



# MINUTES

## Charlotte County Board of Zoning Appeals

Wednesday, September 14, 2022 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  
William Abbatematteo, Vice-Chair  
Steve Vieira, Secretary  
Larry Fix  
John Doner

### **Staff:**

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

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

Chair McVety called the September 14, 2022 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 August 10, 2022 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 September 14, 2022 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 August 30, 2022: SE-22-018, SE-22-019, SE-22-020, SE-22-021, SE-22-022, VAR-22-011 and VAR-22-012***

Shaun Cullinan said the Special Exception Petition #SE-22-019 that was advertised for the outdoor market will not be heard today if any one is here for that petition.

**SE-22-018**

Mark Pricer P.E., representative for the Diocese of Venice, is requesting a special exception to modify a previously-approved special exception (SE-08-26), to allow for a 12,421-square foot gymnasium expansion with four classrooms to be added to the existing private school, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at **21505 Augusta Avenue**, Port Charlotte, and is described as Tract A and Lots 51-57, Block 2779, and Lots 1-8, Block 2789, of the Port Charlotte Subdivision, Section 33, located in Section 15, Township 40 South, Range 22 East.

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

**Applicant Presentation**

**Mark Pricer, representative for the applicants, said he was sworn in. Mr. Pricer** said he did all the designs for this project. He introduced Mr. Joe Rigo with the Diocese of Venice.

**Joe Rigo, director of construction for the Diocese of Venice, said he was sworn in. Mr. Rigo** said this has been needed for many years. We will be fencing and gating the property for security. Site Plan review has already been approved for this project. He can answer any questions.

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

Elizabeth Nocheck presented the recommended conditions for the petition.

**Board Member Comments and Questions**

There was discussion about parking after school hours and other events held at this site.

***ACTION: A motion was presented by Larry Fix and seconded by John Doner that Petition SE-22-018 be APPROVED based on the Community Development Staff Report dated September 7, 2022, 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 six conditions recommended by staff.***

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

1. The special exception, as approved by the Board of Zoning Appeals, is to modify an existing special exception (SE-08-26) to allow for a 12,421-square foot gymnasium expansion with four

classrooms to be added to the existing private school and extends only to the lands included in the Site Plans and legal description submitted with this application.

2. The Concept Plans 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, landscape plan approval, stormwater, transportation, and building permits.
3. Perimeter landscape strips shall be planted along the rights of way of Easy Street, Augusta Avenue, and Gates Avenue. Existing vegetation may be used to meet this requirement.
4. Any additions of outdoor recreational uses, including sports courts or ball fields, will require a modification of the special exception. The addition of a playground internal to the site shall not require a modification of the special exception.
5. This special exception is granted for a term of five 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.
6. 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.

**This petition was not heard at this meeting**

**SE-22-019**

Eric A. Wells, representative for South Gulf Cove Homeowners Association, Inc., is requesting a special exception to allow for an outdoor farmers' market, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at **14859 Ingraham Boulevard**, Port Charlotte, and is described as Tract F14, Block 4510, of the Port Charlotte Subdivision, Section 81, located in Section 22, Township 41 South, Range 21 East.

**SE-22-020**

Jeff O'Donnell is requesting a special exception to exceed the maximum of 3,000-square feet of accessory structures to allow a 4,896-square foot detached garage, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at **12491 Stimmel Avenue**, Port Charlotte, and is described as Lots 8-12, Block 5172, of the Port Charlotte Subdivision, Section 95, located in Section 07, Township 41 South, Range 21 East.

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

**Mr. Abbatematteo** asked about the garage possibly being built before the primary structure (the house).

**Ms. Nocheck** said the house permit was just issued a month ago. We can add a condition the garage cannot be built before the primary structure.

**Mr. Cullinan** said if the garage was built and no house, it would become a Code Enforcement issue.

**Applicant Presentation**

**Jeff O'Donnell, applicant**, said he was sworn in. **Mr. O'Donnell** said he accepts the conditions and can answer any questions.

**Asst. County Attorney David** asked if he would be okay with a condition that says the garage cannot be built before the house?

**Mr. O'Donnell** said the house is already started. The garage will be about 3 months behind. He said he is okay with that 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. 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 Larry Fix and seconded by William Abbatematteo that Petition SE-22-020 be APPROVED based on the Community Development Staff Report dated September 7, 2022, 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 4 to 1 vote with the following eleven conditions:***

***(Mr. Vieira voted against this approval)***

1. The Special Exception, as approved by the Board of Zoning Appeals, is to exceed the maximum of 3,000-square feet for accessory structures on a property greater than one-half acre in size, to construct a 4,896-square foot detached garage, 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, 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 right-of-way access and building permits.
3. The detached garage shall not be used as a dwelling unit.
4. The detached garage shall be constructed to match the materials and colors of the proposed single-family residence.
5. Subject property shall remain under unified ownership. If subject property is sold in the future, the lots may not be split or unconsolidated.
6. The minimum side (west and east) yard setbacks for the detached garage shall be 30 feet, or as required by code to meet the setback requirement for increased wall height, whichever is greater.
7. The detached garage shall not be used for the purposes of storing any commercial vehicles, construction materials, heavy machinery, or hazardous materials.

8. The construction of any additional accessory structures, with the exception of a swimming pool, will require a modification of the Special Exception.
9. This Special Exception is granted for a term of three 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.
10. 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, may be approved by the Zoning Official.
11. Permits for the accessory detached garage may not be closed until the permits for the primary structure are closed, and a Certificate of Occupancy (CO) has been issued.

**SE-22-021**

Mr. Stephen Cole-Hatchard, representative for Cove Storage Inc., is requesting a special exception to allow for the outdoor storage of boats, tractors, and trailers, in the Commercial General (CG) zoning district. The property is located at **10146 Winborough Drive**, Port Charlotte, and is described as Lots 41, 42, and 43, Block 4616, of the Port Charlotte Subdivision, Section 85, located in Section 29, Township 41 South, Range 21 East.

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

**Applicant Presentation**

**Stephen Cole-Hatchard, applicant**, said he was sworn in. **Mr. Cole-Hatchard** apologized for parking the trailers in the back and did not know that was not allowed. They hurried and applied for the Special Exception. They do have a chain link fence but asked if it had to be replaced with an opaque fence. He said they will be purchasing the vacant lot next to them.

**Mr. Cullinan** said the opaque fence is better for the aesthetics.

**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. Abbatematteo. 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 Steve Vieira that Petition SE-22-021 be APPROVED based on the Community Development Staff Report dated September 7, 2022, 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 the outdoor storage of boats, tractors, 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, 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 construction materials, debris, heavy machinery, or hazardous materials is prohibited.
4. Outdoor storage of vehicles is limited to Lot 41, as shown on the Concept Plan (Exhibit H), provided by the applicant.
5. A "Type D" Landscape Buffer with a six-foot-tall sight-obscuring (opaque) fence or wall, shall be constructed and planted along the north, west, and east property lines of Lot 41, as shown on the Concept Plan (Exhibit H), provided by the applicant. The use of chain link fencing as part of the required buffer is prohibited.
6. The outdoor storage use may not be used until all required improvements are completed and a Certificate of Occupancy has been issued. Existing vehicles stored on site must be removed until the outdoor storage yard permit has been issued and the required landscaping has been installed and inspected.
7. This Special Exception is granted for a term of one year 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.
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-22-022**

Miguel Hernandez, representative for K&M Tile Services, Inc., is requesting a special exception to allow for an outdoor storage yard for a building trades contractor, in the Commercial General (CG) zoning district. The property is located at **432 Sally Street**, Port Charlotte, and is described as Lot 18, Block 1086, of the Port Charlotte Subdivision, Section 16, located in Section 01, Township 40 South, Range 21 East.

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

#### **Applicant Presentation**

**Miguel Hernandez, representative for the applicant**, said he was sworn in. **Mr. Hernandez** said he accepts the conditions and will answer any questions.

***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. 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 William Abbatematteo and seconded by Larry Fix that Petition SE-22-022 be APPROVED based on the Community Development Staff Report dated September 7, 2022, 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 nine conditions recommended by staff.***

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

1. The special exception, as approved by the Board of Zoning Appeals, is to allow for an outdoor storage yard 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 hazardous materials is prohibited.
4. A "Type D" Landscape Buffer with a six-foot-tall sight-obscuring (opaque) fence or wall, shall be constructed and planted along all property lines. The use of chain link fencing is prohibited.
5. The facility shall not be open to the public. Only vehicles, machinery, materials, and equipment owned by the business owner may be stored on site.
6. The outdoor storage use may not be permitted on site until all required improvements are completed and a Certificate of Occupancy has been issued.
7. Where items are stored in stacks or piles, the height shall not exceed five (5) feet so as not to be visible behind the required fence and buffer.
8. This Special Exception is granted for a term of three 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.
9. 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.

**VAR-22-011**

Ralph DiCarlo, representative for John Murphy, is requesting a variance to reduce the required 15-foot side yard setback by 4 feet to allow an 11-foot side yard setback, to allow an existing swimming pool, pool deck, and pool cage to remain "as-is", in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at **18578 Grand Avenue**, Port Charlotte, and is described as Lot 11, Block 222 of the Port Charlotte Subdivision, Section 8, located in Section 20, Township 40 South, Range 22 East.

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

**Applicant Presentation**

**Ralph DiCarlo, representative for the applicant**, said he was sworn in. **Mr. DiCarlo** said he agrees with the conditions and will answer any questions. He said it was his company’s error on this setback.

*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. 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 Larry Fix and seconded by William Abbatematteo that Petition VAR-22-011 be APPROVED based on the Community Development Staff Report dated September 7, 2022, 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 15-foot side yard setback by 4 feet to allow an 11-foot side yard setback, to allow an existing swimming pool, pool deck, and pool cage to remain “as-is”.
2. The variance shall only apply to the existing swimming pool, pool deck, and pool cage, as shown in the documents submitted with this application.
3. 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 removal or replacement caused by a natural disaster or involuntary destruction of the swimming pool, pool deck, or pool cage.

**VAR-22-012**

Kenneth & Michelle Smallwood are requesting a variance to reduce the required 10-foot rear yard setback by 6 feet to allow a 4-foot rear yard setback, to allow an existing swimming pool, pool deck, and pool cage to remain “as-is”, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at **27346 Tierra Del Fuego Circle**, Punta Gorda, and is described as Lots 32 & 33, Block 541, of the Punta Gorda Isles Subdivision, Section 20, located in Section 03, Township 40 South, Range 23 East.

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



**Applicant Presentation**

**Kenneth Smallwood**, said he was sworn in. **Mr. Smallwood** said all the County departments have helped us and made this easy. He feels it was the pool company who made this mistake. He spoke with the pool owner who actually reimbursed him for this expense because he admitted they were wrong.

*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 John Doner that Petition VAR-22-012 be APPROVED based on the Community Development Staff Report dated September 7, 2022, 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 10-foot rear yard setback by 6 feet to allow a 4-foot rear yard setback, to allow an existing swimming pool, pool deck, and pool cage to remain "as-is".
2. The variance shall only apply to the existing swimming pool, pool deck, and pool cage, as shown in the documents submitted with this application.
3. 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 removal or replacement caused by a natural disaster or involuntary destruction of the swimming pool, pool deck, or pool cage.

**VAR-22-013**

Nikola Petrovic, representative for Atanas Petrovic, is requesting a variance to reduce the required 15-foot rear yard setback by 5 feet to allow a 10-foot rear yard setback for a new swimming pool and pool deck, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at **10454 Atenia Street**, Port Charlotte, and is described as Lot 12, Block 4655, of the Port Charlotte Subdivision, Section 87, located in Section 28, Township 41 South, Range 21 East.

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

**Applicant Presentation**

**Nikola Petrovic**, representative for the applicant, said he was sworn in. **Mr. Petrovic** said he can answer any questions. He accepts the conditions.

*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 Steve Vieira that Petition VAR-22-013 be APPROVED based on the Community Development Staff Report dated September 7, 2022, 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 3 to 2 vote with the following four conditions:  
(Mr. Doner and Mr. Abbatematteo voted against this request)***

1. The variance, as approved by the Board of Zoning Appeals, is to reduce the required 15-foot rear yard setback by 5 feet to allow a 10-foot rear yard setback, to allow a new swimming pool, pool deck, and pool cage. The setback shall be measured from the rear property line.
2. The variance shall only apply to the proposed swimming pool, pool deck, and pool cage, as shown in the documents submitted with this application.
3. This variance is granted for a term of five (5) 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 removal or replacement caused by a natural disaster or involuntary destruction of the swimming pool, pool deck, or pool cage.

**IX. Public Comments –**  
None

**X. Staff Comments –**  
**Ms. Nocheck** said we have 2 petitions for October.

**XI. Member Comments –**  
**Mr. McVety** said he will not be at the October meeting.

**XII. Next Meeting**

*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, October 12, 2022 at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 11:45 a.m.

Respectfully submitted,  
Diane Clim, Recorder  
/dlc

  
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Blair McVety, Chair

Approval Date: \_\_\_\_\_

11-9-22