

TOWN OF JAMES ISLAND
BOARD OF ZONING APPEALS
SUMMARY OF OCTOBER 21, 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 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, 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 August 19, 2014 BZA Meeting: Mr. Fralix moved to approve the minutes of the August 19, 2014 meeting. Mrs. Lyon seconded, and the minutes were approved as presented.

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

Disapproved

BZAS-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

Withdrawn

BZAS-2-14-002
425-08-00-023
792 Folly Road, F1
Reconsideration of Condition #3, concerning hours of operation
Reconsidered and 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 Application:

New Business:
BZAV-9-14-005
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 concert hall (Public Assembly) in the Community Commercial (CC) District.

Town Planner, Kristen Crane, presented the staff review. The applicant, Mr. Scott Pfeiffer, Charleston Performing Arts Center (C-PAC), is requesting a variance for the reduction of a two-way drive aisle from the required 23' to 15' for a concert hall (Public Assembly) 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 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 located 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 and behind the subject property are located in the Low-Density Suburban Residential (RSL) Zoning District and are in the Town of James Island.

The Town of James Island's 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 width of 23 feet".

The applicant's letter of intent states "theatre venue traffic is 'destination traffic'. Upon a patron's arrival, they will be greeted by a parking attendant who will direct them" and "vehicles parking in the parking lot will remain parked until after the end of the show at which point they will use the driveway only as an exit".

Mrs. Crane informed the Board of Zoning Appeals that the applicant's site plan was included in their packet. She reviewed the Findings of Facts and stated that all seven (7) criteria must be met.

Mrs. Crane informed the Board of Zoning Appeals that they may approve, approve with conditions, or deny Case BZAV-9-14-005, a variance request for the reduction of a two-way drive aisle from the required 23' to 15' for a concert hall (Public Assembly) in the Community Commercial (CC) District based upon the Findings of Facts unless additional information is deemed necessary to make an informed decision.

Questions from the Board of Zoning Appeals

Mr. Gregorie asked Mrs. Crane about the Folly Road Improvements Plan, if it will include a pedestrian refuge in the middle of the road. Mrs. Crane replied that she did not know; however she is sure there will be crosswalks with signals. Mr. Gregorie asked if the Plan includes new sidewalks; to which Mrs. Crane responded 'yes', sidewalks will be on both sides of the road.

Mrs. Lyon asked if the variance is approved with conditions (she gave an example of the parking lot attendant), what is the enforcement if no attendant is on the lot? How would that be handled? She asked if this would be enforced by the Town, as there are concerns about safety. Mrs. Crane said she did not think the parking attendant need to be added as a condition because it is already included in the applicant's Site Plan. Mrs. Lyon responded that it is a part of the Site Plan, but still should be included as a condition because she remembered what happened with the Ropes Course when a Site Plan Condition wasn't made a part of the Conditions.

Mrs. Lyon asked what happens if the attendant were sick, or did not show, and performances were scheduled. How would this be enforced? Mr. Wilson said the Town does not have enforcement other than its Code Enforcement Officer, and that would be an issue as to how he would go about it. Would the business lose its variance? Would the Code Enforcement Officer have to bring an action to terminate the business license if he observed the lack of an attendant on the lot? Mr. Wilson said this could be something the Board may want to consider before it makes a decision; or to discuss further with the Town if this becomes a part of their recommendation. He said the Board did not have to rule on the case tonight if they want to study this further.

Applicant's Presentation

Scott Pfeiffer

941 Clearspring Drive

Mr. Pfeiffer stated what the Charleston Performing Arts Center (C-PAC) is and what they intend to do. He responded to Mrs. Lyon's questions from C-PAC's perspective. Mr. Pfeiffer said that the Charleston Performing Arts Center is placed to be the first pre-professional training Musical Theatre Conservatory in South Carolina that focuses on education related to vocal training, acting, and dance, for individuals interested in a professional career in musical theatre. He said C-PAC will host student Conservatory Productions, dance musicals, and productions that they create. Mr. Pfeiffer referred to the Parking Attendant Checklist that they developed – it is the same checklist that Mr. Hyams (Hyams Nursery) and Mr. Towne (All Seasons Hardware) has reviewed and agreed to. He noted that the Parking Checklist is very important because it ensures that patrons have a good parking experience while attending a production. Mr. Pfeiffer addressed how sick calls and potential no-shows would be handled. He said the parking attendants will be a part of their staff. Alternative staffing will be available, either through an on-call process or someone which could include himself, the artistic director, or an usher putting on a reflective

vest to do the job. He thinks that they can cover that; but he is also aware that there may be an instance where anything could happen. He said the nature of the theatrical business is that the show must go on and you find a way to cover whatever needs to be done, and they are resilient enough to be able to do that; even if that means calling an old cast member who is not performing for their help. He stressed having the support of loyal cast members, students, and parents who are willing to help. He said the checklist process is a great way to manage any incidents that occurs throughout a production evening. The checklists will be completed by the attendant in each section, on the property, at Hyams and True Value. There will be one attendant at each location to do a pre-check and they will look for potential damage or issues that the property owners could come back to hold them accountable for. As patrons arrive, the attendant will make sure cars are parked legally and appropriately and thank people for coming to the production. He responded to Mr. Gregorie's question about the pedestrian refuge, stating that patrons will be encouraged to go down Camp Road to cross or to Eugene Gibbs and cross there. The parking attendants will make note of cars that remain in the lots when they are ready to leave. The attendant will complete a closing checklist, gather supplies, and make sure everything is in order. License tag numbers will be taken of vehicles that remain in the lots and turned in to Stage Manager at the end of each performance. The Stage Manager will review the checklist for correctness and keep a record on file. He said the reason for keeping a file is to ensure there is a record of what happens before, during, and after events. This information will be shared with Mr. Hyams and Mr. Towne on a recurring basis to keep them updated about parking on their property. Mr. Pfeiffer said he thinks they are taking actions and steps to think through potential issues that could occur and be ahead of them. He noted the flexibility in making adjustments along the way with Mr. Hyams and Mr. Towne if recurring incidents come up and he believes the three of them can work on a revised agreement. Mr. Pfeiffer said he think that theatre going audiences tend to be a little more respectful of their surroundings and he does not anticipate a lot of major issues.

Questions from the Board of Zoning Appeals

Mr. Gregorie asked the hours of operation; and does C-PAC expect traffic in and out to be steady or tidal. Mr. Pfeiffer said it will be destination traffic: traffic – traffic resting – and traffic leaving. There is a designated curtain time that patrons have to arrive by and be seated, and when the curtain comes down, the show ends and patrons leave. He does not anticipate there will be ins and outs through the driveway. He said there are 16 parking spaces at the property and the attendant will place a barricade in the front once the 16 spaces are reached; and the attendant will direct traffic to the alternative parking lots. He said patrons will have this information in advance when they purchase tickets on-line on the website; there will be a parking disclaimer to explain everything about parking as well as the alternative parking locations. When a patron checks out, they will get a disclaimer and a kickback response, so they will be hit at least three times about how the parking works.

Mr. Pfeiffer said the performances will be on Wednesday through Saturday and curtain times between 7-8 p.m. depending upon the season; and traffic will leave no later than 10:30 p.m. The dance musicals are 90 minutes. Mr. Pfeiffer explained that C-PAC is not a concert hall, rock concert, or big bands. They offer produced dance musicals or student showcases (such as Marilyn Monroe's Diamond are a Girl's Best Friend). He said they may, depending on the

season, have Twilight performances on a Sunday with traffic arriving roughly around 6:00 p.m. and departing no later than 8:30 p.m. and possibly afternoon matinees.

Mr. Gregorie said our Ordinance only requires 14 parking spaces; he asked how many parking spaces Mr. Pfeiffer realistically see the business using at the other locations. Mr. Pfeiffer answered there are 20 spaces at True Value and 16 spaces at Hyams. He said that they can definitely fill up True Value. However, the way they want to approach the parking is: first- C-PAC; second - True Value; and third – at Hyams.

Mrs. Lyon said her understanding is that there will be a parking attendant at the property. She asked if the same attendant would be used at True Value. Mr. Pfeiffer answered there will be three parking attendants; one at each location.

Mrs. Lyon asked how traffic will flow when classes are held (with parents dropping off, and others arriving at the same time); and will this be an issue with the driveway. Mr. Pfeiffer said the Conservatory will begin and end at the same time on Mondays through Wednesdays; that individuals dropping-off will wait in the parking lot until classes start before they can exit the lot. Mrs. Lyon asked if classes had begun; to which Mr. Pfeiffer replied no; they hope to open the Conservatory on November 3rd. Mrs. Lyon asked if an attendant would handle that and how many students do they expects to have. Mr. Pfeiffer said they aspire to have 40 only; they have 10 now with the potential of having 15 for the first semester this year. Mrs. Lyon asked if there will be 40 students at one time; Mr. Pfeiffer said it is a total of 40. He said starting in November they have lost two months into the school year; so they are compressing what would be a semester. Mrs. Lyon asked how 40 cars would fit in the parking lot if parents dropping off have to wait until the classes begin before they can exit. Mr. Pfeiffer said they do not anticipate having 40 vehicles waiting. He said a lot of parents are excited that C-PAC is next to Black Bean, they can eat, and the student could walk over to the building – the parent would also pick the student up from Black Bean. He does not think they will hit a 40 car capacity. If they reach the 16 capacity, they will have to enact the same measure; (he commented having to think about this a little more). Mr. Pfeiffer said there is a designated disabled parking space with a pad in the back of the building that could potentially be used for a quick drop-off, turn-around, and exit, if the lot is full, but this would be a worst case scenario. He noted students coming from Murrell's Inlet that carpool and also some come from Hilton Head and some are local. Mrs. Lyon asked the hours of the Conservatory; Mr. Pfeiffer said 5:30 p.m. to -9:30 p.m. Mr. Fralix asked if this is the only time that day classes would be held. Mr. Pfeiffer said yes, on Monday through Wednesday. Mr. Fralix noted that Hyams and True Value are open a part of those hours. Mr. Fralix asked about overflow parking, and Mr. Pfeiffer said people could potentially go to Bi-Lo and drop the student off there. Mrs. Lyon asked the age of the students; and Mr. Pfeiffer answered age 13 to adults. Mr. Fralix mentioned that the statements from Mr. Towne and Mr. Hyams (though they contain some conditions) are a credit to C-PAC.

Mr. Smith said the application states 65 seats in the concert hall; and the Site Plan is 70. He asked which it is. Mr. Pfeiffer said 65; that they submitted the Site Plan before meeting with Charleston County about occupancy. He said they are looking to lower it to the 50 mark. It was confirmed that this is because of fire codes.

Mrs. Crane said the variance before the Board of Zoning Appeals is for the Performance only; that the Conservatory was approved administratively.

In Favor

Katherine Williams
1846 Cornish Avenue

Thanked the Board of Zoning Appeals for their service. She serves on the Town's James Island Pride Committee and was appointed to the Arts and Culture Committee. She spoke in favor of the applicant's request and encouraged the Board to vote in favor, as the Performing Arts Center will foster a level of culture on the island.

Glenn McAdory
873 Folly Road

Mr. McAdory, the property owner, commented on the attributes that C-PAC will bring to the community and their good plan for the use of the building. He commented that the Camp and Folly Road Improvements has caused imminent domain by taking away the parking spaces at the front, and the Town's approval of the plan. He asked the Board of Zoning Appeals to vote in favor of the request

Mrs. Crane acknowledged for the record that seven (7) letters in support were received for the application; four were provided in the Board's packet and three (3) were presented this evening.

In Opposition

Pat Hurtel
862 West Madison Avenue

Ms. Hurtel stated that she was not in opposition to the application but wanted to voice her concerns because she lives behind the building on Lot 131. Her concern is about noise. There is a lot of noise from traffic in general, and the neighborhood looks forward to quiet at night. She is excited to learn what C-PAC is doing because at first she thought it was going to be a concert hall. She is also concerned about traffic because West Madison has become a thorough fare for people wanting to escape Folly Road. Her concerns are noise at night and late night traffic or traffic other than residents living on West Madison Avenue.

Mrs. Crane acknowledged for the record one letter of non-support.

Applicant's Rebuttal

Mr. Pfeiffer addressed Ms. Hurtel's concerns that noise will be abated by using fire retardant curtains along the back wall and behind the stage. He said that will buffer some noise that could leak out. They want to keep the noise inside.

Mr. Gregorie asked and was granted permission to ask Ms. Crane about the administrative approval of the Conservancy. He asked why the Conservancy was administratively approved; was it approved by the Ordinance or was the Planner able to approve that. Mrs. Crane said she sought the advice of Charleston County, and they felt it was not a use that had to come to the Board because of the Conservancy's limited number of students and its limited period of time

Mr. Gregorie asked and Mrs. Crane confirmed that C-PAC is appearing before the Board because it is a public assembly and the Conservatory is not.

Chairman Parrish closed the Public Hearing at 7:52 p.m. and asked for a motion to approve, approve with conditions or deny Case BZAV-9-14-005.

Mrs. Lyon moved to approve Case BZAV-9-14-005 with conditions, Mr. Fralix seconded. Mrs. Lyon said she would like to add a condition that the variance would not apply to any future uses if C-PAC moves to another location. She said typically if a variance is granted, it remains with the property so this variance would remain as a dance studio. Mr. Fralix noted that this was already the condition recommended by staff. Mrs. Lyon said she would also like to add a condition about the parking lot attendant. She realizes that this is a part of the applicant's Site Plans but in the past approvals has been given by the Board that did not go as planned. She commented that this is a totally different case and situation but she would like for it to be included as a condition if the Board agrees.

Mrs. Lyon said this is probably one of the better applications; the applicant has done the homework by developing a parking checklist and an alternative parking plan. Her concern is how it will be enforced. She asked the Board if they wanted to add a condition. Mrs. Lyon expressed concern about safety surrounding the issues with parking. She stated that the applicant has a great plan in place; however she would like to see that we follow through on providing Code Enforcement if there were complaints we would have a way to address them. Mrs. Lyon said she was unsure how the condition could be worded for the motion but would feel better by protecting the public that way. Attorney Wilson noted that this is a little unusual. He said there is no other way to enforce that other than through the enforcement of the Town and usually performances occur during odd hours when Code Enforcement does not work. He said binding the Town to the code enforcement issue of the variance without bringing the Town into the equation might be premature. He said Mrs. Lyon could make a motion subject to review by the Town because it involves the Town's personnel. He asked if Code Enforcement was made aware of this. Mrs. Lyon noted that we have had other approvals in the past and while it may not be during business hours it would be subject to the Code Enforcement of the Town. Mrs. Lyon said she would like to modify the approval of the parking lot attendant if it is approved by the Town and asked how to word the Condition. Mr. Wilson suggested it is subject to approval by the use of the Town's resources in Code Enforcement if the variance as passed by Board of Zoning Appeals. He said the Town would take a position to affirm or not affirm the use of its Code Enforcement personnel to enforce the variance. Mr. Fralix asked if the motion would be held up until this is approved by the Town. Mr. Wilson said final approval would be the Town's commitment. There was some discussion whether or not this needed approval from the full Council; or whether the Mayor, or Town Administrator could make that decision. Mrs. Lyon commented that problems with the parking lot attendant could be something that would never come up but she would like to have that addressed.

Mr. Gregorie added that the parking plan and the attendant parking plan was well thought out and more robust than what was previously presented for this site and that is a factor for him. He shared with the Board that no matter what type of business is there, traffic and parking will almost always apply because Folly Road is a major arterial roadway. He said it is very important

to James Island and part of our nation's policy on geometric design of highways and streets is that service to abutting land is subordinate to travel service to major traffic movement in arterial roadways. He thinks that the application meets all of the criteria as set forth by the Ordinance with the exception of criteria #4 which is debatable. He said we have gotten hung up on the issues about the public good and issues regarding traffic but you have to weigh some of the traffic and parking issues this may create against the benefit of adding a theatre to the community. Mrs. Lyon added that no matter what business is there; there will be some type of issues with parking, ingress and egress. Mr. Fralix asked and Chairman Parrish reiterated the motion with the first condition and Mrs. Lyon recited the second condition.

1. The variance is for the specific use listed above and shall not apply to any future uses of the subject property
2. The variance would be approved contingent upon the parking lot attendant's plan presented by the applicant and enforced by the Town, subject to Town approval

There was discussion about adding specific tenant to Condition #1 which was included. Chairman Parrish called for the vote. The roll was called and votes were recorded as follows for the Case BZAV-9-14-005:

BZAV-9-14-005
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 concert hall (Public Assembly) in the Community Commercial (CC) District approved with conditions:

1. The variance is for the specific use listed above and shall not apply to any future uses or future tenants of the subject property
2. The variance would be approved contingent upon the parking lot attendant's plan presented by the applicant and enforced by the Town, subject to Town approval

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

The motion passed unanimously. 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.

Additional Business:

1. Adoption of the 2015 BZA Meeting Schedule: A motion to approve the 2015 BZA Meeting schedule was made by Mr. Fralix, seconded by Mr. Gregorie and carried.
2. Next Meeting: No cases are scheduled for the November 18th meeting. The Board of Zoning Appeals will hold a training session. Mrs. Crane announced that she will send a link of topics to the Board. The Planning Commission will also be invited to attend this training.

Adjourn: There being no further business to come before the body, the meeting adjourned upon a motion by Mr. Fralix, seconded by Mr. Smith and carried. The meeting adjourned at 8:06 p.m.

Respectfully submitted

A handwritten signature in cursive script that reads "Frances Simmons". The signature is written in dark ink and is positioned above the printed name.

Frances Simmons
Secretary to the BZA