



MINUTES

Charlotte County Board of Zoning Appeals

Wednesday, May 10, 2023 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
Vacant
John Davidson

Staff:

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

I. **Call to Order**

Chair McVety called the May 10, 2023 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. **Staff Comments**

None.

VI. **Approval of Minutes**

ACTION: *A motion was presented by Mr. Davidson and seconded by Mr. Vieira to approve the minutes of April 12, 2023, 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 May 10, 2023 Board of Zoning Appeals meeting were submitted.

VIII. **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.

IX. New Business

The following petitions were advertised on April 25, 2023: SE-23-015, VAR-23-007, VAR-23-008, VAR-23-009, VAR-23-010 & VAR-23-011

SE-23-015

Robert Berntsson, representative for Jim Pisano, is requesting a special exception to allow for the outdoor storage of vehicles, including boats, trailers, commercial vehicles, and recreational vehicles, in the Commercial General (CG) zoning district. The property is located at **271 Sunset Road**, in Rotonda West, and is described as Lot 957, of the Rotonda Heights Subdivision, located in Section 15, Township 41 South, Range 20 East.

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

Chair McVety requested Mrs. Sargent to complete roll call for Nichole Beyer who just arrived.

Applicant Presentation

Robert Berntsson, representative for the applicant, said he was sworn in. He accepts Ms. Nocheck as an expert for this hearing. This property has been zoned commercial well over fifty years. There are outside storage facilities that comes to people's minds when they think of them, that were installed years ago before current regulations were in place. Talks of a perfect example is the Rotonda Circle Storage Facility, which has a 2-year waiting list in order to get there. That facility is simply a chain link fence around a grassed yard. Everybody can see into it, there is no buffering, there is no landscaping. There are others that were built in the 90's before we had the regulations, we have today that are similar. Chain link fences, no paving, there not nice to look at. The county recognized that and adopted regulations to make outside storage facilities compatible with other areas. That includes a six-foot wall opaque fence or wall and landscaping. We are offering an eight-foot opaque wall to provide additional protection and buffering to these surrounding neighborhoods. The site has also been carefully designed taking into account that there is a drainage canal on one side of the property. We designed the stormwater for the facility at the south end of the property to provide further buffering from the residential development. Keep in mind all four quadrans of this traffic circle, are zoned commercial. The intent of that type of zoning, is to have neighborhood type commercial uses. So that the neighborhood doesn't have to travel out to 776 or 771 or 775 every time they need something. That they would be commercial development within the neighborhood. You see that in other areas such as Deep Creek. You could have a local strip center in there with a small bar, restaurant, doctor's office that produces all kinds of traffic. It is open all hours with out any regulation. The use of outdoor storage is one of the least obtrusive uses with the lowest traffic generation of any commercial use that you could put in this area. There is a need for this because many of the communities surrounding here and most of the new communities that are coming in have deed restrictions prohibiting boats, trailers, jet skis and the like from being parked in their driveway. Many also prevent commercial vehicles from being parked in the driveway. This area would provide relief for that in close proximity to where people live. There are three criteria for the granting of the special exception, and I submit to you we meet all three. The staff report finds that the special exception in consistent with the comprehensive plan, as the comprehensive plan and zoning categories are deemed compatible. We are compatible with the existing and permitted uses surrounding the land. This is an allowed use by special exception, it is a much less intense use that could go in on this property. That could be inconsistent with the neighborhood, but nobody gets to say anything because it's use is allowed as of right. With the additional buffering that we are providing with the additional height of the wall. This special exception is compatible with existing and permitted uses surrounding the land on which it will be located. And

finally, the establishment, maintenance and operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare. There is nothing that an outside storage facility does that has any potential detriment or endanger to the public health, safety, or general welfare. In fact, it allows for local storage of vehicles that can't be stored on your own property. I'd have to be ahh pretty foolish to think that there is not a lot of people here to speak about this application this morning, finding a parking place itself was difficult. So, I am going to stop there and say that we meet the criteria and reserve my time for rebuttal.

Chair McVety opened the meeting to Public Comments.

Miss Nocheck says while the first person is on their way up, we received approximately 342 pieces of written correspondence from those unable and some that are here to attend the hearing. All of the 342 emails and letters would like to voice their opposition to this petition. So, we will enter this into the record as exhibit J, you've all had a chance to look at this before the hearing. So, if anybody else wants to see it I would be happy to bring it up to you.

Public Input

Michael Blaney said he has been sworn in, a resident of Rotonda Heights and have lived there for 23 years. Where the current storage facility is going to be, is gonna to be approximately about 100 yards from where I live. When I moved to the heights, I knew that, that property and the other properties in that round about area were zoned commercially. As a subdivision would grow that eventually would development of businesses that would provide goods and services for the 1,900 residents or property owners. This proposed industrial storage facility does not provide any goods or services for the 1,900 owners in Rotonda Heights. I say that because in the applicant's proposal they state that the surrounding properties are not permitted to store boats and RVs in similar units on the property. So, a central location to do so is compatible with the neighborhood. That is completely false, Rotonda Heights does not have any deed restrictions that would prevent an owner from parking an RV or a boat on their property. Where he brought up in Rotonda West they have a two-year waiting list for their storage facility. That's because they have restrictions on RV's and boats being parked on their properties. Now also on the proposal they state that they space up to 75-feet. Now that is compatible with a eighteen wheeler, a semi-truck with a 40 foot or 48 foot box on it the same type you would see going up and down the highway. So that's what we would have going in and out of the subdivision. Now no one in the subdivision is going to pay a storage facility when they can keep their boat or their RV on their property for free. So that means that this storage facility is gonna have to draw in trucking companies, landscape companies, heavy equipment companies and other similar businesses into a residential subdivision to sell storage. So having this industrial storage facility directly in the middle of a residential subdivision is not compatible with the surrounding land uses. Without question it will directly affect the visual image and attractiveness of the subdivision. It will not increase property values or attract new residents. It is my sincere hope as a long time resident and a board member, that the zoning board denies the proposed special exception thank you.

Melissa Sullivan said she has been sworn, resident 212 Cougar Way, I would like to thank you for the opportunity this morning to speak on behalf of my many neighbors in red today. We bought; I live on 212 Cougar, so my house is not within the 1,000 feet of this property. However, we did buy knowing that all four of these properties on the Cougar Circle were zoned commercial general. That was acceptable to us knowing what could actually be there. I think I speak for my neighbors when I say if a restaurant or something that was appropriate for that zoning was to come into the circle, we would welcome it. However, I also think I speak for my neighbors when I tell you we don't welcome this. This is one issue that 1,900 parcels and property owners can agree on. It's kind of a unanimous thing that

none of us think that this is ok for our beautiful circle. We have a park with park benches and picnic tables and lighting, we have made that circle pretty. We consider it our park; we have special events at that park. We had a trunk or treat for Halloween last year; we had a friend giving scheduled however that was rained out. So, we had to find another place to do that, but in the future, we will be holding events there. It makes no sense to have a 8 foot opaque fence surrounding this one parcel. Sailboats will still be seen; dump trucks will still be seen there well over 8 foot tall. There is an environmental impact in my opinion with that water being right there we are as an association responsible for the drainage. That will have impact, I can see many people changing the oil right there. Since it will be unmanned, as Mike Blaney just stated we are allowed to have boats, RV's, commercial vehicles, trailers, anything we want on our property. So, if were going to correct something that needs to be corrected. Your staff did not find that, that is the reality in Rotonda Heights. We are allowed to have this, there is no need for this type of storage in our community. There are within a six-mile radius, 15 other storage type facilities that our neighbors and our neighborhood and even the rest of Rotonda West can utilize. They are not all full and that's just within six miles, and I know I will wrap it up. Since I only have thirty seconds left but I urge you please not set this dangerous precedent in our neighborhood. If we change and make an exception to this zoning, there are three other parcels that will demand the same. It's not fair for Mr. Pisano to decide he's going to purchase a property at a cheaper price and then ask for an exception from our County. Thank you for your consideration in voting this down.

Chair McVety speaks to Mr. Cullinan on what should be parked at the houses at the houses in that neighborhood. Mr. Cullinan informs that deed restrictions are private, we don't keep track of them, we don't enforce them, and we don't have anything to do with them. They have a discussion on this.

Carol Komendo-Spragu said she has been sworn in, I live at 300 Sunset Road, I request that if you would accept documents to peruse as I give a presentation. I know you normally start from the front, but just to reiterate that was said earlier. Rotonda West HOA owns property that serves the community of Rotonda West. They sell their, they rent their units for the RVs in the community for \$200.00 that's why there is a waiting list. It's not because there is a need necessarily, I have not done any research to that but it's a very affordable price. I submitted earlier that I was concerned about the three water retention ponds that are near this facility. In my work previous to my retirement, I was involved in a, I supervised camp buildings and vehicles and we had inadvertently leaked gas and oil in the property. The DEP came in and said wow this is really bad. So, my concern here, I am not a DEP representative or employee. I am concerned about the quality of the ground once these big trucks, diesel or gas is eventually seeps into our land. This is not something pleasant for anyone in any community. The other thing I wanted to mention was in the front part of the packet I submitted. If you could see I took picture from Google maps, which is a wonderful resource. It indicates several facilities throughout Charlotte County and if you note they're all the storage facilities are on a main drag, main roads 41, Upper level of Pine Street, Duncan Road in Punta Gorda it's out in the fields. There's pictures denoting where they are. So, you can see there's no houses near anyone of those facilities that were previously approved. In closing I thank you for listening to my information and hope you take that into consideration when making a decision, thank you.

Miss Nocheck tells Kim Sargent for the record we will put this as exhibit K.

Kevin Hyde, said he has been sworn in, I am a 12-year resident of Rotonda Heights to be very clear with a limited time I am here to speak against the special exception. One of the reasons is hasn't been touched on this isn't an enhancement or otherwise value-added offering to our community. We can have boats and trailers in our driveways. My RV is in my driveway, and it's been there for some time. Before that my boat was there. Speaking to the waiting period of time for the use of the facility in

Rotonda. That's because it's so cheap, before I had our RV in my driveway. I thought well I'll be a good neighbor and put it somewhere else. The issue that we find in the community is not that there isn't plenty of places, is that these storage places become an attractant for bad behavior. I mean for a lack of better terms so that the security is an issue. People find that RV's and boats have parts pieces and contents removed in the night and so when people are looking for storage. Sometimes when you have the unmanned facilities there is nobody to keep an eye on things and so for example, I did keep mine at a paid location. I chose one of the fenced and manned facilities over of Gasparilla Road. Something I should also mention is I'm a realtor in the area, I have been for a little over 20-years. I've served as the district vice president for Florida Realtors and having represented over 10 thousand realtors in the area. Also including my presidency at the Englewood area board of realtors. So, I've been through this, circle and I thank Mr. Berntsson's presentation and his eloquent speech. Because that's what he does, he's excellent at what he does. But he missed a couple of things, we don't need this. It is negative to the community on a variety of different avenues and if you think about this I don't know where in this, this falls but you know what we don't want to do is hurt things. So, I don't think our roads are able to handle the type of weight that comes. I lived there before they did the roads and there was weeds cracking up and they just put a thin layer on there to get rid of the weeds coming up through the drive. I don't think that our roads are compatible with the heavy use of commercial vehicles thank you.

Asst. County Attorney David Thomas tells the chairman he would like to advise the public that under rule 1.12L clapping is not permitted in the chambers. It will have an impact on the due process effective this hearing.

Edmond Routenberg on Kings Drive, and I am against the proposal, because you have a lot of kids going to the Angus School that walk and ride up Cougar which is a busy street right now. Those kids how are they going to do with the buses and the trucks and the, you know the boats and stuff. Also, the retention who's going to take care of it when it grows weedy and have problems. It's an eye sore towards the neighborhood and um what about the ground cover and the land there and who's going to take care of the hazardous waste. Like we said from the oil changing and um dumping of anything there and it's unprotected at night. There will probably be a lot of thieveries at night, it's not going to be protected. Again, the traffic, the last feller said that the roads aren't made for big trucks and buses and boats and again we got a lot of school buses going through that area twice a day. So, I just think it's gonna be a problem and um I hope we turn down the um permit thank you.

Chair McVety says no clapping.

Joan Bear I have been sworn in, and I would like to address the idea of the proposed storage unit. There are many storage sites like it's been said. Many storage sites within a six-mile radius, and we are able to have our trailers and boats in our yards here. I have some personal reasons why I don't think that the storage unit should go there. I've lived directly across the pond from the proposed site, and we were just through Hurricane Ian now an eight-foot fence is not going to cut debris flying across the pond. Light fixtures, sailboat masts, pieces of metal that's not gonna cut it and right now that area that is treed in is um is homes for birds, nesting sites for the egrets, the commerands and whatever else birds' wildlife live around there. We're losing all our wildlife, so there is the destruction of the trees and nesting area for water birds. I took a video of on April 30th when we had that windstorm of the water and the wind coming over the pond towards our homes that live on the pond, and it was crazy. I could see what happened during a Hurricane. We built there because of the beauty and tranquility; it was it's not zoned industrial. You say we have a waiting list for storage, but Rotonda does, and I put, were not allowed to put our units in Rotonda. So, I am thinking they want to use a storage site on our land, you know where the storage unit is gonna go. So, you know, so they get they don't have that waiting list

anymore. If we are going to use this site as a commercial site. I could see having a small bakery that closes at 2 o'clock or a garden center or a yoga studio. I do not know why would need a storage unit thank you.

Diane Terry and I have not been sworn in,

Kim Sargent swears in Diane Terry.

Diane Terry now has been sworn in, I am a 16-year resident of Rotonda Heights, I live on 123 Hunter Road, my property is within the 1,000 feet. I am not gonna to take up a lot of time. I am just echoing what my neighbors have shared. Everything that they've shared is concerns, are my concerns as well. I would just ask that you must deny this request thank you.

Citizen # 8, I am not sworn in,

Chair McVety asks is there anybody else not sworn in that wants to be sworn in please stand up and raise your right hand.

Kim Sargent swears in the extra parties that wish to speak.

Peter Sofshanets, I have lived in the community for 17 years and um with my own hands. I have spent a lot of time beautifying clearing Brazilian pepper from the entire street that I live on. I drive thru this area every single day. As it's been indicated the streets are vey residential in their shape and in their finish. Trucks would definitely be detrimental; it is very hard to navigate that circle. Especially where that entrance is located and I think we can all agree, that as trucks especially access and go in and out of an area like that. Especially commercial where they change teams and pull-out equipment and change equipment. They will double park, leave the gate open, come in and out, drive the other vehicles in and out, there is not space there for comfortable parking during egress and ingress. That would not be blocking Sunset which is a major street that goes through this whole community. The traffic circle was actually, is intended to be like the showcase piece of this community. So, I think if this project went anywhere, it would be off in a corner on the edges. But it is true that 776 was definitely designed for this kind of work. It has service access roads for building just this kind of thing. It is literally three minutes from here. Avenue of America's, Winchester all those other roads are also all commercial, have prepped have facilities like this there already. You watch the trucks park come in and out, you know not to drive there. So, when I moved here, and this will be my closing. It was self-evident to me that this was a very residential community. I did not envision that someday it needed thousands of parking spaces or anything like that. But that it was a wilderness area, where people who like privacy would come and live here. That is what we wanted and that is what we continued to deserve, and that this will not enhance our property values and it will not bring extra tax money to Charlotte County. Because it will inhibit people from wanting to live here and put nicer bigger houses that generate more revenue thank you.

Chair McVety states please no clapping.

John Ballas, thanks the members of the board allowing us to speak today, your task is not an easy task and I believe you will come out with the right decision today. I would like to thank all of my neighbors for being here today. Those that are in room 106 and those that are on zoom at this point. I have no idea on how many numbers were talking about, but I think that they're substantial. My name is John Ballas, I serve as the secretary of the board of directors for Rotonda Heights and I am also the chairman

of our MSBU. Mr. Jim Pisano would like to receive an exception for a property that is zoned commercial general also called CG. I am asking you as a board to deny this exception. In 2017 our community spent \$2,399,488.00 to repave our roads. Each member of our community was taxed an additional \$113 for a period of six years plus one and two years still remaining. That figures out to be a little over a \$1,000 dollars per person, \$1,017.00 to be exact. The life expectancy of our roads is about 20 years with normal wear and tear. Our MSBU and I as the chair feel responsible for our roads. We want every bit of those twenty years of use and then some. We fully understand that large vehicles are a part of our life, we have waste management picking up trash, we need dump trucks, cement trucks to help build our homes and we have school buses for our children as well. What we don't need is an additional unwanted unneeded potentially dangerous and the wear and tear which this storage facility will certainly create. Mr. Pisano's petition in findings part 3 number 3, I will paraphrase, basically saying these things should not necessarily, there low impact and they should not generally generate significant vehicular traffic. It's better to have some residential small commercial businesses because ya know they are going to be open 24 hours and we're gonna have things that we don't want in our neighborhood. Well, you know something he's right, we don't want those in there, we know we have to have that at some point but he's right they could cause a problem. However, we are now 53 years in and not one, we have not even one of them has been built. Nor, are there any intentions of building any of them. Rotonda Heights had its origin in 1970, 53 years ago and I want you to remember that 53 years without this. There is also a lack of demand for Mr. Pisano's outside storage if I read my community correctly. First the seven-point acres storage facility absolutely has no upside for our peaceful community. There only downside is greatly having an adverse effect on many properties. The only upside would be to Mr. Pisano, to the zoning appeals I ask you to reject this exception thank you.

Don Lutz, I am the President of the Rotonda Heights Association, I would like those in the audience if you are opposed to this application if you would very quietly stand, you may be seated thank you. I asked one of members to count in the overflow room there is 60 red shirts we can safely assume the bulk of those came with us. You guys know what this means you do this many more times than were involved. I the incoming President of the Englewood Board of Realtors, I am an executive committee member of Stella MLS, I have been a licensed broker and a managing broker on Boca Grande for the last 21 years. I am a pro-businessperson, but you can be pro-business and not be for this specific development. Our association is asking you politely and respectfully to deny this application. To not repeat I am gonna cut some of my words, but I do want to reinforce I was personally involved in the renewing and revitalizing of our documents, and I cannot emphasize enough what I consider as a material mis statement in the applicant's application. Rotonda West prohibits these vehicles, Rotonda Heights does not. If you drove through Rotonda Heights there are boats, RV's, trailers, trucks some of us may not like that but there not prohibited. There is not upside to members in this community using outdoor storage for any of those purposes I just want to reinforce that. I do have a concern about this, being involved in real estate commercial intent of light industrial is much more expensive land. I think if the board were to approve this even with restrictions, it would cause some folks who are involved in real estate to say let's start purchasing commercial general property in residential neighborhoods, go to the BZA ask them for a special exception and then we don't have to purchase a higher intense level of zoning. This development does not belong in our neighborhood full stop period, we are respectfully asking you to deny this application thank you.

Eric Swayick, not sworn in,

Kim Sargent swears in Eric, he is now sworn in.

Eric Swayick, Good morning board, has 35 years in commercial construction, the last six building storage facilities. I think the one big thing that everybody is missing here is noise pollution. This type of usage creates extreme havoc on a residential neighborhood. Further being if you look in my six years of building them, we do not build these in residential neighborhoods. There is a reason and noise pollution being the one, commercial vehicles, all commercial vehicles are required to have back up alarms. Four in the morning landscape company comes in neighbors hearing the back up alarm. Somebody comes back from a trip, and they want to bring their RV back in 4 am in the morning you are hearing a diesel generator or diesel motor going off in your neighborhood. In a quiet neighborhood like that with very little ambient noise from any large roads around it, it will be a sore thumb. It will be a detriment to the neighborhood. I probably roughly just under a half mile away, I will hear a backup beepers. There is no getting around it they pierce the night. The intent for that property, this is what I do for a living. It is going to be an enormous eye sore and detriment on our roads, on our community, on the actual environment, there is no getting around it. Diesel vehicles they leak, commercial vehicles they leak, landscape they're spilling gasoline. I understand there is money to be made and everybody should have their but it's not, not in this neighborhood. I have been doing this for 6 years this is what we do, and they are never, never in a residential neighborhood. Also, the light pollution as good as all the LED lights are we can say the neighbors are gonna be impacted. There is no getting around it. It will be an absolute detriment to those who are directly involved, who right next to it, and even those in the surrounding areas. It's just not meant for this neighborhood thank you.

Chair McVety states no clapping.

Michael Haymans, I represent Rotonda Heights Conservation Association and all the red hoard here today. This red wave that's here in front of you is because they have the right perspective, the proper perspective this is their neighborhood. They know what's compatible and not compatible. You've heard the testimony from people about noise about the view, about those kinds of things. I do have a power point with just some of the ground level views of some of these properties. If you would allow me to have that presentation. There we go, next and goes over to the next screen, ok there this is the Cougar Circle. This is a important gathering place for the community, and there's some syntality to it and the quadrants around it. That Rotonda when they platted this back in the 70's when this came into being. somebody had a vision about walkable communities about providing goods and services near where people live and work. So that you take the impacts off the road, you provide the goods and services there close. This central place in this neighborhood, in this community it deserves protection and deserves the planning that whether they got it right accidentally or got it right because that's the way things should be. We have in our general principals of planning we want neighborhoods to have cohesion to have a place to get something to eat, to be able to shop, someplace that you can walk to or ride to easily and this quadrant, this circle provides that. If the special exception is allowed with the industrial type uses it will compromise the opportunity that we have for good planning to pan out. I would like to offer myself as an expert. I've been practicing for 40 years, I've done land use, I teach land use and zoning and CLE's and I have been accepted as a expert in variances, zonings in Lee County and Charlotte County and would ask that you would accept me as that. So, that you could rely upon my opinion when I tell you that this imposition of this use would be bad planning, it's bad, it's detriment to the general welfare of this community. You should turn it down, these people know what, why there upset and concerned. Please listen to them thank you.

Chair McVety asks do you have any questions for Mr. Hayman.

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

Rebuttal

Robert Berntsson well, I was right, there are a lot of people going to speak against it. So, couple of things, I think one of the best comments came from one of the speakers, when I decided I would be a good neighbor and take my RV out of my driveway and put it somewhere else. That's part of being a good neighbor just because your allowed to do it, doesn't mean you have to do it. The intention of the narrative was speaking to the Rotonda community as a whole. As I was thinking through writing the narrative and that's why the deed restriction comments are in there. The vast majority of the Rotonda West communities do have deed restrictions prohibiting. So, it wasn't this specific subdivision that I was referencing it was the general Rotonda area. My client has no intention of having semi-trucks or large dump trucks there. Their leases with there users will prohibit maintenance on vehicles, oil changing, things of that neighborhood, things in that area. There is a need for this type of use whether it be immediately next door or in the general community. It's the general community that I am addressing here today. Before I finish up, I just like our engineer to just address you briefly on any concerns on the environmental impacts of the facility.

Gary with Southwest Engineering, has been sworn, just addressing one of the comments made about oil changes and fluids, gasoline there will be no maintenance allowed on site. There is security cameras that if someone is caught doing that they will be asked and be removed from the site. If someone is filling up their gas lawnmower and it does spill the system, and that's hard to catch when doing that. The system is designed where everything kind of sheet flows to the dry pond. These ponds have to be maintained there actually inspected not only by the engineer, but by the water management district every 18 months. So, these things have to be maintained the ones that you might see that have weeds and that growing up they were done way before the water management district was in existence. So, these things are maintained it is a dry pond it's sodded, and there is special material in there that captures all the pollutant loading. This we are in an impaired water body, so this system is designed even larger than what's really required. Just for that reason for the impairment for the environment for water quality. We take water quality and southwest Florida very, very seriously. I haven't seen it matched in any other state. This is what we do in Florida, fishing, wildlife, is our concern and stormwater management is very important to us here in southwest Florida thank you.

Robert Berntsson, in the staff report there are conditions proposed by staff that Ms. Nocheck will be going over shortly. I would say we join in all of the conditions with the exception of condition number 3 which prohibits commercial vehicles including landscape trucks. My client has no problem with dump trucks, my client has no problem with prohibiting the storage of construction materials, debris, heavy machinery, semi-trucks, hazardous material but commercial trucks they do want to have as an ability to have at the facility. Those types of vehicles are generally small mom & pop operations that don't have an office building. Where their facilities can be, they may have a trailer that they use once a week or so. They could store that trailer at the facility. I did some research on commercial vehicles and I was taken it back and then I remembered growing up on Long Island. If you had a pickup truck, you couldn't drive on the parkways because commercial vehicles were prohibited. At that time in New York State every vehicle that was a pickup truck was deemed a commercial vehicle. A mini van is commercial vehicle under there classification of vehicles. A small pickup truck is also a truck not a commercial vehicle but is determined as a truck. So, I would propose if you want to limit the size of the trucks that you have a limit say no more, no vehicle over 12 feet in height for a commercial vehicle. But we would like to allow

the storage of commercial vehicles including landscaping trucks to be removed from condition number 3. I am happy to answer any questions you may have.

Chair McVety ask if any questions.

Miss Nocheck speaks on the reasoning behind the staff's recommendation to not allow commercial vehicles including landscaping trucks, the purpose of that is a landscaping truck or similar commercial vehicle maybe taken off the site on a daily basis vs. these RV's that maybe stored there could be kept for weeks or days at a time. It's not weeks or months at a time it's not an everyday type of use, but the commercial vehicles present the opportunity for daily in and out which would increase traffic. Those tend to be more in like a building trades contractor situation out for storage for those. But I will go into our recommendation now.

Elizabeth Nocheck presented the recommended conditions for the petition.

Mr. Berntsson says Mr. Chairman having heard the counties response to the commercial vehicle concern my client is willing to accept condition #3 as written that would prohibit commercial vehicles.

Board Member Comments and Questions

Chair McVety I have to say, and it's already been said that you know you have a lot of truck traffic in neighborhoods where every time you build a house. You got dump trucks and concrete trucks those roads are designed for traffic and when you don't have traffic on a road that is when you get grass growing through them. The traffic is what keeps the road expanding and contracting to keep the roads from having grass grow through them. CG is CG and they can build whatever they want without coming in here and you might not like it. I just got to say because I see it all the time.

Mr. Vieira asks Mr. Cullinan under CG can a indoor storage facility be built on that site? Mr. Cullinan says yes sir. They have a discussion on this along with the area and other uses that are allowed.

Mr. Vieira stated he will not be voting in favor of this request.

Mr. Davidson says to Mr. David that he has a relationship with Southeast Engineering & Design do I need to recuse myself from this vote.

Chair McVety you don't make money with them, do you?

Mr. Davidson No!

Chair McVety then you are fine.

Mr. Davidson well actually

Asst. County Atty. David with this application approval of this application and nor any benefit to you personally.

Mr. Davidson No, well, and both talk about conflict. So Southeast Engineering & Design has supported my non-profit.

Asst. County Atty. David are you compensated through the non-profit?

Mr. Davidson I am compensated thru them.

Asst. County Atty. David so you may have a personal benefit, then it would probably be in the best interest of you to recuse yourself from this vote.

Mr. Davidson thank you.

Asst. County Atty. David and not to participate in the debate.

Asst. County Atty. David asks Chair McVety could we just amend the motion to say the evidence and testimony that was taken at this hearing.

Chair McVety asks Mr. Vieira you're ok with that?

Mr. Vieira yes.

Robert Berntsson says I don't believe there was a second to the motion.

Chair McVety not yet no. I am getting ready to call it.

Asst. County Atty. David you need a motion and a second.

ACTION: A motion was presented by Steve Vieira and seconded by Nichole Beyer that Petition SE-23-015 be DENIED based on the Community Development Staff Report dated May 3, 2023, 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 with nine conditions recommended by staff.

Motion was denied with a 3 to-0 vote.

(Mr. Vieira, Ms. Beyer, and Mr. McVety denied vote; Mr. Davidson recused himself)

10:12 Recess – 5 minutes

10:17 Resume – in session

VAR-23-007

George Roland is requesting a variance to reduce the required 20-foot south side yard setback by 16.1 feet to allow a 3.9-foot south side yard setback, to allow an existing single-family residence to remain "as-is," in the Environmentally Sensitive (ES) zoning district. The property is located at **400 Seminole Road**, in Punta Gorda, and is described as Lots 10 – 13, Block 194, of the Harbour Heights Subdivision, Section 13, located in Section 02, Township 40 South, Range 23 East.

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

Chair McVety asks the undug canal, who owns that property?

Miss Nocheck I believe that's County right of way.

Chair McVety is that County?

Mr. Cullinan correct, that is a platted canal right of way and that's considered public water owned by the County.

Chair McVety looks like a green belt now.

Mr. Cullinan yes, but it does allow access for the public into the river.

Mr. Vieira in other hearings that I've been part of haven't we used some on those non-dredged canals and given up the land mass to an abutting owner.

Mr. Cullinan the ones that we have done for those in canals there was actually there was further canal where there was intersections of other roads and things being directly connected to the river. This would not meet the county requirements without an off-setting public benefit for access to water.

Kim Sargent swears in applicant.

Applicant Presentation

George Roland, applicant, I just want to comment on your question Steven about the canal that's there. We've researched all that I started way back in Covid talking to the county about vacating the entire thing. Started the process Covid happened it all kind of died we start over again. When we got down, I appreciate Jenny Shao and she finally came and said here is the answer. She said the comprehensive plan says they'll vacate no land that would keep the general public from having access to the waterway. Which although that's 400 feet of really dense woods. I do understand so we pulled back that petition to vacate the canal realizing that it would never happen. So yeah, we did recently bought the two lots to the north, we had a relationship with the guy for years and he finally decided to sell so that now we could make our needed addition to the north and not worry about the south. We appreciate Elizabeth's work, she's done, and I don't even want to say that I can understand. All the iteration she went through to try to understand exactly what happened it was truly out of our control we thank her.

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. Davidson. 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 John Davidson that Petition VAR-23-007 be APPROVED based on the Community Development Staff Report dated May 3, 2023, 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 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 20-foot south side yard setback by 16.1 feet to allow a 3.9-foot south side yard setback, to allow an existing single-family residence and swimming pool to remain “as-is”.
2. The variance shall only apply to the proposed single-family residence and swimming pool, as shown in the documents submitted with this application.
3. If the single-family residence or swimming pool 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 single-family residence or swimming pool.

Asst. County Atty. David asks Chair McVety to have a general swearing in again, I think a bunch of people came in that were in 106.

Chair McVety asks the people to stand up that has not been sworn and raise your right hand and face Kim Sargent.

Kim Sargent swears in people wishing to give testimony.

Chair McVety asks Asst. County Atty. David that what you wanted?

Assts. County Atty. David that’s what I wanted, there was a lot of activity out there I can tell you that.

VAR-23-008

Robert Berntsson, representative for Reid Murphy, is requesting a variance to amend a previously approved variance (VAR-21-004), to reduce the required 12.8-foot front yard setback by 0.8 feet to allow a 12-foot front yard setback, to allow an existing manufactured home to remain “as-is,” in the Manufactured Home Conventional (MHC) zoning district. The property is located at **761 Hollyhill Court**, in Punta Gorda, and is described as Lot 10, Block D, of the Charlotte Park Subdivision, Section 3, located in Section 19, Township 41 South, Range 23 East.

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

Applicant Presentation

Robert Berntsson, representative for the applicant, said he was sworn in. We do accept Ms. Nocheck as an expert for the purpose of this hearing. Elizabeth, could you go back to the first picture you had I think that shows the front of the property. I think this says it all, this is the most important picture in the series. A variance was granted to allow the mobile home to be 12.8 feet from the cul-de-sac curve. It was installed 9 inches forward so that it is only 12 feet from the cul-de-sac curve. And that appears from what we have been able to figure out is instead of measuring towards the curve. They measured straight and said we got more than 12 inches were good. We submitted an original survey as part of the application that did show the 12 feet. It also showed the rear of the home has an 8-foot covered deck and that 8-foot covered deck is 20 feet from the seawall. So, you don’t have that in your, that was the original one that we submitted. Then we submitted the updated survey because of the pool issue came.

Mr. Murphy has had nothing but nightmares since he started this home. He had to come in for the original variance, he is unhappy with some of the construction that was done with the home. He hired a pool company; it didn't get a permit for the pool. Which held us up, we applied for this back last July. So, we had to go thru the pool situation we got the new survey and Mr. Murphy disagrees with the location of the garage on the survey because the county has signed off. He has copies of all the letters that the county signed off on the garage, but it's just created another issue for him. That first picture though is what's important, there is a fence along the front yard with vegetation. Nobody is going to know or care that that house sits 9 inches further back. I am sorry eight tenths of an inch, it's nine inches it's eight tenths of a foot further back. When you drive down and you come around the cul-de-sac it's not going to be visible to anybody. The corner of the house is 25 feet from the actual pavement. So, if your property line was at the pavement line, they would actually make the 25 feet from the pavement. This board granted the prior variance it would create an undue, unnecessary hardship to have to tear the house out, move it back just a couple of inches for nobody to really be the wiser that it even was necessary. Based on all of that, we respectfully request that you approve this minor variance to the variance. To allow Mr. Murphy's house to remain where it is. I am happy to answer any questions.

Chair McVety opened the meeting to Public Comments.

Mr. Cullinan I would just like to point out, as we were seeing that fence and Mr. Berntsson stating that fence. I can not find any permit for that fence in our system.

Miss Nocheck Mr. Chair we did receive one letter of support from a neighbor I am going to pass that out now and we will label this as Exhibit H.

Public Input

Reid Murphy, applicant, 761 Hollyhill Court, I don't think he was referring to the gate that's sitting there as a fence. The property is outlined with palms creating a fence line from one end of the property to the other property. But I do not have a fence that goes across my property. There is a gate that's there right now currently. But in regards to the process of building this house. I started this out two years ago to buy this mobile home. It was told by the builders Titan Homes that this would fit in after giving them a copy of my survey. Come to find out it didn't, I came for the variance, it was granted that variance. I hired a I bought the home from Titan Homes; GTS Builders was part of there program and their package when I bought the house. They were the ones that were gonna build the house and put it up. They built the house, and they built it 8 inches off of what the variance allowed. And at the end of the day told me it's my problem. At the end of the day, there is stipulations that I could sue them if I have to. To have them move the house, it would create a huge undo hardship toward me. To have to move it 8 inches and yes after going through Covid for six months and almost dyeing and them breaking my back. Come to find out the people that hired to do the swimming pool took our money and up and ran. So, I had to hire a team of engineers to do an after the fact letter. I spent a lot of money to make and make sure the pool was up to standards. Got the permits, it was approved all final so that so that pool is completely final all the permits were pulled. Everything was passed on the swimming pool, right down to the safety stuff that's required for the swimming pool. You know there is a lot of crooked builders out there and they don't want to do stuff for you. GTS has left me in the hanging with our foundation they kinda didn't do a good job with the tie down straps and there is an open inspection that needs to be resolved with that as well. But this again would be a huge hardship, the pool would have to be moved and there is so many things that would have to be moved besides the house. The septic, the pool, and a lot of other things. The garage that was brought up here, I would like to say something on that for a second I did hire Carolina Carport to put my garage up I have several letters from the County

approving my final electric, my final roll, my final garage, the final structure. I have all of them sitting here so it was news to me, that GTS comes out and gets a new survey and now my garage is off. They were trying to maybe help accommodate this, this eight-inch setback here and they were hoping between that and the hurricane that maybe it blew a little bit. To make that eight inches fit that, so they don't have to rebuild this, re-do this house here. They put this all on me, I paid for this you know. I paid good money to put up a nice house there. My neighbors love me, I am good to my neighbors. During the hurricane I went out and helped all of them. I get along great with them. I am sure that there would be nobody hear an objection to it, I will be surprised if there is. I have made my property look beautiful; my neighbors are extremely happy with what I have done. We get many compliments people drive by to look at our house because it looks gorgeous. We've made it look very nice in the community there. This is something that I did not to try and create, I am hoping that you'll grant the variance. I guess I will have to address the garage thing afterwards because my, all of my surveys and stuff for the garage was all good. Everything was passed on my garage; this is just absolutely news to me so um if you have any questions, I would be happy to answer them.

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

Elizabeth Nocheck started to present the recommended conditions for the petition.

Mr. Cullinan speaks to Mr. Murphy on the gate because it is structurally put into the ground that would require minimum of zoning permit. So that would require a permit.

Elizabeth Nocheck continues to present the recommended conditions for the petition.

Board Member Comments and Questions

Chair McVety asks if he is ok with the recommendations.

Mr. Berntsson we have no objections to the conditions.

Mr. Davidson I would like to say in kinda concerns me that in Variance 007, fifteen years ago as a concrete home was built sixteen feet in the set back and that wasn't picked up. Were talking about 9.6 inches on the variance now.

ACTION: A motion was presented by John Davidson and seconded by Steve Vieira that Petition VAR-23-008 be APPROVED based on the Community Development Staff Report dated May 3, 2023, 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 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 amend a previously approved variance (VAR-21-004), to reduce the required 12.8-foot front yard setback by 0.8 feet to allow a 12-foot front yard setback, to allow an existing manufactured home to remain "as-is".
2. The variance shall only apply to the manufactured home, as shown in the documents submitted with this application.

3. If the manufactured home 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 manufactured home.

VAR-23-009

Bethany Zajicek, representative for George & Georgiana Geimer-Messler, is requesting two variances: **(a)** to reduce the required 25-foot front yard setback by 8 feet to allow a 17-foot front yard setback, and **(b)** to reduce the required 15-foot rear yard setback by 8 feet to allow a 7-foot rear yard setback, for a new manufactured home, in the Manufactured Home Conventional (MHC) zoning district. The property is located at **139 Via Madonna**, in Englewood, and is described as Lot 16, of the Mobile Gardens Replat Subdivision, located in Section 04, Township 41 South, Range 20 East.

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

Applicant Presentation

Bethany Zajicek, representative for the applicant, said I have the homeowner actually with me today. I didn't expect her to be here that's why I am the applicant and I have been sworn in. It's a bit of peculiar situation. They purchased a home through a manufacturer they requested that the manufacturer not build the home until they had it issued building permit. Well, the manufacturer went ahead and proceeded to build the home so now there stuck with a home that can not fit on this property. So, the only options that are left to us at this point is to request this variance. If not, these homeowners will be forced to sell as based on the dealer's contract. They will not return the money and they will not swap it out for another model and that is the basis of this variance. If you have any questions, I will be more than happy to answer them.

Mr. Davidson asks is it possible to change the orientation of the home to make is fit or is that?

Ms. Zajicek I've tried we had our surveyor try to switch it around to where even if it went on an angle there is no way to flip it or do anything with it to make it fit correctly. It's not gonna meet any set back, if I flip it on a diagonal, it's still doing meet the required setbacks in the front or the rear.

Mr. Vieira just I am wondering out loud where the side setbacks are 7 ½ feet correct? And we got a 61-foot building.

Ms. Zajicek said 76 foot long.

Mr. Vieira I am sorry ok I understand.

Ms. Zajicek the property is only 80 so even if I flipped it to go parallel with the road, I wouldn't have it.

Mrs. Georgiana Geimer-Messler, I have been sworn in, my husband is in Indiana assisting one of our children. I have my friend Lisa here in case I don't know if I can do this. (she begins to cry). No, no, I can do this, I have to do this I have to. After Hurricane Ian destroyed our house, we immediately started the process to replace the home we called Factory Home Expo, and we asked them what models they had. They worked with us very well, they told us to hire a building contractor. So, we put down a down payment, and hired the contractor. Paid twelve thousand dollars to the permit queen here in Charlotte

County to get us going with this in November. We assumed, I assumed which I shouldn't have that everything was going to go through the contractor, and she knew her stuff. Which she does, I'm not saying she doesn't. We had the stipulation for Factory Home Expo not to build the house until we got approval from Charlotte County. We wanted to make sure that we were doing things the right way, until we got clearance from Charlotte County. There was some miscommunications with the company, one of the employees wanted to get her whatever cut or something and so she required us to give \$93,000.00 dollars by January 16th. Which we did but it was a little bit after because of President's Day. We gave \$93,000.00 cash she quit about a month later. We found out that the house was ready for delivery by the end of February 2023. Being notified by the county that we could not put it on there, we contacted the owner Factory Home Expo, and we asked if we could swap out the house. Because they already had our money, they said no the house is already built. You gonna have to pay a storage fee and insurance on this house with a deductible of \$25,000.00. So instead, we filed for the variance in hopes that you would see there is no maliciousness on our part in order to build this home. If Factory Home Expo would not have aired by building the house prior to there approval. We would have simple changed the specs to fit what could fit on there. Now that we have the home in storage, and we are paying insurance they will charge us an extra 10% if we switch models and go with a smaller model cheaper model. The reason we originally picked out this size.

Ms. Lisa Bratten I have been sworn in and I am a friend of hers, since the hurricane she has been staying with me. Because she does not, her home was destroyed. So, I will just finish what her husband had written, who is unable to be here. So, the reason they originally picked this size house we did is because years ago we adopted three special needs children when they were 4, 5 and 6. We were foster family number eight, the three are all adopted out and should be capable of living on there own with minimal support. However due to their processing issues and weak executive skills they return home from time to time to get re-educated and back on their feet. There was no intention to not follow the rules of Charlotte County or the regulations of our part. It would be easier now to avoid or any lawsuit with Factory Expo to get the approval for the variance. We do not have the finances and our SPA loan is pending the boards decision and thank you for your time.

Mrs. Georgiana Geimer-Messler one more or two more things, my husband turned in his retirement for to pay for the house out cash and 2022 so we had that tax burden in 2022. I just turned in all my retirement accounts this year in 2023 for that tax burden to be this year. So, if we have to buy another property, buy another house, and lose all this money in addition to losing my home I will have to stay with her for longer. Yes, I am sorry I am so emotional it's just hard to see that house gone.

Ms. Lisa Bratten I will say that since she has lived with me her children have come to stay with me two times. That came down to Florida there that have their own place, and it hasn't worked out and have had to come back in for danger of losing housing themselves. So, it's true that there not totally independent I don't know they ever will be. So, that's why they wanted to get a big house.

Mrs. Georgiana Geimer-Messler thank you for your time and did you have questions?

Chair McVety opened the meeting to Public Comments.

Public Input

Ray Bardwell I was on the board of directors for Mobile Gardens in prior years, this is a tearjerker, it just seems to me that the manufacturer of the home should be able to work with these people. To swap out a model that seems because of the hurricane and so forth there should be enough demand out there that they could say fine and let's swap it for a wider model so you people could be part of the

community. The thing that I do design, build up north and so forth and the responsibility of both the contractor and the municipalities is you have the zonings out there, the setbacks for a reason. That's one thing that we noticed there and Mobile Gardens that the setbacks are the setbacks. One of your rules are nothing shall be parked in front of it towards the road. So, it just seems that I'm not against it for some respects, but I am in other respects. We need to have continuity in neighborhoods and if you just start granting variances for this reason and that reason, is it gonna create a hardship not only in this subdivision but other subdivisions. So, somehow the manufacturer should step up and say we have found a new buy for your existing home and try to put a wider one in there.

Chair McVety each case is on its own, no case relates to another case.

Ray Bardwell, I know that but it's just the idea of you have zoning for a reason in the neighborhood. This is an old platted mobile home park, and it should carry on with the existing thank you.

Asst. County Atty. David Thomas I apologize sir did you state your name for the record? I am sorry I didn't hear it.

Raymond Bardwell, 854 Calle Menuda

Asst. County Atty. David Thomas thank you very much.

Joe Andress, I am at 158 Via Madonna same street as this property, I've been in Mobile Gardens for over 30-35 years, not full time I'm a snowbird most people are. And uh, past president, past vice president and many years on the board. Restrictions were put in for property for a reason this park has been there for over 60 years and it's fine. The setback, when this house goes in is there going to be enough room to park a car in the driveway and be off of the easement for the road. The reason I can ask that question as I am a planning commission up north. When I got off it passed a variance where they could put in a development with smaller lots, smaller set back everything and then they put in sidewalks. Guess what that did, when you put a car in your driveway the car overhung the sidewalk. It just created a bigger mess, if it's working why try to fix it, why try to change it? It's a beautiful house from what I can see yes. But on a single lot you're looking to put 10 pounds in a 5-pound sack that's it. What I would suggest, is in other parts of this park there are a lot of vacant lots right now. Thanks to a hum hurricane, why not put it on a double lot. There is some examples of that in the park now where there is something on a double lot. But why change it, were changing rules to allow somebody to move in. Evidently, they love the park, we all love it that's why I am not even thinking of moving. I spent a ton of money rebuilding mine after the storm. I could've probably just sold the lot and moved someplace else. But I didn't because this park is way different from any other. When the storm hit a bunch of the people on the board of directors opened up the hall, they were serving breakfast, lunch, and dinner at no charge, you just make a donation. How many places did you hear that did that not many. And the people are very helpful everybody works together and to just up and change stuff for no good reason. There is other places in the park to put this large place and it will fit. I happen to live down the street from this I have a place and it is a modular home. Somebody else built it not me, and they did the restrictions and made it fit. Yes, they would have liked a bigger one, I talked to them, but they knew there were boundaries, that they had to fit in. That's what they did, and it's I don't know what else to say, I just don't think it's a good fit. I mean you go down the street everybody's got a certain set back. I am sure all of you live on streets that are the same way. Would you like somebody to move a house and stick it out more or what not or not have anything or what about the people on Foust the road in the back of this. Are they going to be happy that these people are gonna not have a back yard or what if they decide to put in a storage shed. Where are they going to put it? They can't get it in the back yard

so they gotta build it there. If they build it off the back property line, they don't have enough clearance on their house. It just goes back to what I said, 10 pounds in a 5-pound sack. Why should it even be considered? I don't think I have anything else further to say, let me sign in and thank you for listening.

Kenneth Plotner, I have been sworn in, I live next door to where this unit is going to be installed.

Chair McVety lot 15 or 17?

Kenneth Plotner, pardon me, I am at 141, 17 and I have to agree that the conformity of the home of the homes will be changed by this intrusion and the effect on me is going to be the visuals. It's gonna be like a wall you know using up the entire lot. Now I am sorry that we got to this place because of what they bought and the situation they are in. But I ask that you don't approve this because we expect this home to be in our family for a while. I just don't think changing that type of variation is going to benefit the park at all thank you.

Karen Hussey, I have been sworn in, I live right around the corner on Camino Real. If I go by the numbers, it's number 91. A real big concern to me is that because this is such an old community. There's about 65 homes that have already been taken down because of Ian and I've heard there is about 10 more to come. So, if we start with one with a variance, it's just gonna snowball and I think it's gonna have a huge impact on the community. It will just keep going and going so, I put in a new home in 2006. But I went with the setbacks and bought the home that fit the lot and my next-door neighbor did the same thing. Her orientation is opposite of mine and if I do the math, I don't understand why that house can't go in the other way. But again because of so many properties being destroyed. I think that were just gonna have a lot of people asking for variances. I just think this is a good place to start.

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

Rebuttal

Mrs. Georgiana Geimer-Messler I can't rebut, I am a rule follower, I really honestly would never have purchased this house, and if there was a decent bone in somebodies' body at Factory Home Expo, that they could swap out the house and put an approved house I would do that. I have no retirement now, my husband doesn't have retirement, we lost the house. I am living with her, it's just awful, I wish I mean if, if you guys said there is a double lot somewhere. I don't know where the lots are, I'd have to put out more money, which I am ok with doing that, but I don't have it and I you know I'm a teacher. So, there is my paycheck, I don't know what else to say. But I do respect the board and whatever decision is made is made and I understand the rules. Hated to have to put in a variance request because of this. And I feel bad that I didn't do my homework and I didn't know what was required. I think that the house is going to be beautiful. If you go back to, do you have a picture of the house the way it looked at the front before. I don't want to see the destroyed property because it's really upsetting to see that.

Miss Nocheck I'm sorry I don't have a front view, I apologize.

Mrs. Georgiana Geimer-Messler expresses the replacement will be a mobile home that's going to be beautiful and thinks it's going to be much more attractive in the neighborhood. I do appreciate the board's time and I respect your decision whatever it may be thank you.

Miss Nocheck If I could address one comment as well. I have not received any calls or emails requesting variances for anywhere else in this area as of today. Just so were all on the same page.

Miss Nocheck presented the recommendation that staff believes the purposed variances do not meet the five criteria for granting a variance. If the board of zoning appeals decides to approve the requested variances staff recommends the following conditions be adopted as conditions of approval to ensure the uses and compliance with the purpose and content of the zoning code.

Board Member Comments and Questions

Mr. Vieira asks Ms. Nocheck on condition #2 that were talking about accessory structures are they prohibited?

Miss Nocheck no they would just have to comply with the regular set back requirements for MHC properties.

Mr. Davidson asks Mr. David I want to know if I need to recuse myself. I know Lisa and whom Ms. Messler stays with and I have 48 foster kids which puts me empathetic.

Asst. County Atty. David Thomas I am sorry I didn't understand that, are the test is whether you receive a financial benefit.

Mr. Davidson I do not.

Asst. County Atty. David Thomas then you do recuse, and you should vote. You must vote.

Mr. Davidson maybe I don't understand what precedent means but I can't understand how in this case that allowing such a large set back would allow.

Asst. County Atty. David Thomas variance determinations are site by site, and the fact that you would approve a variance on this property does no mean that you would be required to afford a same variance the same application for the property next door. You would not be required to approve the variance for that property. That's what it means. This is a one-off deal.

Miss Beyer this is a hard one, because we all build homes. You have a responsibility, so although our hearts understand, and I likely would motion to approve. I feel like there is a responsibility missed that if everybody misses that responsibility, we'd sit here a really long time every month doing variances. I know you know that I can see it in your face. Just and you should go back to the mobile home company in my opinion and ask.

ACTION: A motion was presented by John Davidson that Petition VAR-23-009 be DENIED based on the Community Development Staff Report dated May 3, 2023, 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 with four conditions recommended by staff. There was no second to this motion. Motion died.

ACTION: A motion was presented by Nichole Beyer and seconded by Steve Vieira that Petition VAR-23-009 by APPROVED based on the Community Development Staff Report dated May 3, 2023, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Variance.

Motion was approved with a 3 to 1 vote with the following four conditions:

(Miss Beyer, Mr. Vieira and Mr. McVety voted for the approval. Mr. Davidson voted against the approval)

1. The variances, as approved by the Board of Zoning Appeals, are to: **(a)** reduce the required 25-foot front yard setback by 8 feet to allow a 17-foot front yard setback, and **(b)** reduce the required 15-foot rear yard setback by 8 feet to allow a 7-foot rear yard setback for a new manufactured home.
2. The variances shall only apply to the proposed manufactured home, as shown in the documents submitted with this application. These variances shall not apply to any accessory structures.
3. These variances are granted for a term of three (3) years from the date of approval from the Board of Zoning Appeals; however, the variances shall not expire if the owner commences the proposed development on or before the variances' term expires.
4. If the manufactured home 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 manufactured home.

VAR-23-010

Steven Lombardo is requesting a variance to reduce the required 25-foot front yard setback by 10 feet to allow a 15-foot front yard setback for a new single-family residence and detached garage, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at **20177 Edgewater Drive**, in Port Charlotte, and is described as Tract A, of the Lea Maria Island Subdivision, located in Section 28, Township 40 South, Range 22 East.

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

Mr. Vieira has one question regarding the proposed dock being temporary or permanent and has a small discussion with Mr. Cullinan.

Applicant Presentation

Steven Lombardo, applicant, said tried to avoid the wetland areas as much as possible and be able to create a new home there. This is a place that I am hoping to be in. I would prefer to sit back and see what everyone else has to say and then I would like to come back up if need be.

Chair McVety opened the meeting to Public Comments.

Miss Nocheck says Mr. Chair while the resident is coming up, I did receive one email of support for the application from someone who could not attend. I will label this as exhibit H, and I will distribute it to the board.

Public Input

Peter Wilkins, Lea Maria Island Drive, I am here representing the association. One of the requirements in our current covenant is property owners must maintain their properties. While we knew Mr. Lombardo owned the property since the Lea Marie Island was created. It was marked on the site as

tract A and not lot 21, all of them are listed 1-20. We believe that this was HOA common ground and over the several years we maintained the property by cutting the grass and maintaining the irrigation. Until March of 2022, Mr. Lombardo also owned lot 11 in Lea Marie Island. This lot is over an acre and if he wanted to build a large home for retirement and end of life. Why not build it on this lot rather than tract A. In 2003 Mr. Lombardo changed the Alamo covenant article 13, article 8 section 8.5 to reduce the minimum house size on tract A, lot 20 from 2900 square feet to 2200 square feet. So, he obviously is aware of the unique shape, circumstance, and characteristics of this lot. So, we are questioning whether this petition really does meet all five requirements, and the association opposes this set back thank you.

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

Rebuttal

Mr. Lombardo, I plan on explaining this to the POA and I did twenty something years ago. Did put verbiage in there for tract A, that a house would be there. I just wasn't sure of the sizing, and it was written in there and defined. I know I have to go through the POA, and I want to make them happy. So, whatever I have to do I am going to do the best I can. Is there any questions for me?

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 John Davidson that Petition VAR-23-010 be APPROVED based on the Community Development Staff Report dated May 3, 2023, 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 four conditions recommended by staff.

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

1. The variance, as approved by the Board of Zoning Appeals, is to reduce the required 25-foot front yard setback by 10 feet to allow a 15-foot front yard setback for a new single-family residence and detached garage.
2. The variance shall only apply to the proposed single-family residence and detached garage, as shown in the documents submitted with this application.
3. This variance is granted for a term of three (3) 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 single-family residence or detached garage 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 single-family residence or detached garage.

11:52 quick break

11:55 resume

VAR-23-011

Robert Berntsson, representative for Dasco Cape Haze, LLC., is requesting four variances to Section 3-9-88: Waterfront Property: **(a)** to reduce the required 25-foot west side yard (street) setback by 5 feet to allow a 20-foot west side yard (street) setback, **(b)** to reduce the required 25-foot west side yard (interior) setback by 10 feet to allow a 15-foot west side yard (interior) setback, **(c)** to reduce the required 25-foot east side yard (interior) setback by 17.5-feet to allow a 7.5-foot east side yard (interior) setback, and **(d)** to reduce the required 20-foot minimum building separation by 11.2 feet to allow a minimum 8.8-foot building separation, for a new multifamily development, in the Residential Multifamily-10 (RMF-10) zoning district. The property is located at **10411 Raymond Street**, in Englewood, and is described as a portion of Lot 20, of the Ten Acre Farms of Grove City Land Company's Subdivision, located in Section 28, 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, representative for the applicant, said he was sworn in. We accept Ms. Nocheck as an expert. Elizabeth, could you go back to the kinda of overall aerial, high aerial. So, I got involved in this application quite frankly after the applicant applied to the county site plan review committee for site plan approval. They submitted the exact plan we have here to the county for approval and that was the first time they were identified as being within 1200 feet of Lemon Bay. Which triggers the waterfront code. If you look it here and you kinda look at the intercoastal waterway as it comes in there. There is a kinda of a mangrove area off the intercoastal and then the subdivision with three blocks before you get to the subject property. The waterfront code is developed so that if you're on the water boating you don't have these monolithic long buildings that give you a bad view looking back towards the coast. It keeps the buildings low, so you're not feeling like you're going right along a big wall of development. It keeps them separated, so that you don't feel like your being closed in on the water. It's to give the feeling on the water on the water openness. You can't see this property from the water. But it's within 1200 feet as staff measures it, including the mangrove area and stuff there. So, it was a complete surprise to the applicant that they were subject to the waterfront code when it first came in. There first thing that they wanted me to do was to challenge the 1200-foot determination to the water that the property should not be under the waterfront code. After we reviewed everything that was there, we felt the better course of action would be to come forward for the variances on this property. This is a classic case and I know we have some neighbors here that I am sure you'll hear from. This is a classic case of be careful of what you ask for you might get it. This property can be developed as multi family development in a 35-foot-tall rectangular building that will meet all of the codes and not require any variances. There is not another 35-foot-tall rectangular multi-family building anywhere near this property and it would be completely out of keeping with the neighborhood. What is proposed are low no higher than 20 feet tall, typically attached single family homes that would be built across as you seen in the site plan that was presented. Which is much more in keeping with the residential designation of the property across the street. When the site plan was prepared, they also checked the property appraiser records for the golf course property to the rear. According to the property appraiser records that was multi-family property also. It was after we met with staff and we went back to the old 1988, 1990 zoning code. When we used the ready books that we had to open up before we had GIS that we found in fact the rest of the Lemon Bay Golf Course is zoned RMF. But this particular piece in the

back was not. So, that again made the need for the variances to the golf course side of the property. I will tell you that I was out at the site yesterday, that golf course is under complete reconstruction now. But it will continue to be a golf course and there will be no homes adjacent to this property. So, the question becomes what makes sense for this property. What we did is we prepared the drawing that's in front of you right now to show exactly what variances we need. You see in the upper left-hand corner the side road set back, under the multi-family code that's required to be 15 feet under the waterfront code it's 25 feet. What we are providing is 20 feet. So, under the multi-family code we are further back than we could be, we could push it back to 15 feet from that property line. On the upper right-hand side, you see the side interior that's one that we do need the variance. In either case, rather than the 25 feet we are looking at 15 as you see to the rear set back there. We need both the waterfront code and the multi-family code. Again, coming to the other side of the property away from the single-family homes to the west. These variances all came into play once it was determined that the property was zoned single family where the golf course is. Although they'll never be any homes there, in the foreseeable future at least. That is where we show that we are providing a 7 ½ foot setback to the golf course property for most of the buildings. Then the separation between the buildings, which is not a requirement in the multi-family code. They would have to be 25 feet for the waterfront code and we're proposing that they be closer than that. Again, I don't think anyone would want to see a single 35-foot-tall rectangular building that fits on the property and allows for the development of the 27 units. In contrary to what the other part of the neighborhood looks like. So, I am going to reserve my rebuttal time we'll hear what the comments are and then we'll go from there.

Chair McVety opened the meeting to Public Comments.

Miss Nocheck tells Chair McVety we did receive two letters from neighbors who are unable to attend, I will pass those out, both are in opposition to the requested variances. Let me get an exhibit number sorry.

Public Input

Vanley Hubbard, I live on Raymond Street, towards the north end there, right across from this development. The honorable Mr. Berntsson has been given lemons and trying to make lemonade and I respect that. I respect the property owner's right to develop this property and make some money off of it. Especially on the lemon creek end of it, the very north end of it, trying to put 7 units on 200 feet by 80 feet is pretty tight. We welcome an attractive development like they are trying to do. If they think that threatening us with 35 feet in a triangle thing, I'd rather have 35 feet at the other end of the road and a triangle. They can figure out what they can do with the little, tiny piece up there by lemon creek but that is navigable water. I don't know if they plan on putting docks up there. I haven't heard anything about that. I've lived there since 87 and it's grown a lot, it's going to continue to grow. I love to see something there, the woods is fine, but the storm really trashed a lot of the trees and everything, so it is a mess. So, I am not against development, but I am against this much development. I appreciate you all listening to Elizabeth and going along with what works and what doesn't work thank ya'll, thank you for your time and God bless you for showing some humanity a little while ago.

Miss Nocheck says to Chair McVety and Kim we will label these two emails as exhibit L for the record.

Fred Miller, I've been sworn in, I live directly across Raymond Street from this proposed development. We spent a lot of time in the front of our house, we have a front porch out there. It's fenced in, the dogs run around, everybody knows me. Where not really anti-development, I get that pretty much from everybody in the neighborhood. I think pretty much, general consensus folks, we are pretty excited to see what was going to happen with this development. You're not gonna stop progress, we like it the

way it is. But you know we were looking forward to something a little bit better than this. This is impossible, in a word this is impossible if you look at the neighborhood. It's a little sleepy little bedroom town, and what's happening here is we're going to try and shoehorn every building we can put in here. We're going to make a few million dollars and we're gonna move onto the next one. They are gonna leave us with this train wreck, right here now you look at this, and you look at this objectively. Does this look like it belongs here? This is grotesquely over built, Raymond Street you drive down Raymond Street and if somebody is coming in the opposite directing you pull over to the side of the road and waive to your neighbor and say come on thru. This is not 776 here, this is a little street, there is 8 houses on this street. It's a dead-end street eight houses, and this does not belong here under any circumstances. Now, we have a bunch of people over here and I am not going to keep anybody longer than I have to. But, if this thing belonged here in the first place, they wouldn't be asking for all these variances. Understand, I don't mean to be funny but look this is stupid, it doesn't belong in our neighborhood, and I hope you understand that. If you allow this to come in, you're just allowing somebody to come in. Some developer to come in and take advantage of our neighborhood. Destroy it, move on, and leave us with the train wreck. Please consider this.

Mr. McVety states the streets in that neighborhood are very narrow if you've ever been there.

Stephen Powers, I live at 10459 Sherman Street, I have been sworn in, today I am going to review three topics. When you have exception to a rule, you no longer have any rules. I've built my house finished it in March of 2021. To this day, I come up to the front door it's raining, I am fumbling for keys, I'm getting wet. Why, because 3-9-88 said I had to have an eave that was inconsistent with the ease around my house, so I have a 10-inch eave on the front on my house, where I have traditional 24 inch on the others. People come to my house and say how do I get in, it's like well the stairs are on the side. Why are the stairs on the side because I had to comply with 3-9-88. The applicant's request is absurd and could not be categorized as a variance request. But an obliteration of the code 3-9-88, the code that all of us residents have had to comply with right. Now talking about the five standards, the standard two is listed in the staff report prepared by Ms. Nocheck. Standard two states in pertinent part, the strict literal enforcement of the zoning section of the land development regulations would create an undue hardship. A hardship Miss Nocheck's opinion and a staff report stated in part, staff does not believe that the denial of the requested variances would constitute an undue hardship. So, as a neighborhood we assert that this is a correct finding by Miss Nocheck. The applicant knew the property lines, they knew the code what is was subject to and the Florida Statute also stipulates and supports that the undue hardship cannot be self-created. The variance also cannot be inconsistent with the overall purpose or the ordinance or the general welfare of the area. Applicants deceitfully vailed variance request for a development focused on reducing impact to the neighborhood is shameful. Applicant purchased the property for an extremely low price and now they are trying to squeeze in as many units as possible. By literally obliterating the waterfront property code. I would remind the committee that there are numerous sites within five miles of this proposed site. Such a development could be built. In August of 2021 at the end of Ester that the condo development that has been there forever. Some of you may know about it that property could have been purchased and you could have put something there that had 20-30 units that could have complied with the current code and that was there. Standard number three in Miss Nocheck's staff report states in part, the granting of a variance would not be injurious to or incompatible with contiguous uses. The surrounding neighborhood or otherwise detrimental to public welfare. Miss Nocheck stated in part that the professional opinion of staff that granting of the requested variances would not be injurious or incompatible with the contiguous uses or the neighborhood. As Fred mentioned the residents respectfully disagree, Raymond and the other three north, south streets are literally one lane. Two regular passenger vehicles cannot pass, one must yield to the other. A 27 unit you're going to look at 50 cars right, the proposed development has gates on

Raymond Street. Raymond cannot support 50 cars going up and down Raymond Street. Because everybody has to yield, even Ester has a width that is less than normal. If you have a waste management truck, a Fed Ex truck, somebody had to yield. So, in other words two vehicles can't pass. That is the only street that's going into that neighborhood. So, the introduction these cars right that so we disagree with Miss Nocheck's finding on standard number three, and we contend that in regards to standard number three that does not meet and granting it a variance would be incompatible with the surrounding neighborhood. Lastly, spot zoning is unlawful residents remind the committee that spot zoning is unlawful and insignificant case precedence supports our assertion. Cases such as Board of Dade County vs. Lewis, Edson vs. Ross, presents certain circumstances that spot zoning was declared to be unlawful. So, to review two of the five standards have not been met, spot zoning is unlawful and what this does, and I've heard in the other cases today that it doesn't set a precedent. I would submit that it does, because what's going to happen is you allow an obliteration of these variances. Someone is going to come in, cause we still have lots in our neighborhood. So, they are going to say, oh they didn't have to follow the code up there so we're going to request one. And then they're going to get denied but then what happens, well then because were a litigious society. Then that homeowner or that developer will sue the County right. And then they'll make an argument and that's how this case precedence as been set before right. It's because the board made a decision and then it's decided oh that decision was unlawful. And there is a lot of case precedent in Florida that support lawful, that spot zoning in unlawful. So, myself and the other residents are respectfully requesting that this committee uphold the law. Enforce the property codes of 3-9-88 to which we have all been held compliant to and deny the applicants request for variance thank you.

Melissa Hall, I live at 10031 Eagle Preserve Drive, just on the north side of Lemon Creek, I'm also property owner there, also in Cape Haze in the area we own additional parcels off of Placida Road. My concern here is something we haven't discussed yet, but the fact that the Lemon Bay Golf Club is national autobahn eagle preserve. We haven't got into the issues with Lemon Creek being a sensitive environmental receptor. Right now, it's a current nursery for ten manatees living right in Lemon Creek. They come right up from the bay, we haven't spoke about the environmental impacts of building 7 or 1 through 6 on this area. Not only the golf course and the auto bon, and the eagles but on the manatees in the creek. We all know Lemon Bay is an aquatic preserve that needs to be protected. I feel that were jamming in way too much building in this small 2 ½ acre parcel of land. For my civil engineering degree, I just, it's shoe horned again, like Fred said. We're just trying to get too much on a beautiful parcel of land that is currently undeveloped. It's a beautiful border between the golf course and Raymond Street residential homes. And I ask that the board oppose this, these setbacks that don't meet the waterfront regulations but also, it's just not right how they're trying to get so much in here. I do support, I just built a home in Eagle preserve, so I do understand all the setbacks and how my home had to fit within the property setbacks. I believe that this development should fit into the setbacks, that this county has setbacks set forth. So that's all I have thank you very much.

Erik Young, I have been sworn in, I live at 10468 Raymond, I am in opposition to this request, this small finger of land, the small parcel directly abuts not only an environmental sensitive waterway. But my property, abutting a national autobahn society golf course. Where natural bald eagles, manatees, and ospreys actually inhabit this property, should also be taken into consideration. The variance if approved would allow setbacks to be reduced by 30-50% in most all directions and allowing for the building separation of eight feet. Which is more of a city like development, establishing multi-family condo's 8 feet apart utilizing in this entire land strip, removing all trees covering the remaining with asphalt. Will undoubtedly destroy the eco system and affect the national autobahn society of Lemon Bay. The expected 50-100 new residents would completely overwhelm the area with traffic, noise, light pollution and have a completely different perspective of the neighborhood. The current road on Raymond Street

also does not support two-way traffic. This is a single lane road and if you would expand this road to support two lanes it would even further reduce the setbacks. In closing this clearly does not support this development and the proposal based on the request for such significant reductions and variances.

Chris Burge, 10492 Raymond Street, I was one of the unfortunate ones that stayed thru Ian. And I'll let everybody know and maybe these people don't know, they're from Chicago I believe. Our canals went dry, out my front window was 24 inches of water in the streets, there is no where for this water to go. It appears about 80% of our natural drainage in the area it's gonna be gone just a typical summer Florida rain. If it's high tide, I can't get to my house. I have sometimes two foot of water in the street. So, something like this you're gonna raise that land turning in the black top, turning in the roofs, it's really gonna flood Raymond. That's all I've got to say thank you.

Roberta Ruckstin, I live on Raymond Street at 10420, I would like to address you with several things. I am not a public speaker so forgive me if I kinda fumble. I can tell you that right now the traffic at the corner of Raymond and Ester is horrendous. We have the marina across from us and caddie corner to our street. So, we have caddie corner traffic going on, we have Ester Street flowing to and Ester Street flowing out. We already have difficulty getting out onto Placida Road safely based on the way that the traffic pattern is. You add this amount of traffic into that area, we are going to have a major problem. I know this variance doesn't equate to that, but I think it needs to be addressed. The second thing is it's been spoken about the ecological portion of our creek please know that that is a creek that leads into wildflower conservation area, and tarpon breeding grounds. You need to respect the fact that this is an essential piece of our area, and we should protect it at all costs. One of the things that's been recently brought up in discussion is that fact that there is a water difficulty in our area. I have called the county on several occasions on several occasions based on the fact that we don't have proper drainage. I've been told, the culverts is supposed to hold water, they hold water in a regular rain. You cover this property with asphalt and housing to the degree that they're asking where is the water going. It's going to be a problem for Raymond Street and it's going to be a problem for the entire area. I can tell you actually, I've lived there long enough to know that the golf course actually had to reestablish one of it's lakes on that section. In order that our street didn't flood when it rained because their pond overflowed into our street. So, there is a water issue that needs to be addressed. The second thing is and it's been brought up, Fred more eloquently than I can speak, that the people that are building here are going to build and they're not going to live here. I assume they're going to move on, it's a big assumption but I'm gonna tell you they're from out of state. They're not Floridians, they are not people who have a heart for our area. And in terms of the threat that I heard from the lawyer, that they're going to go 35 feet up instead of 20. Build your 35-foot building rather than take over a very, very, very sensitive area. Put that piece up thank you sorry.

Jim Castelli, 10475 Marion Street, I was sworn in, Eloquent descriptions buy all of my neighbors. I live one street over from Raymond and as I've looked at the drawings which is the first time that I've seen them. The ask for the variance takes and as everyone has said. Jams additional buildings into it, I'm not an engineer but one question that I would have would be the septic and how that will be handled. With regards to, we've talked about the runoff, the water level, and just how exactly that would be handled with the terms of ya know more houses, more people. Not a pleasant situation but more sewer in my mind, so I would ask that uh how that gets handled and how that get addressed thank you.

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

Board Member Comments and Questions

Chair McVety asks Mr. Cullinan a question, all those roads are very narrow out there are you dumping all traffic onto Raymond. Mr. Berntsson answers there is an access point on Ester and there is access on Raymond. Mr. Cullinan some of the comments that were made those will come through the site plan review process because if these variances don't get granted. Which that's your decision they would have to redesign it anyway. I believe they have started some preliminary environmental and traffic. Since we've had the project conference. Mr. McVety asks about making it flow and Mr. Cullinan says correct.

Rebuttal

Mr. Berntsson. Yeah, that's part of what I wanted to address. Number one I don't know why were talking about the spot zoning. We're not rezoning here today so, I don't see, I don't understand what that comment was about. Any of the environmental impacts, the drainage, the utilities all of that's going to be reviewed through the site plan review committee. Whether we build these 20-foot structures or we build 35-foot structure. I can tell you that if it went to the 35-foot structure I've had clients look at this property for rental apartment, for workers in some of the local hotels. That they're having trouble finding housing for, and that was one of the uses considered here. The other thing is, if it is single building development up towards the front most likely the project amenities would be located in the back. So, its not like it's all or nothing we're either gonna use a little of the property or we're not. Any alternative design would utilize more of the property. I guess I'm a little bit psychic I told you at the beginning this is probably gonna be a be careful what you ask for you might get it type hearing. And it is not an idle threat, it's not meant as a threat at all. It's a reality, it's a fact my client has purchased the property, they intend to develop the property. It came as a surprise to them, how the waterfront code was measured and that's when the issue came up with regards to the waterfront code issues. They're asking for this variance if they don't get it, they intend to develop it in accordance with the code. Which would mean that you will have 45-foot-high building because FEMA is 10 foot at elevation in this area. With that I submit to you that we have met all the criteria for the granting of the variance. The project will receive full review by county staff for all the issues that were brought up. You're not allowed to drain off your property, you have to account for all of your drainage. So, it's not like you're just gonna build it and water is just gonna sheet flow into the neighborhood. All of that is for another day, another review this is just to question of do we get something that looks more like keeping with the neighborhood or not. And I know there is different opinion that's a subjective test, but in my opinion. I have been doing this for 30 years I would rather have this project across the street from me, than a 45-foot-tall building. With that I'm done and happy to answer any questions.

Mr. Vieira asks Mr. Berntsson if he could answer the question about septic and on-site sewer, how would that be handled on this site. Mr. Berntsson if sewer is available, it would be sewer, I believe there is sewer that serves the multi-family property across Ester Street. So, I believe it would be sewer, but I don't know, I'm not involved in the actual application for site plan review.

Elizabeth Nocheck presented the recommended conditions for the petition.

ACTION: A motion was presented by John Davidson and seconded by Steve Vieira that Petition VAR-23-011 be APPROVED based on the Community Development Staff Report dated May 3, 2023, 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 four conditions recommended by staff.

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

1. The variances, as approved by the Board of Zoning Appeals, are to: (a) reduce the required 25-foot west side yard (street) setback by 5 feet to allow a 20-foot west side yard (street) setback, (b) reduce the required 25-foot west side yard (interior) setback by 10 feet to allow a 15-foot west side yard (interior) setback, (c) reduce the required 25-foot east side yard (interior) setback by 17.5-feet to allow a 7.5-foot east side yard (interior) setback, and (d) reduce the required 20-foot minimum building separation by 11.2 feet to allow a minimum 8.8-foot building separation, for a new multifamily development.
2. The variances shall only apply to the proposed multifamily buildings, as shown in the documents submitted with this application. The variances shall not apply to any accessory structures, including swimming pools or fencing, for subject property.
3. These variances are granted for a term of three (3) years from the date of approval from the Board of Zoning Appeals; however, the variances shall not expire if the owner commences the proposed development on or before the variances' term expires.
4. If the multifamily buildings are removed or replaced, these variances 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 multifamily buildings.

X. **Public Comments** –
None

XI. **Staff Comments** –
Miss Nocheck still doing sufficiency reviews for next month so we will be having between 1-4 applications. Probably 2 variances and 2 special exceptions and we will be here next month.

XII. **Member Comments** –
Mr. Vieira just a couple of things, one I will not be in attendance for next months meeting. I will be traveling. Just on the hearing that we had just now, my thought process in approving that was that I'm gonna let site plan review handle the nuances and the technical data has to be done here. I have full faith in staff that there is a comprise in there someplace that I don't think it's gonna be as bad and I agree that I'd rather see that as a 20-foot structure than a 45-foot structure any day of the week. That was the reasoning behind my decision to second that motion, and I stand by it.

Mr. McVety do we know anything about a missing board member? Mr. Cullinan states it is posted, we're hoping to get somebody. I will follow up with Morgan after this meeting. Commissioner Tiseo and his district are still looking for an applicant. Mr. McVety and Mr. Cullinan discuss about the meetings, not being able to attend next month to let us know as soon as possible. We might have to push these items to July and add to the July hearing, as we get into these summer months.

XII. **Next Meeting**
*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, June 14, 2023 at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 12:49 p.m.

Respectfully submitted,
Kimberly Sargent, Recorder
/kas



Blair McVety, Chair

Approval Date: _____

8-9-23