

MINUTES
CHARLOTTE COUNTY BOARD OF ZONING APPEALS
Wednesday, October 8, 2008- 9 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)

Members Present

Bill Coy, *Chairman*
Bob Stout, *Secretary*
Ed Hittson
Audrey Seay

Staff Present

Derek Rooney, *Assistant County Attorney*
Nicole C. E. Dozier, *Zoning Official*
Ken Quillen, *AICP, Planner III*
Barbara D. Watkins, *Recorder*

Members Excused

Tom Thornberry, *Vice-Chair*

I. Call to Order

Chairman Coy called the October 8, 2008 meeting of the Board of Zoning Appeals to order at 9 a.m.

II. Pledge of Allegiance

Chairman Coy 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

Barbara Watkins swore in all persons who wished to provide testimony.

V. Approval of Minutes

ACTION: A motion was presented by AS and seconded by BS to approve the minutes of the September 10, 2008 meeting of the Board of Zoning Appeals as written. Motion carried unanimously.

VI. Disclosure Statements

Ex-parte forms indicating site visits concerning the petitions being presented before the October 8, 2008 Board of Zoning Appeals meeting were submitted.

VII. Introduction of Staff/Comments

Chairman Coy introduced staff. *Nicole Dozier, Zoning Official, Attorney Derek Rooney and Chairman Coy* 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.

Attorney Rooney announced that there is a 4-member Board today and advised the petitioners that if there is a tie vote, the petition fails. He offered anyone who wished to postpone their petition to when there is a full Board, they could do so at this time. No one came forward.

VIII. New Business

The following petitions were advertised on September 23, 2008: VAR-08-14; VAR-08-15; VAR-08-16; SE-08-33; SE-08-34; SE-08-35

Petition VAR-08-14 – MOVED TO THE NOVEMBER 14, 2008 BZA MEETING.

Patrick O'Connor, 1855 Gulf Boulevard, requested to move his petition, VAR-08-15 to the December meeting...MOVED TO DECEMBER 10, 2008 BZA MEETING.

Danny Moore, 1535 Manor Road, requested to move his petition, VAR-08-16, to the December meeting... MOVED TO DECEMBER 10, 2008 BZA MEETING.

Petition #SE-08-33

Kevin Johns is requesting a special exception to allow housing for farm labor in an Agriculture Estate (AE) zoning district. The property address is 1511 Sandy Pines Drive, Punta Gorda, Florida and is described as part of parcel P1 in Section 14, Township 40 South, Range 24 East. The property contains +/- 13.8 acres.

Ken Quillen presented general information and staff findings for the petition.

Audrey Seay commented there needs to be a correction made to the staff report. Under "Findings", page 2 in the staff report, #2, the existing use to the West is listed as AG...it is RE-5.

Mark Wetzel, 4901 Saddle Oak Trail, representing the applicant, appeared before the Board to further present the petition in detail. He stated they are in agreement with staff's findings and recommended conditions.

Audrey Seay confirmed that there will not be any farm labor living in the "housing area" in the barn.

Chairman Coy opened the meeting to Public Hearing.

Wayne Goff, 2041 Sandy Pine Drive, commented there is no citrus grove on this property as was stated, it's on the adjacent family property. He has no objections to what he is trying to accomplish, but he is opposed with the special exception process for housing farm labor. He agrees with the bathroom and the bedroom, but not with the special exception for farm labor...it's opening up "Pandora's Box". He submitted Exhibit "I" for the record. Speaking on behalf of the Sandy Pine Drive Property Owner's Association, they are in agreement with what Mr. Johns wants to do, but not a special exception for farm labor.

Audrey Seay asked the zoning official if there is another way for the County to approve what Mr. Johns wants.

There was discussion regarding what else can be done rather than "housing for farm labor". Ms. Dozier stated this is the only option available to solve his need.

James Fox, 2200 Danabel Drive, spoke in objection to the 350 s.f. building which is planned to be built on the Johns' property. It is not in keeping with the HOA regulations nor the appearance of the rest of the area.

Audrey Seay suggested adding another condition which states that the special exception expires if the current owner sells the property.

There being no further requests to speak for or against the petition, the Public Hearing was closed.

Ms. Dozier, stressed that this request is for an accessory structure only, not the principal residence. A principal residence must be constructed at some point in order to keep the dwelling unit within the accessory structure. Discussion ensued.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions

A discussion was held regarding adding two additional conditions stating that the special exception shall run with the current owner and that the occupancy of the accessory building shall be limited to the current owner and family only. This being said, the following motion was presented:

ACTION: A motion was presented by Bob Stout and seconded by Audrey Seay that Petition SE-08-33 be APPROVED based on the Growth Management Staff Report dated September 29, 2008, the evidence presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the special exception, with the following conditions:

- 1. This special exception is for the establishment of "housing for farm labor" for no more than one dwelling unit, to house no more than four individuals, and extends only to the area included in the Site Plan submitted with this application.***
- 2. The site plan presented by the applicant as part of the petition is for illustrative purposes only. However, the "housing for farm labor" must be developed substantially in accordance with the plans submitted with this application and as proposed in the application. All required permits must be obtained prior to construction of any of the proposed residences.***
- 3. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.***
- 4. The special exception shall run with the current owner.***
- 5. Occupancy of the accessory building shall be limited to the current owner and family only.***

Motion carried unanimously.

Petition #SE-08-34

Sunshine Towers, Inc. is requesting a special exception to allow a 190' communication tower in a Commercial General (CG) zoning district. The property address is 3784 Cape Haze Drive, Rotonda West, Florida and is described as Lot 402 of Rotonda Shores Subdivision in Section 34, Township 41 South, Range 20 East. The property contains +/- 19,200 square feet.

Ken Quillen presented general information and staff findings for the petition.

Ed Hittson asked for an explanation of the significance of the setbacks from residential uses as opposed to commercial uses which Mr. Quillen provided. *Audrey Seay* commented that she and Chairman Coy were involved when the ordinance was adopted for communication towers and stated that it was always the intent to

protect the residents, even if it isn't stated as such in the code. *Chairman Coy* commented that with the particular design of the new towers, there are no guide wires and they fall within the confines of their own structure.

Attorney Robert Pritt, Roetzel and Andress Law Firm, representing the applicant, appeared before the Board to further present the petition at length. He introduced David Felton, Jason Sawyer, David Moore, Rich Cucchiara and Nancy Kelly were also available for questions as well. *Attorney Fred Pritt* noted they do agree with staff's findings and recommended conditions. He emphasized that in this particular case, the tower is not in a residential area. He noted that this tower, a co-location tower, is currently proposed for T-Mobile and Verizon Wireless, with the ability to co-locate four additional cellular businesses; thus the reason for the requested height. The more companies able to co-locate on a tower limits the need for additional towers.

Bob Stout asked that someone help him understand the structural part of these towers and how they implode.

David Felton, President of Sunshine Towers, presented the petition further, explaining how this location was selected, the collocation option of cell towers and responded to Mr. Stout's concern regarding how the towers implode during a disaster.

Ed Hittson asked if there is actual data available regarding the collapsing of these towers. *Mr. Felton* responded that he has been in the business for 13 years and has mostly covered southwest Florida and he has not experienced any towers which have collapsed. Discussion ensued regarding heights of towers and concern with the structural stress of the towers and that they must meet the wind load requirements. Further, he briefly discussed the "E-911" capabilities of towers which tracts where phone calls are made from in order to dispatch emergency personnel to the location.

Chairman Coy opened the meeting to Public Hearing.

There being no requests to speak for or against the petition, the Public Hearing was closed.

At this time, *Attorney Rooney* stated he was just given a copy from the Attorney's Office of the ordinance stipulating the setbacks for towers in answer to Mr. Hittson's question. *Attorney Rooney* read the recitals and provided his interpretation.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions - None

ACTION: A motion was presented by Audrey Seay and seconded by Bob Stout that Petition SE-08-34 be APPROVED based on the Growth Management Staff Report dated September 29, 2008, the evidence presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the special exception, with the following conditions:

- 1. This Special Exception is to allow the construction of a 190' monopole communication tower as shown on the plans submitted.***
- 2. The site plans presented by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and***

codes are applicable to the erection and operation of the proposed monopole communication tower.

- 3. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.**

Motion carried unanimously.

Petition #SE-08-35

Anchor Sign, Inc. is requesting a special exception to allow three wall signs totaling 36 square feet in a Planned Development (PD) zoning district. The property address is 925 Kings Highway, Port Charlotte, Florida and is described as Lot 5, Peachland Promenades Subdivision, in Section 07, Township 40 South, Range 23 East. The property contains +/- 1.1 acres.

Ken Quillen presented general information and staff findings for the petition.

Jason O'Coin, *Anchor Sign*, representing the applicant, appeared before the Board to further present the petition. They agree with staff's findings and recommended conditions.

Audrey Seay asked *Mr. O'Coin* if they plan on utilizing any portion of the monument sign currently located on Veteran's Boulevard for Starbucks. *Mr. O'Coin* responded the idea is in preliminary discussions with the landlord.

Chairman Coy opened the meeting to Public Hearing.

There being no requests to speak for or against the petition, the Public Hearing was closed.

Ken Quillen presented the analysis, conclusion and recommended conditions for the petition.

Board Member Comments and Questions - None

ACTION: A motion was presented by Ed Hittson and seconded by Audrey Seay that Petition SE-08-35 be APPROVED based on the Growth Management Staff Report dated September 29, 2008, the evidence presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the special exception with the following conditions:

- 1. This special exception is to allow three secondary class "A" wall signs on this building, not to exceed 36 square feet in area, as indicated on the sign drawings submitted with this application. Any proposed additional future secondary class "A" wall signs for this building will require a modification of this special exception.***
- 2. Any primary class "A" signs that comply with all of the requirements of the sign code shall be permitted.***
- 3. The site plan presented by the applicant as part of the petition is for illustrative purposes only. All permitting procedures and***

codes are applicable to the construction and operation of the proposed commercial business and all associated signage.

Motion carried unanimously

IX. Public Comments - None

X. Staff Comments

Ken Quillen announced there are six (6) petitions for November.

XI. Member Comments - None

XII. Next Meeting

The next meeting of the Board of Zoning Appeals is scheduled for Friday, November 14, 2008, 9 a.m., in Room 119.

There being no further business, the meeting ***ADJOURNED*** at 10:53 p.m.

Respectfully submitted,

Barbara D. Watkins, Recorder

/bdw

Willard Coy, Chairman/Board of Zoning Appeals

Approved: _____