

TOWN OF JAMES ISLAND
BOARD OF ZONING APPEALS
SUMMARY OF FEBRUARY 18, 2014 MEETING

Members Present: Chair, Mr. Sim Parrish, Mr. Jim Fralix, Mr. Jason Gregorie, Mrs. Brook Lyon, and Mr. Roy Smith. A quorum was present to conduct business.

Also Present: Bonum Wilson, BZA Attorney, Kristen Crane, Town Planner, Ashley Kellahan, Town Administrator, Councilman Leonard Blank, and Frances Simmons, BZA Secretary and Town Clerk.

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

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

Compliance with the Freedom of Information Act: Staff has met the requirements of state law for notification of this case to be heard by the Board of Zoning Appeals at this meeting. The notification procedures were completed by staff fifteen (15) days prior to this meeting, a public notice was printed in the Post and Courier on January 31, 2014, signs were posted at the designated property, and notice was mailed to the applicant or representative, property owner, 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, Town staff, BZA Attorney, and the Planning Commission.

Review Summary and Rulings from the December 17, 2013 BZA Meeting: Mr. Fralix moved to approve the minutes of the December 17, 2013 meeting; Mr. Smith seconded the motion. The roll was called and votes were recorded as follows:

Mr. Fralix	aye
Mr. Gregorie	aye
Mrs. Lyon	aye
Mr. Smith	aye
Chairman Parrish	aye

The motion passed unanimously to approve the minutes of December 17, 2013.

BZAS-10-13-17166
425-09-00-002
1130 Folly Road

Special Exception request for the sale of alcoholic beverages in a restaurant/café in the Office Residential (OR) District

Approved with Conditions

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

Administer the Oath to those Presenting Testimony: Attorney Wilson swore in persons who wished to provide testimony in tonight's case.

Review of the Following Application:

BZAS-1-14-001

452-02-00-167

819 Folly Road

Special Exception request for the placement of a Fast Food Restaurant in the Community Commercial (CC) District and the Folly Road Corridor Overlay (FRC-O) District.

Town Planner, Kristen Crane gave an overview of Case BZAS-1-14-001 stating that the applicant, Mr. Thomas Durante of Empire Engineering LLC, is requesting a Special Exception for the placement of a Fast Food Restaurant (Checkers) in the Community Commercial (CC) District and the Folly Road Corridor Overlay Zoning District (FRC-O0 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 FRC-O 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: Sweetwater Café, Roadside Seafood, Heart Woodfire Grill; fast food restaurant: Chick-Fil-A; a bar or lounge: Island Bar and Grill; medical office: Dr. Russell Wolfe, utility substation, SCE&G; retail sales: In N' Out, Moneyman Pawn, and The Cake Stand; retail or personal services: Hair Du Jour, Brazilian Wax, Diana's Alterations, Picture This, Auto Money Title Loan, and repair and maintenance services: James Island Watch and Jewelry Repair.

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 that the proposed commercial establishment will be approximately 900 s.f., and with drive-thru and walk-up service. There is no inside seating, however a large patio will be constructed adjacent to the building to provide some outside seating with tables and umbrellas. Days and hours of operation will be seven (7) days a week from 7:00 a.m. to 11:00 p.m. and the number of people employed will be eight (8). The staff conducted a site visit on January 31, 2014. Ms. Crane reviewed the Findings of Fact and stated that the application must meet the six (6) criteria in the Town of James Island Zoning and Land Development Regulations Ordinance.

Ms. Crane stated that the Board of Zoning Appeals may approve, approve with conditions, or deny Case #BZAS-1-14-001; Special Exception Request for the placement of a Fast Food Restaurant in the Folly Road Corridor Overlay (FRC-O) District at 819 Folly Road (TMS #425-02-00-167) based on the Findings of Facts that was presented, unless additional information is necessary to make an informed decision.

Questions from the Board

Ms. Crane answered Mrs. Lyon question about where the Sherwin Williams Paint Store will be located in proximity of the Checkers Restaurant.

Mr. Gregorie asked if there is a sidewalk where the Checkers will be; Mrs. Crane answered “no”. Mr. Gregorie asked if Landscape Plan C-5 met the minimum requirements or exceeded it. Ms. Crane said it meets the requirements of the Town’s ordinances.

Applicant Presentation

Mark Richardson, 4010 Seminole Court, Charlotte, NC: Mr. Richardson, the developer for the local Checkers Franchisee stated that they have worked hard to comply with the Town’s ordinances. He was uncertain if the landscape plan exceeded the requirements but it does meet the requirements. He stated that the plans were drawn by a civil engineer who is familiar with the Town’s ordinances. He further stated that the plans include adequate setbacks, landscape buffers, screening and privacy fences. The two (2) grand oaks on the property line between the proposed Checkers and the Sherwin Williams will be protected and preserved. He thinks the benefit that Checkers will bring to the Town is employment; increase in the tax base, over \$1 million will be invested in the restaurant, and Checkers will provide additional dining options for the people who live in the area.

Questions from the Board

Mr. Fralix asked if music will be played in the patio area; Mr. Richardson answered “no”.

Mrs. Lyon spoke about concerns for the residents that live behind the property. She asked if there were plans to buffer the noise and traffic that will be coming through the restaurant. Mr. Richardson said the privacy fence and the setbacks will provide a buffer. The setback is off of the property line and the back of the site is where the traffic goes around from the drive thru. Mrs. Lyon spoke about the drive thru amplifier; where it is placed in relation to the location of the residential properties. Mr. Richardson answered her question explaining the “queue”, order box, and the sequence of the cars.

In Favor of Application: No one spoke.

In Opposition of Application: No one spoke

Chairman Parrish asked for a motion to close the case. Mr. Fralix moved; Mrs. Lyon seconded, and the motion was unanimous. Case BZAS-1-14-001 closed at 7:24 p.m.

Chairman Parrish asked for a motion to approve, approve with conditions, or deny Case BZAS 1-14-001; Special Exception request for the placement of a Fast Food Restaurant in the Community Commercial (CC) District and the Folly Road Corridor Overlay (FRC-O) District.

Mr. Gregorie moved to approve Case BZAS-1-14-001 with a condition that the scope and extent of the Landscape Plan remain, at a minimum, as shown on C-5 as presented to the Board of Zoning Appeals.

Mrs. Lyon moved to amend the condition that the buffers and fencing remain as presented in the plan for the protection of the residents that lives behind the property. There was discussion regarding this condition and Chairman Parrish informed her that it is already included in the staff's recommendation.

Chairman Parrish restated the motion: to approve Case BZAS 1-14-001 based upon the staff's recommendation with a condition added that the scope and extent of the Landscape Plan remain, at a minimum, as shown on C-5 as presented to the Board of Zoning Appeals.

Chairman Parrish confirmed that the Board is approving what was presented on Landscape Plan C-5; no other footprint is being approved.

Mr. Fralix and Mr. Smith seconded Mr. Gregorie's motion. The roll was called, votes were recorded as follows:

Mr. Fralix	aye
Mr. Gregorie	aye
Mrs. Lyon	aye
Mr. Smith	aye
Chairman Parrish	aye

The motion was unanimous to **approve Case BZAS 1-14-001 based upon the staff's recommendation with a condition added that the scope and extent of the Landscape Plan remain, at a minimum, as shown on C-5 as presented to the Board of Zoning Appeals.**

Chairman Parrish announced that the application was approved with a condition. The final decision of the Board will be mailed to the applicant within ten (10) days and the applicant should contact the Zoning staff if they have questions.

Executive Session to Receive Legal Advice Regarding Mills/KEBO Circuit Court Case #2013-CP-10-4354: Chairman Parrish asked for a motion to enter into an executive session to receive legal advice regarding an ongoing appeal. Mr. Fralix moved, Mrs. Lyon seconded, and the motion passed unanimously. The BZA entered into the executive session at 7:30 p.m.

Return to Regular Session: The BZA returned to regular session at 8:04 p.m. Chairman Parrish announced that no votes were taken during the executive session.

Vote to Accept/Reject Settlement Mediation Agreement from December 30, 2013: Chairman asked for a motion to approve the mediation settlement that was agreed upon at the arbitration for Circuit Court Case # 2013-CP-10-4354 – BZA Case # BZAS-5-13-16167. Mrs. Lyon moved to approve. Chairman Parrish read the following agreements:

Article 1: Façade sign shall read “O’Neill’s Wine & Spirits” and will be designed as presented on the proof submitted to the Planning Department on February 17, 2014. Sign measurements shall be as presented in Exhibit “A” (attached to this record). Red dots (no more than 3) shall be no larger than presented on Exhibit A in diameter. In the event another liquor store should open in the same location, sign dimensions shall remain as stated above, and the word “Liquor” shall not be used on the sign.

Article 2: Storefront signs: No back-lit signs (including neon signs) will be permitted. Allowable signs are “open” with hours of operation and ATM.

Article 3: Windows shall be somewhat tinted. No advertisements allowed in storefront windows.

Article 4: No red dots in storefront glazing.

Article 5: Free Standing Sign: The word “liquor” shall not be used on the sign. Red dots shall be no more than 5” in diameter. In the event another liquor store should open in the same location, sign dimensions shall remain as stated above, and the word “liquor” shall not be used on the sign.

Article 6: No sandwich boards

Article 7: All signs shall comply with the Town of James Island Zoning and Land Use Regulations Ordinances.

Mr. Fralix seconded the motion. There was no discussion. Mr. Fralix called for the question. The roll was called, votes were recorded as follows:

Mr. Fralix	aye
Mr. Gregorie	aye
Mrs. Lyon	aye
Mr. Smith	aye
Chairman Parrish	aye

Chairman Parrish announced that the motion was unanimous to approve the mediation agreement.

Vote for Chair: Mrs. Lyon moved to nominate Sim Parrish to serve as Chairman of the Board of Zoning Appeals; Mr. Fralix seconded. There were no other nominations. The motion was unanimous for Mr. Parrish to serve as Chairman.

Vote for Vice Chair: Mr. Smith moved to nominate Jim Fralix to serve as Vice Chairman of the Board of Zoning Appeals; Mrs. Lyon seconded. There were no other nominations. The motion was unanimous for Mr. Fralix to serve as Vice Chairman.

Additional Business:

Next Meeting: The next meeting of the Board of Zoning Appeals will be held on March 18, 2014 at 7:00 p.m. One Special Exception Case is scheduled to be heard.

Adjourn There being no further business to come before the body, the meeting adjourned at 8:11 p.m.

Respectfully submitted:

A handwritten signature in cursive script that reads "Frances Simmons".

Frances Simmons
Secretary to the BZA