with condition #7 changed for the alarm on the pool.

Motion was approved with a unanimous vote with the following seven conditions:

1. The Special Exception, as approved by the Board of Zoning Appeals, is to allow an accessory outdoor display area of \pm 1,620 square feet 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, stormwater management, landscape plan approval, and fencing.
3. The screened pool cage enclosure shall be equipped with a lock on the door, and the pool shall be equipped with an alarm system.
4. Any lighting features, including light shows, lasers, or other lighting types, shall be designed, installed, and operated in a manner that does not cause a visual distraction to drivers on El Jobean Road.
5. An eight-foot-wide perimeter landscape strip shall be planted and maintained along the northwest property line.
6. 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.
7. 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.

IX. Public Comments –
None

X. Staff Comments –
Ms. Nocheck said we have 3 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, September 8, 2021 at 9:00 a.m., in Room 119.

There being no further business, the meeting **ADJOURNED** at 10:04 a.m.

Respectfully submitted,
Diane Clim, Recorder
/dlc



Blair McVety, Chair

Approval Date: 8-8-21