

MINUTES
CHARLOTTE COUNTY BOARD OF ZONING APPEALS
Friday, November 14, 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*
Tom Thornberry, *Vice-Chair*
Bob Stout, *Secretary*
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

Ed Hittson

I. Call to Order

Chairman Coy called the November 14, 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.

Chairman Coy announced that there are only four Board members present at today's meeting and noted that should there be a tie in the vote of a petition, the petition would fail. He made the offer to any petitioner or their representative that if they wished to postpone their petition to the December meeting when there will be a full Board, they should do so at this time.

Attorney Ross addressed the Board and asked for a postponement of Petition SE-07-40 (Modified) until the December 10, 2008 Board of Zoning Appeals meeting. Granted.

IV. Swearing In of Those Giving Testimony

Barbara Watkins swore in all persons who wished to provide testimony at the November 14, 2008 Board of Zoning Appeals meeting..

V. Approval of Minutes

ACTION: *A motion was presented by Audrey Seay and seconded by Bob Stout to approve the minutes of the October 8, 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 November 14, 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.

VIII. New Business

The following petitions were advertised on October 23, 2008: VAR-08-14; VAR-08-17; SE-08-36; SE-07-40 (Modified)

Petition #VAR-08-14

BMI Properties is requesting a variance to reduce the off-street parking requirements of code from 88 spaces to 75 spaces in a Commercial General (CG) zoning district. The property address is 18401 Murdock Circle, Port Charlotte, Florida and is described as Units A, B and C, Town Center Professional Office Condominium, in Section 07, Township 40 South, Range 22 East. The property contains +/- 1.5 acres. A complete legal description and additional information are on file.

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

Attorney Rob Berntsson, representing the applicant, appeared before the Board to further present the petition at length, stating that the entire original building had to be replaced due to the damage caused by Hurricane Charley. The new building has been turned into a condominium and the law firm is utilizing the second floor; the first floor will be leased out for medical offices. Dr. Nash, an ophthalmologist, is using one-half of the first floor. He stated they agree with staff's findings and recommended conditions.

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.

Attorney Berntsson requested to remove the word "only" in condition #1, fourth sentence, after "to allow medical and dental office uses" which the Board agreed to.

Board Member Comments and Questions - None

ACTION: A motion was presented by Tom Thornberry and seconded by Audrey Seay that VAR-08-14 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. The variance as approved by the Board of Zoning Appeals is to reduce the number of off-street parking spaces required from 88 spaces to 76 spaces, rather than the 75 spaces requested in the application, to allow medical and dental office uses on the first floor of this building and not exceeding 7,500 square feet in area.**
- 2. The site plan presented by the applicant as part of this petition is for illustrative purposes only. Actual development and constructed improvements are different from the approved site plan and 76 off-street parking spaces are currently existing on this property.**
- 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. This variance extends only to the existing office building and shall carry with the structure only. If this office building is ever replaced or redeveloped all 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.**

Motion carried unanimously.

Petition #VAR-08-17

Arthur West is requesting a variance to reduce both the front and rear yard setbacks from 10' to 5' to allow a recreational vehicle (park model) in a Recreational Vehicle Park located in the Enterprise Charlotte Airport Park (ECAP) zoning district. The property address is 6800 Golf Course Boulevard, Unit E-26, Punta Gorda, Florida and is described as part of Lots 9 and 10, Block 81, Tee and Green Estates Subdivision, in Section 03, Township 41 South, Range 23 East. The property contains +/- 2,300 square feet. A complete legal description and additional information are on file.

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

Arthur West, 3115 Chapman Boulevard, Punta Gorda, the applicant, appeared before the Board to further present the petition at length. He stated that he has a problem with standard #2 due to the fact that he is riddled with arthritis and feels that this physical handicap does create an undue hardship. *Mr. West* stated he accepts staff's recommended conditions.

Audrey Seay asked *Mr. West* if he plans on making this his permanent home. *Mr. West* responded that yes, it will be his permanent home.

Chairman Coy opened the meeting to Public Hearing.

Dorin Stanford, winter resident of the Water's Edge Resort, spoke at length in support of the petition.

Shannon Wade, USA RV, 39925 Townsend Road, Dade City, Florida, representing the manufacturer of the Mr. West's park model, provided information on the RV model which Mr. West has purchased, and he spoke as the unit meeting all of the Florida building codes and wind requirements. Numerous units in the resort do not meet these requirements.

There being no further 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 Audrey Seay and seconded by Bob Stout that VAR-08-17 be APPROVED based on the Growth Management Staff Report dated November 3, 2008, the evidence presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the variance, with the following conditions:

- 1. The variance as approved by the Board of Zoning Appeals is to reduce both the front and rear yard 10' setback requirements of code by 5' to allow a 5' front and rear yard setback for the proposed 14' by 35' (490 square foot) recreational vehicle (park model) as shown on the Staff - Site Plan (Exhibit B).***
- 2. This variance extends only to the proposed recreational vehicle, to be located on site E-26 only, and shall carry with the structure only. If the recreational vehicle (park model) is ever replaced all 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.***

Motion carried unanimously.

Petition #SE-08-36

Andrew and Sherry Dodd are requesting a special exception to allow a home occupation, consisting of a realtor's office, in a Residential Single-family-3.5 (RSF-3.5) zoning district. The property address is 75 Doubloon Drive, Cape Haze, Florida and is described as Lot 2, Block D, Cape Haze Subdivision, in Section 03, Township 42 South, Range 20 East. The property contains +/- 25,000 square feet. A complete legal description and additional information are on file.

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

Andrew Dodd, 75 Doubloon Drive, Cape Haze, the applicant, appeared before the Board to further present the petition. He emphasized this is his home where he raises a family and that he would not subject them to strangers. He stated that he has had an office in his home for quite some time, but is requesting the special exception to make it official. He provided assurance that client meetings will be held 100% outside of his home and, therefore, will generate zero additional traffic. Mr.

Dodd stated that this request is only for a home occupation, expires if he leaves the home and cannot be transferred to anyone else. With assistance from staff, he provided a brief power point presentation of his property, displaying a slide of his "less than 1 s.f." sign which is only visible when on the property and walking up to the front door. He stated he agrees with staff's findings and recommended conditions.

Chairman Coy asked if there will be an entrance to this office; Mr. *Dodd* responded no.

Chairman Coy opened the meeting to Public Hearing.

Marvin Medintz, President of Cape Haze Property Owners' Association, 15 Spyglass Lane, spoke at length in opposition to the petition. He submitted *Exhibit I* which will be made part of the permanent record.

Elizabeth Vaughan, 80 Doubloon Drive, neighbor who lives across the street from Mr. *Dodd's* residence, spoke at length in opposition to the petition.

Attorney Rooney interjected and stated that there is no precedential value to any decisions made by the Board of Zoning Appeals. Each case is determined on its own facts and is separate from all others. The Zoning Code does allow home occupations through a special exception and is not considered a commercial use. Regardless of the final decision of this matter, if there are other home occupations requested, they'll be reviewed individually in their own right. This will not determine or affect future decisions and is not really a concern.

Max Pokorny, 95 Doubloon Drive, spoke in opposition to the petition.

Carol Pokorny, 95 Doubloon Drive, spoke in opposition to the petition.

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

Andy Dodd rebutted to the public comments made as follows:

- *Did not request to have one employee, that is part of the code; he stated he will have no employees. He stated he will accept an added condition the special exception stating that he will have no employees who are not residents of the property who will work there.*
- *As assured previously, he does not intend to have any clients in his home office.*
- *Spoke there are others who have home-based offices in their homes in Cape Haze. They simply have not come forward to get a special exception; he wants to be legitimate.*

Tom Thornberry commented that brokers such as Mr. *Dodd* are required under real estate rules and regulations from the State of Florida to have a sign with a minimum size of 1" letters.

Audrey Seay asked Mr. *Dodd* if this bothers him that all his neighbors do not agree with this petition...he stated that neighbors are not always in agreement. He reiterated again that he has stated what he intends to do and not to do and he stands by that. He agrees with staff's findings and suggested conditions. He

assured that nothing will change from what it has been for some time.

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

Bob Stout does not feel it is necessary to add another condition stating that Mr. Dodd will not have any employees. He has verbally stated on public record that he does not intend to have any employees.

Audrey Seay stated that in her opinion, the fact that Mr. Dodd has agreed to accept the added condition is sufficient to warrant that it be added. Mr. Dodd stated in the record that he would agree to the condition being added. She would appreciate the condition being added.

Tom Thornberry stated he agrees with *Bob Stout* that it is not necessary to add the additional condition that Mr. Dodd will have any employees; he has stated it publicly that he will not and it's on record.

Audrey Seay commented that apparently she is outnumbered, but said she feels that since the neighbors have asked for the limitation to no employees, and the applicant has accepted it, she feels strongly the additional condition should be added.

Board Member Comments and Questions

ACTION: A motion was presented by Bob Stout and seconded by Tom Thornberry that SE-08-36 be APPROVED based on the Growth Management Staff Report dated November 3, 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 shall allow a home occupation, consisting of a realtor's office as an accessory use to the existing single-family residence.***
- 2. This special exception, allowing a home occupation, shall be conducted according to all of the standards and conditions of Section 3-9-79 of Zoning Ordinance.***
- 3. Any major modification or change in the type of home occupation conducted shall require a modification to the special exception. Minor changes or additions such as accessory uses or structures may be approved by the Zoning Official.***

Motion carried 3 to 1 (Seay opposed).

Petition #SE-07-40 (Modified) – moved to December 10, 2008 meeting.

IX. Public Comments - None

X. Staff Comments

Ken Quillen stated there will be seven (7) petitions for December.

XI. Member Comments - None

XII. Next Meeting

*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, December 10, 2008, 9 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 10:36 a.m.

Respectfully submitted,

Barbara D. Watkins, Recorder

/bdw

Willard Coy, Chairman/Board of Zoning Appeals

Approved: _____