



# MINUTES

## Charlotte County Board of Zoning Appeals

Wednesday, November 08, 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, Secretary  
Turner Rouse  
Andrew Filieo

**Staff:**

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

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I. **Call to Order**

Chair McVety called the November 08, 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. **Approval of Minutes**

***ACTION:*** A motion was presented by Mr. Vieira and seconded by Mr. Filieo to approve the minutes of October 11, 2023, meeting of the Board of Zoning Appeals which passed with a unanimous vote.

VI. **Disclosure Statements**

Ex-parte forms indicating site visits concerning the petitions being presented before the November 8, 2023, Board of Zoning Appeals meeting were submitted.

VII. **Introduction of Staff/Comments**

Chair McVety introduced staff. Shaun Cullinan, Planning and Zoning Official, read the Zoning rules, Asst. County Attorney David, and Chair McVety made introductory remarks regarding the types of requests that the Board of Zoning Appeals would be reviewing and the standards which must be met, the notification process and how the Board of Zoning Appeals makes its decision.

**VIII. New Business**

***The following petitions were advertised on October 24, 2023: SE-23-030, SE-23-031, VAR-23-022, and VAR-23-023.***

**Mrs. Sargent** does roll call for Turner Rouse who is now present for the record.

**VAR-23-023**

Steven Brown is requesting a variance to reduce the required 10-foot rear yard setback by 3 feet to allow a 7-foot rear yard setback, for a new detached garage, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at 128 Arlington Court NE, in Port Charlotte, and is described as Lot 26, Block 24, of the Port Charlotte Subdivision, Section 2, located in Section 22, Township 40 South, Range 22 East.

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

**Applicant Presentation**

**Steve Brown, applicant.** Mr. Brown said he is a novice at all this so bear with me. I want to thank everyone for allowing me to speak to you, and a special thank you to Miss. Elizabeth. She has held my hand getting this paperwork done and done a marvelous job. Asks the members if they have any questions.

**Chair McVety** asks Mr. Brown did Elizabeth say everything that you want to say, and you've got nothing to say.

**Mr. Brown** said she said it all.

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

**Board Member Comments and Questions**

**Chair McVety** asks Mr. Cullinan do you need a permit to put pavers down.

**Mr. Cullinan** you would need potentially need a zoning permit.

**Chair McVety** if it's not in the easement.

**Mr. Cullinan** not in an easement no. But part of that is we check to verify not within an easement, the technical answer is you need a zoning permit, you don't need a building permit. It is a simple \$22.00 for us to verify it's within an easement or not.

Elizabeth Nocheck presented the recommended conditions for the petition.

***ACTION: A motion was presented by Andrew Filieo and seconded by Tuner Rouse that Petition VAR-23-023 be APPROVED based on the Community Development Staff Report dated November 1, 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 with three conditions recommended by staff.***

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

1. The variance, as approved by the Board of Zoning Appeals, is to reduce the required 10-foot rear yard setback by 3 feet to allow a 7-foot rear yard setback for a new detached garage.
2. The variance shall only apply to the proposed detached garage, as shown in the documents submitted with this application.
3. If the proposed detached garage is constructed and at a later date 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 detached garage.

**SE-23-030**

Dain Wiederhold is requesting a special exception to exceed the maximum of 3,000-square feet of accessory structures, to allow a 6,000-square foot detached garage, in the Residential Estate-1 (RE-1) zoning district. The property is located at 15355 Deer Pass Road, in Punta Gorda, and is described as Lot 7, of the Deer Pass Acres Subdivision, located in Section 21, Township 42 South, Range 23 East.

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

**Applicant Presentation**

**Dain Wiederhold, applicant**, said he was sworn in. **Mr. Wiederhold** said I appreciate you taking the time to talk to me today. I can't thank Elizabeth enough, she really handled everything on it. I ran into a bunch of issues with zoning and went back and forth with them a few times. She has done really awesome trying to get me to this point. I will answer any questions that you guys have.

**Asst. Co. Atty. David Thomas** state your name for the record sir.

**Mr. Wiederhold** says Dan Wiederhold.

**Chair McVety** asks is this a steel building?

**Mr. Wiederhold** yes, it's a manufactured steel building. Manufactured by Deans Steel Building of Fort Myers.

**Chair McVety** so it's going to be just painted the same color as the house?

**Mr. Wiederhold** the material, the sheet metal comes a predetermined color, I can choose the color when I order the material or when I order the building. It will be exactly as the first building. The first building was by them as well.

**Mr. Vieira** to me in reading the narrative and going thru the documentation it sounds to me like a commercial operation as face value. I am just trying to get my head wrapped around why you would build such a structure out of the goodness of your heart. Just to store other people's property on your property, can you expand a little bit please.

**Mr. Wiederhold** absolutely, so I am going to use the structure for my personal items as well. I have a lot of toys; I like to have the room to put them inside and work on them. During the event of the storm, I can condense everything, and I could possibly put 3 or 4 more boats in there. That is a lot of friends, a lot of people in the industry and I just hate to see boats get tore up. It's a marginal amount of money to construct this building.

**Mr. Vieira** what industry is that, that you refer to?

**Mr. Wiederhold** the marine industry, fishing, boating and all that stuff.

**Mr. Vieira** is that what you do for an occupation, do you have a marine oriented business?

**Mr. Wiederhold** I do a little bit of it, I do a lot of property management, wealth management that kind of deal. I do a lot of investing, like I said it's more of just a personal garage with all my personal property. I live on site, and this is just a toy barn.

**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, Ms. Beyer moved to close the public comments, seconded by Mr. Vieira. The public comments was closed with a unanimous vote.*

Elizabeth Nocheck presented the recommended conditions for the petition.

#### **Board Member Comments and Questions**

**Chair McVety** how big of a structure are you allowed to have if you have less than a half-acre?

**Ms. Nocheck** I think it's either 1,000 square feet or 10% of parcel size, whichever is greater.

**Chair McVety** if you have over a half-acre, is 3,000 no matter how many acres you have?

**Mr. Cullinan** that's correct, anything you get to go over that requires a special exception.

**Mr. Vieira** has the applicant agreed to all these conditions?

**Ms. Nocheck** that would probably be a question for the applicant to answer.

**Asst. Co. Atty. David Thomas** you can call the applicant up and ask him that if you would like to.

**Mr. Wiederhold** yes, I agree to all the conditions.

***ACTION: A motion was presented by Steve Vieira and seconded by Turner Rouse that Petition SE-23-030 be APPROVED based on the Community Development Staff Report dated November 1, 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 seven conditions recommended by staff.***

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

1. The Special Exception, as approved by the Board of Zoning Appeals, is to exceed the maximum of 3,000-square feet for accessory structures on a property greater than one-half acre in size, to allow a 6,000-square foot detached garage and extends only to the lands included in the Site Plans and legal description submitted with this application.
2. The Concept Plans submitted by the applicant, as part of the petition, is for illustrative purposes only. All applicable regulations of County Code shall apply to this development. The applicant shall obtain all necessary permits and approvals as applicable to this development, including but not limited to right-of-way access and building permits.
3. The construction of any additional accessory structures will require a modification of the Special Exception.
4. The detached garage shall be for the personal use of the property owner and shall not operate as a commercial storage business. Storage spaces inside the garage may not be leased or sold to other individuals or businesses.
5. Applicant understands and agrees that the conditions of this approval constitute voluntary obligations assumed by the applicant and may exceed the requirements of Florida law.
6. This Special Exception is granted for a term of three (3) years from the date of approval from the Board of Zoning Appeals; however, the Special Exception shall not expire if the owner commences the proposed development on or before the Special Exception's term expires.
7. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions, such as accessory uses, may be approved by the Zoning Official.

**Asst. Co. Atty. David Thomas** I did not hear all the votes, is that unanimous?

Ms. Beyer states her vote with Aye.

**Asst. Co. Atty. David Thomas** thank you. Instruct the clerk Mr. Chair to reflect that was a unanimous vote yes thank you.

**SE-23-031**

Laiken O'Keefe, representative for Knox Services, is requesting a special exception to allow outdoor storage for a building trade contractor's office, in the Commercial General (CG) zoning district. The property is located at 6034 & 6024 Golf Course Boulevard, in Punta Gorda, and is described as Lots 30 – 34, Tract A, Block 1, of the Tee & Green Estates Resubdivision, located in Section 03, Township 41 South, Range 23 East.

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

**Mr. Vieira** just a clarification, in item #3 the final paragraph we are talking about the use of a chain link fence or staff is recommending an 8-foot tall fence or wall rather than a 6-foot tall. It doesn't mention anywhere here in this particular paragraph about a 2-foot berm also and I want to make sure reading through the materials it's been referenced a couple times. I want to make sure it's consistent.

**Ms. Nocheck** the applicant is proposing to do the additional berm or additional height in the fence that's what they're proposing to do. They have not yet consulted with a civil engineer, and I was not comfortable recommending that as a condition until they consulted with a civil engineer to make sure that's feasible for the site.

#### **Applicant Presentation**

**Koh Knox, applicant.** **Mr. Knox** said guess like what other people said when they come up here Elizabeth has done a lot of the foot work here and details and data collection. We have since started this process contacted a site engineering group. I think it's SED that we've engaged with to help with figuring out what the allowable building envelopes and since it's current zoning would allow us to do. That is that and I appreciate your time and any recommendations, do you have any questions let me know.

**Chair McVety** how many employees do you have?

**Mr. Knox** somewhere in the range of 130-140, I think.

**Chair McVety** they all show up to your office with their cars and go out with company trucks.

**Mr. Knox** no sir, a lot of our company vehicles go home with the employees. This property will be primarily used for the production management, staff, and most of like say the laborers or installers for the roofing just go to the site. Our current location is in Fort Myers, and we also have one in Palm City. As discussed, we've done a handful of condo communities in this area, and we have quite a bit of future projected work. Had been working in the area already before the Hurricane too and were actually trying to find somewhere closer. To cut off the extra 40 minutes of vehicle movement and what not.

#### **Public Input**

**Peter Andrukiewicz** I have not been sworn in yet.

**Mrs. Sargent** swears in Peter Andrukiewicz.

**Mr. Andrukiewicz** I reside at 4520 Knollwood Drive, if you take a look at one of those pictures I am the second house in on Knollwood Drive. The proposed area that they would intend to build and store vehicles. That whole area has been cleared prior to them moving in.

**Chair McVety** you're house number seventeen there?

**Mr. Andrukiewicz** fifteen, so that area has been cleared. After the hurricane they did business, which I have no problem with. However, there was storage of tile, that had come off of roofs of houses that were done here. My concern is not only the rodents and snakes that have come into my yard since. But my backyard which encompasses 15 and 16 are flooded during rainy season. If a berm is made, I am afraid that more water will come into the back of my yard.

**Chair McVety** it's gonna maintain all the water on his property that's his water.

**Mr. Andrukiewicz** ok, we have a chain link fence going up along the back. Right now, the bushes or whatever you want to call them. I can see straight thru with no problem.

**Chair McVety** they will make him do retention and make everything grade into his retention of his property. So, he will retain his own water. Your water is yours and you won't get his.

**Mr. Andrukiewicz** ok, as far as being able to see everything a six-foot fence. I am just about six foot, and I can see all of there. Both have a discussion on this matter.

**Asst. Co. Atty. David Thomas** asks Elizabeth to correct that please.

**Ms. Nocheck** so the recommended condition from staff is for an eight-foot-tall opaque fence or wall. The applicant has proposed to do either a ten-foot-tall fence or wall or an eight-foot-tall fence with a two-foot-tall berm on top of it. They are proposing to go above and beyond what staff is recommending. They have not yet site engineering done.

**Chair McVety** make that a condition if you want to.

**Ms. Nocheck** they have not had site engineering done so I am not sure if that's feasible for this site.

**Asst. Co. Atty. David Thomas** the type D buffer is the maximum buffer that the county has in its code.

**Chair McVety** sir, do you understand that in between his fence and your fence would be a landscape buffer?

**Mr. Andrukiewicz** ok how far, only two feet? All three parties have a discussion.

**Chair McVety** asks Mr. Cullinan you cannot dump on a lot. You can store vehicles and store shingles, but you can't dump old shingles.

**Mr. Cullinan** correct, if you have a dumpster that you collect.

**Mr. Andrukiewicz** talks about if there are changes that are different to the plan we see here.

**Chair McVety** this isn't the plan; this is the proposal that will go to engineering and be approved.

**Mr. Adrukiewicz** so if there are any changes to the proposal.

**Chair McVety** we won't be here again for this.

**Mr. Cullinan** there may be changes to the plan to the final design just solely to meet the codes and discusses this.

**Asst. Co. Atty. David Thomas** the type D landscape buffer is a condition so that is required and that will be in the final plan regardless.

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

Elizabeth Nocheck presented the recommended conditions for the petition.

**Chair McVety** asks applicant to come back up, I just want to ask you if you understand the eleven recommendations from the county.

**Mr. Knox** I do understand them, I do have one question. So, when we bought the property is and he mentioned the prior owners actually cleared some of the space out on the eastern lots. I also called the county to see if our use was going to be ok and I just verbally got an ok from someone. I should have dug a little deeper, it looks. The question I have was if we're approved today, we have three years to get this going. We plan to go much sooner than that, as mentioned were working with the site engineer. We are gonna make sure the water stays on, we've got the block. In this process to clear out trucks and material out in order to put the buffer in to move the stuff back. This seems counterproductive.

**Chair McVety** that's nothing that we can help you with today. We're just here to pass your variance or petition or not. This board has no authority over that.

**Mr. Knox** so.

**Asst. Co. Atty. David Thomas** you can discuss that with staff after the meeting.

**Mr. Knox** ok. I guess I don't have any questions then.

**Chair McVety** are you ok with the eleven recommendations from the county.

**Mr. Knox** I am ok with the recommendations.

**Chair McVety** asks about the fence and they both discuss.

#### **Board Member Comments and Questions**

**Mr. Vieira** just a discussion, we're talking about the ten foot height as a whole. I know that exceeds our code. We don't know what the final civil engineering work is going to be.

**Chair McVety** he doesn't really need it because he's not going to stack anything over seven foot. Both have a discussion on this.

**Asst. Co. Atty. David Thomas** you could make the condition up to ten feet, but if you put anything over the type D buffer number there. And he has to go and modify it because of the engineering then he has to come back here. That would be an issue, type D is the most extensive buffer that the county does and its code. If he wants to put a ten-foot fence nobody is going to stop him.

**Ms. Nocheck** also to clarify the code requirement is for a six-foot-tall opaque fence or wall, the eight foot is already in excess of that requirement.

**Chair McVety** eight foot is fine, I'm agreeing with eight foot.



***ACTION: A motion was presented by Steve Vieira and seconded by Andrew Filieo that Petition SE-23-031 be APPROVED based on the Community Development Staff Report dated November 1, 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 eleven conditions recommended by staff.***

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

1. The Special Exception, as approved by the Board of Zoning Appeals, is to allow outdoor storage for a building trades contractor's office and extends only to the lands included in the Site Plans and legal description submitted with this application.
2. The Concept Plan submitted by the applicant, as part of the petition, is for illustrative purposes only. All applicable regulations of County Code shall apply to this development. The applicant shall obtain all necessary permits and approvals as applicable to this development, including but not limited to Site Plan Review, right-of-way access, vegetation removal, fencing, stormwater management, and landscape plan approval.
3. The storage of debris, semi-trucks, or hazardous materials is prohibited.
4. A "Type D" Landscape Buffer with an eight-foot-tall sight-obscuring (opaque) fence or wall, shall be constructed and planted around the perimeter of the area to be used for outdoor storage, as shown on the **Concept Plan** (Exhibit G), provided by the applicant. The use of chain link fencing as part of the required buffer is prohibited.
5. Materials stored in stacks or piles shall not exceed seven (7) feet in height.
6. Any perimeter outdoor lighting shall be directed towards the interior of the property.
7. Any future building(s) shall meet or exceed all applicable Commercial Design Standards set forth in Chapter 3-5, Article XXIV, as may be amended.
8. The outdoor storage use may not be used until all required improvements are completed, including the required buffers, and a Certificate of Occupancy has been issued. Any existing vehicles, equipment, or materials stored on site must be removed until the Certificate of Occupancy has been issued.
9. The outdoor storage use shall be limited to vehicles, equipment, and materials owned by the business(es) operating on subject property. Storage spaces may not be leased or sold to other individuals or businesses.
10. This Special Exception is granted for a term of three (3) years from the date of approval from the Board of Zoning Appeals; however, the Special Exception shall not expire if the owner commences the proposed development on or before the Special Exception's term expires.
11. Any major changes or additions to this special exception shall require a modification of the special exception. A change in type of outdoor storage shall require a modification of the special exception. Minor changes or additions, such as accessory uses or structures, may be approved by the Zoning Official.

**10:10 quick break 5 minutes**

**10:14 resume**

**VAR-23-022**

Jimmie Darden is requesting a variance to reduce the required 15-foot south side yard setback by 7.5 feet to allow a 7.5-foot south side yard setback, for a new shed, in the Residential Multifamily-15 (RMF-15) zoning district. The property is located at 7004 David Boulevard, in Port Charlotte, and is described as Lot 3, of the Lake Marlin Subdivision, located in Section 06, Township 41 South, Range 21 East.

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

**Chair McVety** usually 7.50 is all you need and that's all they are asking for is 7.50.

**Ms. Nocheck** that's in residential single-family zoning, this is residential multi-family zoning.

**Chair McVety** it's still residential single-family house.

**Mr. Cullinan** yeah, but the zoning dictates what the setbacks and what the standards are. Not the type.

**Chair McVety** if it was in residential zoning we wouldn't be here today.

**Mr. Cullinan** correct, if this was residential single-family.

**Mrs. Darden** wants to speak and if she can be sworn in.

**Mrs. Sargent** swears in Mrs. Darden.

**Applicant Presentation**

**Jimmie Darden, applicant**, said he lives at 7004 David Blvd. **Mr. Darden** said I want to thank the staff for the opportunity to present my case here and especially Elizabeth who has walked us through this process with her guidance and elimination. We are here today to plead for reasonable variance on our property to accommodate a shed that we critically need. Sandy and I moved here eight years ago, and we built our homestead in a nice deed restricted community of twenty-two single-family homes. Along like Marlin and Englewood East, since that time our family has grown substantially. My sister is a hundred percent disabled Veteran, single and lives alone and moved next door. She depends on us for her manual labor needs. Sandra's sister and father also moved just a few houses down from our house. Her father is 82 and her sister is an aging woman with a severe mental handicap. So, we've kinda become the head of the family in this area. We've also purchased three duplexes in Port Charlotte. We are retired and manage these duplexes ourself. Which includes all of the mowing, trimming, cleaning, fixing, conducting all maintenance on these properties. As we have accumulated a lot of equipment, we've run out of garage space to store everything. Our HOA doesn't allow us to put utility trailers, lawn mowers, ladders, wheelbarrows, or any type of equipment on the outside of the house and visible to anyone else. So, this shed is the only solution, that will provide us adequate relief to prevent undue hardship to us. The HOA readily approved our plan as expected because it met all of the restrictive requirements in the covenants. Including the stated 7.5-foot side yard setback identified as exhibit C3 of my narrative. Which includes the except form the restrictive convenance. With what I thought the hard part being over I moved to initial permitting inquiries and that's where I was told a single-family residential home was on a multi-family lot and that the 7.5-foot setback was not accurate. The set back was 15-feet and I explained to the county zoning that I followed the setbacks provided by the HOA restrictive convenance and was told that the county doesn't recognize HOA documents as it relates to zoning. We were disappointed and a bit confused by the contradicting documents. The remedy we

were told was to apply for this variance and that's why we are here. During the preapplication meeting we were told that the county would most likely not be able to recommend the variance due to criteria number four. Criteria four requires that the requested variance has not been created by any person presently having an interest in the property. We were told that purchasing the property and building a home on the property we became the interested party, and we created the issue by purchasing a lot. With a 15-foot side yard setback, when we needed 7.5 feet. Despite the fact that we thoroughly examined the HOA documents, which as I think we can all agree are always most restrictive legal documents associated with a property. These covenants sent no red flags to us when we examined them. There was no reason to research further, future accessory buildings. They provided a 7.5-foot setback which was the standard setback for a single-family home which is what this was. As the staff report indicates the county is not recommending the variance due to criteria number four. We understand the position of the examiners and appreciate their perspective on the matter, but we would respectfully disagree that we created this situation. We would like to submit some alternative considerations for the board for rendering its decision. Somewhere along the line there was a disconnect between the zoning of the lots in Lake Marling subdivision and the reality of what was built on those lots. This occurred well before we purchased the property. When we asked the zoning department how this could happen, we were told that they didn't rezone the lots. When they put residential single-family homes on them. Ok so who are they and don't they bear some responsibility for creating the problem? Why are there twenty-two single-family homes on twenty-two multi-family zoned lots? How did this get permitted? Can we put duplexes on residential lots? Can we put commercial buildings on multi-family lots? Doesn't it stand to reason as residential single-family home would be built on a residential single-family home lot. Who is responsible for that consistence application. Perhaps whoever they are, may have created the issue or at least share some responsibility for the issue. What about the developer of the properties of Lake Marlin in its initial stages. Should the properties have been re-zoned? Isn't there a tight process to ensure the plats and zoning and the improvements of these lots are all aligned? Why isn't the developer the party that created the problem or at least share some of the responsibility for it? What about the HOA, how does an HOA establish itself with restrictive covenants reflecting the accurate standard zoning for single-family homes? Which are what the community consists of while the county zoning has something different. Perhaps the HOA created this situation or at least share some of the responsibility for it. Maybe it's just a messed-up situation and none of us created the problem. It just exists and can be remedied with the approval of this variance. We feel criteria number four responsibility can be spread around enough to reasonably conclude that we did not create the issue. We are the ones suffering the consequences, this is our perspective on criteria number four. In conclusion we live on an oversized lot in a community of twenty-two single-family residential homes. The standard setback for residential single-family homes 7.5-feet. The current residential multi zoning and possibly restricts our residential needs. With that relief will cause undue hardship. No one has come forward to object the variance. My sister next door is the primary effected party and has signed her endorsement to the improvement. The HOA has approved the plan with a 7.5-foot setback in accordance with their convenance. There is no alternative location on the property, the accessory structure can be placed without this variance. So, with respect we request that the board render us relief by approving the requested variance. Thank you and we will take any questions.

**Mrs. Darden** I just want to reiterate because they said that the shed could be placed in another spot on the property. It cannot be placed on another spot on the property with out a variance to that spot. Because of the setbacks, the back yard has a 20-foot setback. Which would require a variance to place the shed in the back yard. So, no matter where we put it, it would require a variance thank you.

***Chair McVety opened the meeting to Public Comments.***

**Public Input**

No one spoke for or against this request.

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

Elizabeth Nocheck presented the recommended conditions for the petition.

**Board Member Comments and Questions**

None

**Mr. Cullinan** I feel I should add a couple of comments to dispel some of the misinformation. Residential multi-family does and always has allowed for single-family development as well. Actually, AG is the lowest of the residential districts we have allowing. Then you get into RE's, RSF's, RMF's it just allows a different type. You could do a multi-family structures, you could do single-family structures. Many of our residential subdivisions single-family are within the residential multi-family zoned districts because those are the higher density zoned districts, and they can get more units in there. With that the person that created the subdivision and created it was the developer of Lake Marlin. We do not regulate deed restrictions, those are private. We don't even see them. Deed restrictions are just filed with the state, we have no say in them. We do not endorse them; this was created as an RMF lot back in the original creation of the zoning districts. Has always been residential multi-family and has had the same setbacks. While we understand the concern this is what the RMF zoning district allows for, it could be tucked further into the corner to meet the 15-foot again this isn't something that the county just are picking on them or anything like that. This is the standard for the RMF zoning district, whether it's constructed as a single-family or a multi-family.

***ACTION: A motion was presented by Nichole Beyer and seconded by Steve Vieira that Petition VAR-23-022 be APPROVED based on the Community Development Staff Report dated November 1, 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 with three conditions recommended by staff.***

***Motion was approved with a 4-1 vote with the following three conditions:***

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

1. The variance, as approved by the Board of Zoning Appeals, is to reduce the required 15-foot south side yard setback by 7.5 feet to allow a 7.5-foot south side yard setback for a shed.
2. The variance shall only apply to the proposed shed, as shown in the documents submitted with this application.
3. If the proposed shed is constructed and at a later date 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 shed.

IX. Public Comments –  
None

X. Staff Comments –  
**Ms. Nocheck** there is only three petitions next month, two special exceptions and one variance.  
**Mr. Cullinan** Happy Thanksgiving everyone.

XI. Member Comments –  
None.

XII. Next Meeting  
*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, December 13, 2023, at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 10:39 a.m.

Respectfully submitted,  
Kimberly Sargent, Recorder  
/kas

  
\_\_\_\_\_  
Blair McVety, Chair

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

*12-13-2023*