

**TOWN OF JAMES ISLAND
BOARD OF ZONING APPEALS
Town Hall
1238-B Camp Road, James Island, SC 29412
AGENDA
SEPTEMBER 15, 2015
7:00 PM**

NOTICE OF THIS MEETING WAS PUBLISHED IN THE POST & COURIER ON September 3, 2015

- I. CALL TO ORDER
- II. PRAYER AND PLEDGE
- III. COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT
- IV. INTRODUCTIONS
- V. REVIEW SUMMARY AND RULINGS FROM THE JULY 21, 2015 BZA MEETING
BZAS-6-15-005
452-02-00-167
819 Folly Road
Special Exception request for the placement of an Oil Change Facility in the Community Commercial (CC) District and the Folly Road Corridor Overlay (FRC-O) Zoning District.
APPROVED WITH CONDITIONS
- VI. DISCUSSION AND VOTE OF AMENDMENT TO BOARD OF ZONING APPEALS BYLAWS TO PROVIDE STIPEND FOR MEMBERS
- VII. ADDITIONAL BUSINESS
 1. Next Meeting: October 20, 2015
- VIII. ADJOURN

TOWN OF JAMES ISLAND
BOARD OF ZONING APPEALS
SUMMARY OF JULY 21, 2015

Members Present: Mrs. Brook Lyon, Mr. Roy Smith, and Chairman Sim Parrish, who presided. Absent: Mr. Jim Fralix, and Mr. Jason Gregorie (both gave notice). Also Present: Kristen Crane, Planning Director, Councilman Leonard Blank, Mark Johnson, Public Works Coordinator, and Frances Simmons, Town Clerk and Secretary to the BZA.

Call to Order: Chairman Parrish called the meeting Board of Zoning Appeals to order at 7:00 p.m.

Prayer and Pledge: Chairman Parrish led the prayer, which was followed by the Pledge of Allegiance.

Compliance with the Freedom of Information Act: Chairman Parrish announced that this meeting has been noticed in compliance with the South Carolina Freedom of Information Act. Fifteen (15) days prior to this hearing, a public hearing notice was printed in the Post and Courier, a sign was posted on the designated property, and a notice was mailed to the applicant or representative, property owner, and to property owners within 300 feet of the application, and to parties of interest. Persons, organizations, and the news media that have requested declaration of our meeting have also been notified. The Freedom of Information Act does not require notification of anyone other than the applicant and parties of interest.

Introductions: Chairman Parrish introduced the members of the Board of Zoning Appeals, Town Council, and staff.

Review Summary and Rulings from the April 21, 2015 BZA Meeting: Chairman Parrish asked to table approving of the April 21, 2015 minutes until the Town Attorney arrives since he was absent at that meeting and he is unsure if the two members present would constitute a quorum to approve it. The consent to table was granted.

BZAV-3-15-006

428-08-00-035

Highland Avenue, Lot M

Variance request for the removal of two (2) grand trees at Lot M Highland Avenue for possible subdivision and single family home

Approved with Conditions

Brief the Public on the Procedures of the BZA: Chairman Parrish gave an explanation of how the Board of Zoning Appeals Hearing would be conducted.

Administer the Oath to those presenting testimony: Councilman Blank swore in the persons who wished to provide testimony in tonight's case.

Review of the Following Application:

New Business:

BZAS-6-15-005

452-02-00-167

819 Folly Road

Special Exception request for the placement of an Oil Change Facility in the Community Commercial (CC) District and the Folly Road Corridor Overlay (FRC-O) Zoning District.

Planning Director, Kristen Crane presented the staff's review stating that the applicant, Mr. Scott Stone of American Engineering Associates, is requesting a Special Exception for the placement of an Oil Change Facility in the Community Commercial (CC) District and the Folly Road Corridor Overlay Zoning District (FRC-O) at 819 Folly Road (TMS #425-02-00-167). Adjacent properties to the south, north, and east are also in the Community Commercial Zoning District. Adjacent properties to the west are in the Low Density Suburban Residential (RSL) District. The Overlay's land use recommendation for the subject property is Commercial, which matches the current Zoning District. Other uses within 300' of the subject property include restaurants, a fast food restaurant, bar or lounge, medical office utility substation, retail sales, retail or personal services, and repair and maintenance services.

The Town of James Island Zoning and Land Development Regulations Ordinance Chapter 5, Folly Road Corridor Overlay Zoning District, §5.4.8 states, "*Uses Requiring Special Exception: Liquor, Beer or Wine Sales (as defined in this Ordinance), Bar or Lounge, Consumer Vehicle Repair, Fast Food Restaurant, Gasoline Service Stations (with or without convenience stores), Indoor Recreation and Entertainment, Vehicle Service*".

The applicant's letter of intent states, "*the proposed facility will consist of a two-bay automotive retail center which provides only oil changes. The unique elements of the Take 5 Oil model is that the customers do not get out of their cars. The average customer's oil change takes a little more than 5 minutes, but given that only oil change related activities are performed, the customer's wait time is very limited. There are no lifts, hydraulics, or any processes which generate noise or fumes. The service bays are extremely clean and there are no underground pits or tanks*".

Mrs. Crane stated that staff conducted a site visit of the subject property on July 14, 2015. She then reviewed the Findings of Facts and the six approval criteria outlined in Article 3.6 Special Exceptions, §3.6.5 Approval Criteria of the Town of James Island Zoning and Land Development Regulations Ordinance (ZLDR). She said in granting a Special Exception, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare (§3.6.5B). Mrs. Crane stated that the Board of Zoning Appeals may approve, approve with conditions or deny Case #BZAS-6-15-005 (Special Exception request for the placement of an Oil Change Facility in the Folly Road Corridor Overlay (FRC-O) District at 819 Folly Road (TMS #425-02-00-167) based on the Findings of Facts, unless additional information is deemed necessary to make an informed decision. Should the Board decide to approve the application, they should consider the following conditions:

1. Prior to obtaining a Zoning Permit for the proposed site improvements, the applicant/owner shall provide documentation that the grand tree on the site has been pruned and fertilized as recommended by a Certified Arborist, in order to mitigate potential damage to the tree caused by construction.
2. Prior to obtaining a Zoning Permit for the proposed site improvements, the applicant/owner shall install a tree barricade around the grand tree on the property, as described in §9.4.4 of the Ordinance.

Questions from the Board:

Mrs. Lyon asked if a shared access could potentially be with Sherwin-Williams; to which Mrs. Crane confirmed. Mrs. Crane said should the Island Bar & Grill sell in the future, they could also connect there. She said this is the intent of the Overlay and the Re-Think Folly Road. Mrs. Lyon asked if this would allow passage behind the building, to which Mrs. Crane also confirmed.

Applicant Presentation:

Barry M. Fay, P.E.
American Engineering Associates
8008 Corporate Center Drive, #110
Charlotte, NC 28226

Mr. Fay addressed the Board that he was representing Take 5 Oil for Scott Stone, his business associate. Take 5 Oil will consist of two-bays facing Folly Road. He said the unique Take 5 Oil model is that the oil change is done for the customer as they wait in their vehicle, and it takes roughly 5 minutes to do it. There are no deep pits underneath the cars; it is 36" deep. He further stated that a large need for parking is not needed at Take 5 Oil facilities because customers do not get out of their vehicles during the service. The parking lot is typically not for customers; rather it is for employees -roughly 2 to 3 employees per shift at this facility. He said most Take 5 Oil facilities have 3-4 bays; this facility will be a 2 bay because of site limitations. He said there are two existing driveways onto Folly Road; but they propose one and it will conform to SCDOT regulations. They will obtain encroachment permits as needed. Mr. Fay said they will do all that they can to keep the oak tree and there should be no problems to protect it. He said there may be other trees at the back of the site that needs to be protected, but they do not plan to develop that far back. A short presentation demonstrating how oil changes are performed at Take 5 Oil facilities was shown. Mr. Fay said no other vehicle repairs or transmission flushing will be done at the facility; strictly oil changes. The presentation shown was recently done at a Take 5 Oil facility in Virginia Beach.

Questions from the Board

Mr. Smith said his question may be redundant as it was answered in Mrs. Crane's Findings of Facts: §3.6.5(5): that it complies with all applicable rules, regulations, laws and standards; but since parking was addressed in the applicant's presentation, he asked if there were enough parking spaces for the building and Mr. Faye answered yes.

Mrs. Lyon asked where the parking would be located and how many spaces there are. Mr. Fay said parking is located in the back. Mrs. Crane said the Ordinance requires them to have 2 parking spaces per bay and they have 2 bays; they have a total of 5 spaces, including one handicapped parking space. Mrs. Lyon asked what would happen if there is a line for oil changes; how many could line up before backing onto Folly Road. Mr. Fay said 4-5 could easily be stacked behind the building and onto Folly Road another 6 vehicles; he said it would be at least 10-12 vehicles before it backs out to Folly. Mr. Fay said a typical day is perhaps 50 cars.

In Favor of the Application: No one spoke.

In Opposition to the Application: No one spoke.

Chairman Parrish closed the hearing at 7:26 p.m. and asked for a motion to approve, approve with conditions, or to deny Case# BZAS-6-15-005.

Mrs. Lyon moved to approve the applicant's request for a Special Exception for the placement of an Oil Change Facility in the Community Commercial (CC) District and the Folly Road Corridor Overlay (FRC-O) Zoning District, with the two conditions recommended by staff:

1. Prior to obtaining a Zoning Permit for the proposed site improvements, the applicant/owner shall provide documentation that the grand tree on the site has been pruned and fertilized as recommended by a Certified Arborist, in order to mitigate potential damage to the tree caused by construction.
2. Prior to obtaining a Zoning Permit for the proposed site improvements, the applicant/owner shall install a tree barricade around the grand tree on the property, as described in §9.4.4 of the Ordinance.

Mr. Smith seconded the motion. The roll was called and votes were recorded as follows:

Mrs. Lyon	aye
Mr. Smith	aye
Chairman Parrish	aye

The motion passed unanimously to approve the applicant's request for the Special Exception.

Chairman Parrish announced that the applicant will be notified within ten business days of the approval from the Board. Chairman Parrish thanked Mr. Fay for the opportunity to have this business in the Town of James Island.

Mrs. Lyon stated for the record that the request appears to meet all of the criteria and the staff's recommendation was good. She noted that no one from the public came to speak against it. Mr. Smith also stated for the record that he agree with Mrs. Lyon that the applicant appears to have met all of the requirements as set out in the correspondence and in the presentation by Mrs. Crane.

Review Summary from the April 21, 2015 BZA Meeting: Chairman Parrish said at the beginning of the meeting he asked to postpone the approval of the minutes. Since the Town Attorney is not

present, he moved to defer approval of the April 21, 2015 minutes to the next meeting when Mr. Wilson is present. Mr. Smith seconded the motion and it passed unanimously.

Additional Business:

Next Meeting: The next meeting of the Board of Zoning Appeals is scheduled for Tuesday, August 18, 2015.

Adjourn: There being no further business to come before the body, the meeting adjourned at 7:30 p.m. upon a motion by Mrs. Lyon and second by Mr. Smith.

Respectfully submitted:

Frances Simmons
Town Clerk and Secretary to the BZA

Town of James Island Board of Zoning Appeals Rules of Procedure

Article I Organization

Section 1. Rules. These rules of procedure are adopted pursuant to S.C. Code § 6-29-790 for the Town of James Island Board of Zoning Appeals with 5 members appointed by Town Council for staggered terms.

Section 2. Officers. The officers of the board shall be a chair and vice-chair elected for one year terms at the first meeting of the board in each calendar year. The board shall appoint a member of the staff as secretary of the board.

Section 3. Chair. The chair shall be a voting member of the board and shall:

- a. Call meetings of the board to Order; introduce Board members to the public;
- b. Preside at meetings and hearings; and may swear in witnesses or may request the counsel; or the secretary to administer the oath;
- c. Act as spokesperson for the board;
- d. Authority to sign documents for the board;
- e. Have orders of the board served on parties;
- f. Perform other duties approved by the board;
- g. The Chair is a full voting member of the Board of Zoning Appeals; and
- h. The Chair may make or second any motion or may call a question.

Section 4. Vice-Chair. The vice-chair shall exercise the duties of the chair in the absence, disability or disqualification of the chair. In the absence of the chair and vice-chair, an acting chair shall be elected by the members present.

Section 5. Secretary. The secretary shall:

- a. Provide and publish notice of appeals and meetings;
- b. Assist the chair in preparation of agenda;
- c. Properly post property involved in appeals for variances or special exceptions;
- d. Keep recordings and minutes of meetings and hearings;
- e. Maintain board records as public records;
- f. Serve board decisions on parties;
- g. Attend to board correspondence; and
- h. Perform other duties normally carried out by a secretary.

Section 6. Members. A member must be present to vote. Each member shall vote on every question unless disqualified by law. The question of disqualification shall be decided by the member affected, who shall announce the reason for disqualification, give it to the chair in writing, have it placed in the minutes, and refrain from deliberating or voting on the question.

Section 7. Counsel. The Counsel shall be appointed by the Board upon the recommendation of the Mayor to serve on a year to year basis until either the counsel withdraws from the position or is replaced by the Mayor and Town Council. Counsel may assist in the preparation of orders, amendments to the Rules of Procedure, or drafting responses to appeals to Circuit Court.

Section 8. Stipend. Board of Zoning Appeals members shall receive a stipend of \$50.00 for each monthly meeting they attend. Work sessions will be considered a meeting. Stipends will not be given for cancelled meetings.

Article II Meetings

Section 1. Time and Place. An annual schedule of regular meetings shall be adopted, published and posted at the designated Town Hall office in December of each year. Special meetings may be called by the chair upon 24 hour notice, posted and delivered to all members and local news media. Meetings shall be held at the place stated in the notices and shall be open to the public.

Section 2. Agenda. A written agenda shall be furnished by the secretary to each member of the board and the news media and shall be posted at least 5 days prior to each regular meeting and at least 24 hours prior to a special meeting. Items may be removed from the agenda or postponed at a meeting by majority vote.

Section 3. Quorum. A majority of the members of the board shall constitute a quorum. A quorum shall be present before any business is conducted other than rescheduling the meeting. A quorum shall include members present even if they are disqualified from voting by law.

Section 4. Rules of Order. *Robert's Rules of Order Newly Revised*, latest edition, shall govern the conduct of meetings except as otherwise provided by these Rules of Procedure.

Article III Appeals Procedure

Section 1. Form of Appeal. Appeals from administrative decisions, applications for variances and applications for special exceptions shall be filed in person on forms approved by the board and provided to applicants by the Charleston County Zoning and Planning Department (4045 Bridge View Drive, North Charleston, SC 29405). The board may require additional information deemed necessary. The failure to submit adequate information may be grounds for dismissal. An application filed by an agent shall be accompanied by written designation of the agent signed by the applicant or party in interest.

Section 2. Time for Appeal. An appeal from an administrative decision must be filed within 15 days after the decision becomes a matter of public record by denial or issuance of a permit or the filing of a written decision in the office of the zoning administrator. An appeal shall be filed by delivery of the approved appeal form to the secretary of the board who shall notify the official appealed from.

Section 3. Calendar. Appeals and applications shall be marked with the date of receipt and placed on the hearing calendar in the order in which received. Appeals shall be heard in the order on the calendar unless otherwise set by the board for good cause shown.

Section 4. Withdrawal of Appeal. Any appeal or application may be withdrawn by written notice delivered to the secretary prior to action by the board. An appeal from an administrative decision which is withdrawn may not be re-filed after the 15 day time for appeal has expired. Withdrawn applications for variances and special exceptions may be re-filed after six months and shall be placed on the calendar according to the date re-filed.

Section 5. Continuances. The board may continue an appeal or application hearing one time for good cause shown.

Section 6. Notice. Public notice of a hearing of the board shall be published in a local newspaper and posted on or adjacent to the property affected at least 15 days prior to the hearing. The notice shall contain a description of each matter to be heard and identify the applicant and property affected.

Article IV Hearing Procedure

Section 1. Appearances. The applicant or any party in interest may appear in person or by agent or attorney. The board may postpone or proceed to dispose of a matter on the records before it in the absence of an appearance on behalf of an applicant.

Section 2. Witnesses. All persons giving testimony must be sworn in before being called upon by the Chair to speak. Witnesses may be compelled to attend by subpoena requested at least 10 days prior to a hearing and signed by the chair. The board may call its own witnesses when deemed appropriate.

Section 3. Cross-examination. No party shall have the right to cross-examine witnesses; however, the opportunity to examine opposing witnesses may be freely extended when conducted in an orderly manner. Intimidation of witnesses will not be allowed.

Section 4. Evidence. Relevant documents, photographs, maps, plans, drawings, etc., will be received in the record without authentication in the form of legible copies. Relevant testimony which is not cumulative or hearsay will be received. The chair will rule on all evidentiary matters. Evidence may be placed in the record with an objection noted.

Section 5. Conduct of Hearing - Appeals. The normal order of hearing, subject to modification by the chair, shall be:

- a. Call to Order;
- b. Prayer & Pledge;
- c. Compliance with the Freedom of Information Act;
- d. Introduction of Board members by the Chair;
- e. Review and act on Summary of previous meeting;
- f. Brief the public on the Procedures of the BZA;
- g. Administration of Oath for all participants giving testimony;
- h. Statement of matter to be heard (chair or secretary);
- i. Presentation by Appellant (5-minute limit);
- j. Questions to Appellant by BZA;
- k. Presentation by official appealed (5-minute limit);
- l. Questions to Staff by BZA;

- m. Presentation by public in support or opposition (2-minute limit);
- n. Rebuttal by Appellant (2-minute limit);
- o. BZA motions to close the case to the public;
- p. BZA motions stating specific findings of fact and conclusions of law; and

- q. Hear next case; additional business or Adjourn.

The board may question participants at any point in the hearing. All questions shall be posed by members of the board. No person may speak for more than the time limits outlined above without majority consent of the board.

Section 6. Conduct of Hearing – Variances and Special Exceptions. The normal order of hearing, subject to modification by the chair, shall be:

- a. Call to Order;
- b. Prayer & Pledge;
- c. Compliance with the Freedom of Information Act;
- d. Introduction of Board members by the Chair;
- e. Review and act on Summary of previous meeting;
- f. Brief the public on the Procedures of the BZA;
- g. Administration of Oath for all participants giving testimony;
- h. Statement of matter to be heard (chair or secretary);
- i. Presentation by Staff (5-minute limit);
- j. Questions to Staff by BZA;
- k. Presentation by Applicant (5-minute limit);
- l. Questions to Applicant by BZA;
- m. Presentation by public in support or opposition (2-minute limit);
- n. Rebuttal by Applicant (2-minute limit);
- o. BZA motions to close the case to the public;
- p. BZA motions stating specific findings of fact and conclusions of law; and
- q. Hear next case, additional business or Adjourn.

The board may question participants at any point in the hearing. All questions shall be posed by members of the board. No person may speak for more than the time limits outlined above without majority consent of the board.

Section 7. Disposition. The board may deliberate and make final disposition of a matter by majority vote of members present and qualified to vote. The vote may be taken at the same or a subsequent meeting. A member may not vote on a matter which he or she has not heard. Deliberating and voting shall be done in public.

Section 8. Form of Order. An order shall be issued disposing of a matter by granting or denying relief with such conditions may be deemed necessary; or affirming, modifying, or reversing an administrative decision. A matter may be dismissed for lack of jurisdiction or prosecution. Findings of fact and conclusions of law shall be separately stated in an order.

Section 9. Service of Order. The secretary shall deliver a copy of an order to each party in interest by certified mail immediately upon execution of the order by the chair.

Section 10. Rehearing. The board may grant a rehearing of an application which has been dismissed or denied upon written request filed with the secretary within 30 days after delivery of

the order accompanied by new evidence which could not reasonably have been presented at the hearing, or evidence of a clerical error or mutual mistake of fact affecting the outcome. Upon vote of the BZA, a member from the prevailing side may make a motion to reconsider a case at the same or next BZA meeting. Any member may second the motion. If the motion to reconsider the case is granted, then the case will be scheduled and heard by the BZA at the next available BZA public hearing. A case may be reconsidered only once. The BZA may vote to consider amending or removing a condition(s) for approved Variances or Special Exceptions within a year from the approval date, only when the applicant/owner can demonstrate to the BZA that the condition(s) is not feasible and/or cannot be reasonably met or if the Planning Director determines that the conditions are not in the best interests of the Town. If a motion to reconsider a condition(s) is granted, it will be scheduled and heard by the BZA at the next available BZA public hearing.

**Article V
Records**

Section 1. Minutes. The secretary shall record all meetings and hearings of the board on tape which shall be preserved until final action is taken on all matters presented. The secretary shall prepare minutes of each meeting for approval by the board at the next regular meeting. Minutes shall be maintained as public records.

Section 2. Transcripts. Any applicant or party in interest may request a transcript to be generated from the recording of the meeting or hearing. The cost of such transcript shall be at the expense of the applicant or party of interest. In the event there is an appeal to Circuit Court the transcript shall be done at the expense of the Town but may be awarded by the Court at the expense against the party or person bringing the appeal.

Section 3. Orders and Documents. The secretary shall assist in the preparation and service of all orders of the board in appropriate form. Copies of all notices, correspondence, documentary evidence, orders and forms shall be maintained as public records.

**Article VI
Amendment and Adoption**

Section 1. Amendment. These rules may be amended at any regular meeting of the board by majority vote of the members of the board at least seven days after the written amendment is delivered to all members.

Section 2. Adoption. These rules were adopted by vote of a majority of the members of the board at a regular public meeting on June 18, 2013.

Attest _____
Secretary

Chair