

TOWN OF JAMES ISLAND
BOARD OF ZONING APPEALS
SUMMARY OF AUGUST 19, 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: Kristen Crane, Senior Planner, Bonum Wilson, BZA Attorney, Councilman Leonard Blank, Ashley Kellahan, Town Administrator, and Frances Simmons, 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 these cases 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, signs were posted at the designated property, and notices were mailed 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, BZA Attorney, Town Council, Planning Commission, and Town staff.

Review Summary and Rulings from the July 15, 2014 BZA Meeting: Mr. Fralix moved to approve the minutes of the July 15, 2014 meeting, Mrs. Lyon seconded, and the minutes were approved as presented.

BZAV-6-14-003
425-14-00-083
1197 Oakcrest Drive
Variance request for the removal of one (1) grand tree
Approved

BZAS-2-14-002
425-08-00-023
792 Folly Road, F1
Vote on whether or not to consider Condition #3 (hours of operation) at the next available public hearing.
Vote for reconsideration approved

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: Attorney Wilson swore in persons who wished to provide testimony in tonight's case.

Review of the Following Applications:

New Business:
BZAS-2-14-002
425-08-00-023

792 Folly Road, F1

Special Exception for the sale of alcoholic beverages in a restaurant in the Community Commercial (CC) District. Special Exception was approved on 3/18/2014. Public hearing is for a reconsideration of Condition #3, concerning hours of operation.

Applicant

Andrew Pannell

550 Harbor Cove Lane, Apt. 1700-I

Mr. Pannell addressed the Board of Zoning Appeals stating that the testimony he provided at the previous hearing is the same, and opening on Sundays will be a huge boom for his business, James Island, and the staff. Mr. Pannell thanked the BZA for taking the time to reconsider this request.

Questions from the Board:

Mr. Gregorie asked the hours of operation on Sundays; to which Mr. Pannell answered 12:00 noon -8:00 p.m.

Mrs. Lyon said she believed the hours of operation on the other nights were 11:00 a.m. to 10:00 p.m. Mr. Pannell said this is what they asked for; the restaurant closes at 9:00 p.m. as there is no late business, but he likes having the flexibility.

Mrs. Lyon said it is the Board's understanding from the last meeting that they voted to reconsider the case because the applicant had obtained additional information he had no way of knowing prior to the initial hearing. Mr. Pannell said that he polled other businesses on the island and asked them about doing business on Sundays. He also said on four or five different Sundays he was at the restaurant doing paperwork and literally had to turn away throngs of people wanting to eat. They have been given a 10% discount to come back at another time. Mr. Pannell said he thinks if the restaurant is open on Sundays it would be advantageous to the Town, his business, and for the people who works for him.

In Support:

No one spoke

In Opposition

No one spoke

Chairman Parrish closed the public hearing at 7:12 p.m. and asked for a motion and a second for discussion.

Mrs. Lyon moved to modify Condition #3 to allow the applicant to be opened on Sundays and have the flexibility to revise his hours of operation between 12:00 noon -8:00 p.m. on Sunday and 11:00 a.m. to 10:00 p.m. on Monday through Saturday; Mr. Gregorie seconded. During discussion Mrs. Lyon stated the reason for approval is that the applicant has presented additional information that he could not have known at the time the Board initially approved his request. The roll was called and votes were recorded as follows:

Vote

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

The motion was unanimously approved. Chairman Parrish announced that 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.

BZAV-7-14-004

425-02-00-191

873 Folly Road

Variance request for the reduction of a two-way drive aisle from the required 23' to 15' for a bar/lounge in the Community Commercial (CC) District.

Town Planner, Kristen Crane, presented the staff review. The applicant, Mr. Mike Kirages, of the Chill and Grill, is requesting a variance for the reduction of a two-way drive aisle from the required 23' to 15' for a bar/lounge at 873 Folly Road (TMS #425-02-00-191). There is currently one vacant commercial building with an enclosed garage that was formerly used for auto repair on the property. The subject property and surrounding properties on the west side of Folly Road are located in the Community Commercial (CC) Zoning District and are in the jurisdiction of the Town of James Island. On the east side of Folly Road, properties are also located in the Community Commercial (CC) Zoning District and are under the jurisdiction of the Town of James Island, with a few parcels in the City of Charleston's jurisdiction. The commercial properties that are located in the Town of James Island are also in the Folly Road Corridor Overlay (FRC-O) Zoning District. The properties to the west of and behind the subject property are located in the Low-Density Suburban Residential (RSL) Zoning District and are in the Town of James Island's jurisdiction.

The Town of James Island Zoning and Land Development Regulations Ordinance, Article 9.3.6 Parking Space and Parking Lot Design, §9.3.6B Aisle Widths and Parking Space Dimensions states, "*Note: Two way drive aisles shall always require a minimum of 23 feet*".

The applicant's letter of intent states, "*The driveway is bordered by the property line on one side and the building on the other, rendering any widening impossible.*"

Staff conducted a site visit of the subject property on August 1, 2014. Mrs. Crane showed and reviewed photos of the building, parking area, and a photo of the front and rear of the Town's car parked in the 15' 2-way drive aisle, and a photo of Folly Road looking north and south. She stated that the parking at the front of the property will be eliminated because of the Folly and Camp Road Improvements when that project is completed. Adjacent properties (Black Bean, car wash, Hyams Garden Center, and vacant residential lots) were also shown.

Mrs. Crane reviewed the Findings of Facts. All seven (7) criteria must be met. Afterwards Mrs. Crane stated that the Board of Zoning Appeals may approve, approve with conditions, or deny case BZAV-7-14-004, a variance request for the reduction of a two-way drive aisle from the required 23' to 15' for a bar/lounge in the Community Commercial (CC) District, located at 873 Folly Road, based upon the Findings of Facts unless additional information is deemed necessary to make an informed decision.

Questions from the Board

Mr. Fralix said the Site Plan shows a 15' separation between the lot line and the building; but when the lanes were drawn for the exit and entrance, they were half of that. He asked if this means it will be 7' for each car. He asked Mrs. Crane when she was at the property if she wondered about safety. Did she wonder if the vehicle was placed close to Folly Road (which is busy at all times) what safety problem that would pose for someone turning in while another was coming out? He thought those things could be dealt

with but has to be considered. Mrs. Crane noted that the applicant can speak to this; however, she believed the applicant was planning to have an attendant to direct traffic when the business is open.

Mr. Gregorie asked how much of the front of the property will be eliminated because of the Folly and Camp Road Improvements; to which the answer was 100% would be eliminated at the front of the property.

Mrs. Lyon asked if the setback will be either 17' or 24'. Mrs. Crane noted that 8' or 5' from the building will be left. Mrs. Lyon asked if the sidewalk on Folly Road will come that close to the building; Mrs. Crane confirmed. During some discussion, there were different responses from members of the public who attempted to answer this question.

Mr. Gregorie asked Mrs. Crane if she was aware if the SC Department of Transportation is putting in a right turn lane near the location off of Folly Road. Ms. Crane answered that it is a straight and right turn lane combined. There is not a dedicated right turn lane separated from the two main travel lanes.

Mr. Fralix asked about the travel lanes; (coming in/going out), and if there were plans to put an esplanade there to mark the turns. Mrs. Crane said she did not believe this was in the plan, but there will be a sign for right in/right out only.

Mrs. Lyon commented that it looked tight where the Town car was parked and asked if it was possible to squeeze two cars coming through at the same time; or is that the purpose for having an attendant. Mrs. Crane said she thought this was the reason for having an attendant. She reiterated that she parked as close to the building as possible, and there may be room for another small vehicle to come through at the same time.

Mr. Fralix said if this is representative of the changes to Folly Road, the lanes could be curved (one right/one left) so that they do not interfere with each for safety purposes.

Mr. Smith asked about Condition #4 where the staff response was that the variance may be a detriment to the public good because of the volume and nature of traffic for the proposed use. Mr. Smith asked what is the volume and nature; how much traffic are we talking about, and what makes that traffic different from other traffic. Mrs. Crane answered that bars, lounges, and restaurants are considered higher volume than an auto repair shop, or an office. An office is open for 8 hours and people leave for the day. The capacity for this variance request is 64; which would be an estimated 30 cars coming and going.

Mr. Smith noted in an earlier discussion with Mrs. Crane that the Town's zoning has a specific number of parking spaces (13) that is required for a building of that size and the applicant meets that requirement.

Applicant

Mike Kirages

863 Parrot Creek

Owner Sunset Kay Yacht Club, Folly Beach

Mr. Kirages talked about the remedies he tried to implement before applying for the variance. He contacted Eddie Buck, (Black Bean property owner) in June regarding connecting the two back parking lots. He was referred to Ellis Grossman, (Black Bean owner) who agreed that it would be beneficial for his business by providing a loop for the traffic to enter through his parking lot and exit through the Lex-Tech property. Mr. Kirages hired an attorney and a contract was drawn to provide the loop and the shared parking with Mr. Grossman, (who sought approval from Mr. Buck). Mr. Kirages said he came to understand that he was communicating with Mr. Buck, Sr.; and that Mr. Buck, Jr. runs the operation.

Shortly thereafter he received a phone call from a representative for Mr. Buck that they had no interest to honor the agreement. Mr. Kirages said he looked into leasing the Roadside Kitchen (Brinson property) down the street. He noted that connecting the back parking lots is in the Town's Comprehensive Plan; and this would have remedied the traffic flow, as well as to create a village-type atmosphere. He noted that the business owners, specifically Mr. Grossman, immediately recognized the collective benefits of connecting the lots. Mr. Kirages read communication that he received from Joel Smith (SC Department of Transportation) regarding the County's intersection improvement plans (attached). He also stated his understanding from Cal Oyer, (Charleston County RoadWise) about hibernation lanes - adjacent to or overlaps bike lanes.

Mr. Kirages said the capacity of the bar will be 64 with and 13 parking spaces. He has an agreement from Charles Towne, owner of True Value Hardware, allowing the employees to park there. There is no ordinance that requires overflow parking. Mr. Kirages further stated that there will be 10 tables, and 18-20 bar seats. He embraces the idea having an attendant to indicate when the lot is full. This will be a small operation with a small impact.

Questions from the Board

Mr. Smith said the thumbnail business plan, item #3, says entertainment on Friday and Saturday from 10:00 p.m. -1:00 a.m., acoustic or unplugged entertainment prior to 10:00 p.m. He asked what happens between 10:00 p.m. -1:00 a.m. Mr. Kirages answered that 10:00 p.m. 1:00 p.m. there would be a 3-5 piece band. Mr. Smith said to clarify; the applicant is not requesting a parking exception; Mr. Kirages replied 'no'.

Mr. Fralix asked the applicant if he had concerns about the safety aspects. Mr. Kirages said he has concerns every time he drives through there. He is looking forward to the improvements on that road because there are accidents; but there is also a lot of foliage, signage, telephone poles, and a lot of things that obstruct the view of someone turning out onto Folly Road from any business. He thinks that a 45 mph speed limit is too fast and he hopes the speed limit will be reduced.

Mrs. Lyon asked what effect averse weather would have on an attendant in monitoring the parking lot; to which Mr. Kirages answered access to the front door, which should make doing this manageable.

In Favor

The following persons spoke in favor of the variance:

Walter Glenn McAdory
633 Seaward Drive

Mr. McAdory, property owner, Lex-Tech, (site of the proposed bar) stated that Charleston County has taken his property for the Folly Road improvements project. He said the exact footage away from the door is 8'. He needs to have the building rented because it is creating an undue hardship. He did not want to move, he had to because of the Folly improvements; and the property is sitting dormant. Unless a variance is granted, it doesn't matter what anyone want to put there, the narrow drive is going to be an issue for any tenant because the only access to the property is through the drive - there will be no parking at the front, which is no fault of their own. He said whether the property is used as a bar or an office, the side drive will have to be utilized because it is the only way to gain access to the property.

Mrs. Crane informed the BZA that there were two letters in support of the variance in their packet.

In Opposition

The following persons spoke in opposition of the variance:

Sylvia and Don Ritchie
890 West Madison

Spoke about the noise, traffic, and hazards, having a bar there would cause. Their property would be located behind the bar. They also expressed concerns about inebriated people walking through the neighborhood, as well as the noise and traffic from the car wash. They do not want to have a bar there.

George Hyams
870 Folly Road

The owner of Hyams is across the street from 873 Folly Road. He stated that the setback comes 8' off of the door, but it notches in when it gets to the property and it goes to 5'. The lane coming into the business, (the northern property line) is the driveway line that goes straight out to Folly Road. He stated there is absolutely no way to put a radius there; anyone making a right turn into the business will have to make a 6-8' swing to get in. There is no way for a pickup truck and a car to pass through the driveway. Mr. Hyams said he has seen many accidents, having been at the same location for 35 years; accidents happen almost daily. He does not believe the Folly Road improvements will do anything for safety because all they are doing is putting in sidewalks and bike lanes. He also expressed concern that the customers from the bar would park at his business and he would have to post signs to prohibit that. The property is no place for a bar.

Fred Whittle
871 Robert E. Lee

Mr. Whittle represents the owners of the Laser Car Wash and the Black Bean Company. He apologized that Mr. Kirages was misguided as he knows Mr. Buck Jr. would not share parking. Their concern is the same as Hyam's, that the car wash and Black Bean will be used by the patrons of the bar to park. He applauded the efforts of the applicant for wanting to use this property and it should not be vacant. He is sorry that Mr. McAdory has been pushed into this situation; the County should pay him for the entire property because they ruined it essentially for use. They have limited what he can do with the property. Mr. Whittle said his clients' primary concern is patrons knowing or unknowingly parking on their property because they need to.

Applicant's Response

Mr. Kirages responded that he was in business on Folly Beach for 14 years at Snapper Jacks, having sold the business last year. In the 14 years on Folly Beach he has never gotten a citation for noise and he worked with Mayors Goodwin and Beckman to develop a noise ordinance (Reference letters). He is responsible bar owner in these matters; he is straight forward and does not want to upset the balance of the neighbors. He offered as a reminder that his request is a legal

Use that he is applying for and the application is for a variance on the width of the driveway; it has nothing to do with the parking aspect and it is his understanding that he is qualified for the number of parking spaces that he is required to have. He noted will be overflow issues... perhaps, will there be people walking... perhaps. Will the bar be a general nuisance to the community? This is what business licenses are for, and a license should be revoked if a business is not operating in the proper manner. He commented on people turning in/out and the responsibility of people adhering to the rules of the road. He again stated that this is a request for a legal operation.

Chairman Parrish closed the Public Hearing at 7:59 p.m. He then asked for a motion from the BZA to approve, approve with conditions, or deny BZAS-2-14-002.

Mr. Fralix moved to deny the variance; that something innovative could be done to solve what he considers a serious safety problem. Mr. Gregorie seconded; he stated for the record, his reason for

seconding is based upon Criteria #4: that the authorization of a variance may be of substantial detriment to the adjacent properties or to the public good because of the volume/nature of traffic for the proposed use and the back-up that may occur on Folly Road.

Mr. Gregorie stated that applicant noted that vehicles entering the property would have to use a hibernation lane whereby the vehicles would depend on a bike and ped lane (pedestrian lane) and when vehicles start to depend on bike and pedestrian lanes that defeat the purpose of a bike and a pedestrian lane. Mr. Gregorie said he drove the site in his truck and he does not believe that two vehicles can pass through the driveway at 15'; a vehicle cannot take a right off of Folly Road and enter the property when there is another vehicle trying to exit the property. He said the reason for that is because of the reduction of the front and the removal of the parking spaces at the front of the property.

Mr. Smith pointed out that any business that goes there will be required to have parking, and the only space for parking is in the rear. Any business, whether it is an office, or a day care center, will have to use the driveway both ways or they are not going to have parking and there will not be a business. If we don't allow the driveway to be used both ways, the building is not usable at all, and he has a real problem with that. He also stated that he understood a lot of what he heard from the adjacent owners about their concerns about parking, however, that is not the issue that we have on the table. He said that 13 spaces for a bar seating 64 people is very skimpy but that is not this Board's decision to make, that would be the Planning Commission and Town Council. Perhaps they should change the rule, however, right now the rule is that he has to have 13 spaces and all he is doing is asking to have access to 13 spaces. He said unfortunately, he is going to have to say he would like to have them to do that. He also mentioned that there is no difference in turning right or left into this business as there is to turn right or left into any business up and down Folly Road. They will be hibernating on the bike lane, not for this only, but for all of them. The design may be flawed, there may be a problem but again the BZA is not the design board doing that.

Mrs. Lyon said it is terrible that those properties are being ravaged as they are with the new road project. Unfortunately, that is not why we are here tonight and we cannot fix it for them.

Mrs. Lyon restated that the motion is based upon criteria #4. Mr. Gregorie added that the parking spaces at the front of the property are being removed due to the Folly Road improvement project.

After discussion, Chairman Parrish called for the vote. The roll was called and votes were recorded as follows:

To deny the variance request of BZAV-7-14-004 (TMS: 425-02-00-191) a variance request for the reduction of a two-way drive aisle from the required 23' to 15' for a bar/lounge in the Community Commercial (CC) District) based on Criteria #4, of the Town of James Island Zoning and Land Development Regulations.

VOTE

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

The motion was approved 4-1 to deny the request.

BZAAS-7-14-003

425-02-00-191

873 Folly Road

Special Exception request for the sale of alcoholic beverages in a bar/lounge in the Community Commercial (CC) District: Removed from tonight's proceedings.

Additional Business

Next Meeting: No cases were scheduled to be heard in September. Next meeting October 21, 2014 at 7:00 p.m.

Adjourn: There being no further business to come before the body, the meeting adjourned upon a motion by Mr. Fralix seconded by Mrs. Lyon and carried. The meeting adjourned at 8:08 p.m.

Respectfully submitted:

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

Frances Simmons
Secretary to the BZA