

TOWN OF JAMES ISLAND
BOARD OF ZONING APPEALS (BZA)
SUMMARY OF MARCH 20, 2018

Members present: Mr. Jim Fralix, Mr. Sim Parrish, Mr. Jason Gregorie, Vice Chairman, Mr. Roy Smith, and Chairwoman Brook Lyon. Also: Planning Director, Kristen Crane, BZA Attorney, Bo Wilson, Town Administrator, Ashley Kellahan, Councilmember/Mayor Pro-tem, Leonard Blank, and Town Clerk and Secretary to the BZA, Frances Simmons.

Call to Order: Chairwoman Lyon called the Board of Zoning Appeals meeting to order at 7:00 p.m. A quorum was present to conduct business.

Prayer and Pledge: Chairwoman Lyon asked members of the BZA and others who care to, to join in the prayer and Pledge of Allegiance.

Compliance with FOIA: Chairwoman Lyon announced that this meeting has been noticed in compliance with the South Carolina Freedom of Information Act.

Introductions: Chairwoman Lyon introduced the members of the Board of Zoning Appeals (BZA), BZA Attorney, staff, and Councilmember/Mayor Pro-tem Blank.

Review Summary and Rulings from the January 16, 2018 BZA Meeting: Chairwoman Lyon asked if there were corrections to the minutes. There were no corrections. A motion to approve was made by Mr. Fralix, seconded by Mr. Gregorie and passed unanimously.

1. BZAS-12-17-012
TMS# 454-13-00-068
Special Exception request for the placement of an outpatient/mobile veterinary service in the Low-Density Suburban Residential (RSL) District on property located at 936 Stiles Drive. **WITHDRAWN**

2. BZAS-12-17-013
TMS# 425-08-00-023
Special Exception request to amend existing Special Exception (*BZAS-2-14-002 – sale of alcoholic beverages in the Community Commercial District*) for the extension of hours of operation on property located at 792 Folly Road, F1. **APPROVED WITH AMENDED CONDITIONS**

Update on the Following Applications:
NEW BUSINESS:

1. BZAS-1-18-014
TMS# 425-03-00-037
Special Exception request for the placement of a full-service carwash in the Community Commercial (CC) District and the Folly Road Corridor Overlay (FRC-O) District on property located at 765 Folly Road. **WITHDRAWN**

2. BZAV-1-18-012
TMS# 425-03-00-037

Variance request for pavement encroachment of more than 25% of the canopy of a grand tree for a carwash in the Community Commercial (CC) District and the Folly Road Corridor Overlay (FRC-O) District on property located at 765 Folly Road. **WITHDRAWN**

3. BZAV-1-18-013
TMS# 425-03-00-037

Variance request for a 30' reduction of OCRM Critical Line Buffer from 35' to 5' for the pavement of a carwash in the Community Commercial (CC) District and the Folly Road Corridor Overlay (FRC-O) District on property located at 765 Folly Road, Town of James Island. **WITHDRAWN**

Public Comment: Chairwoman Lyon stated it is important to note that this is not a Public Hearing for the proposed carwash and any comments heard tonight cannot be used as testimony either for or against the carwash. She stated that each comment is limited to 2 minutes. Commenters may not question Board Members and Board Members may not question commenters.

The following persons spoke:

Carole Delger, 1732 Brantley Drive, spoke in objection to the Board granting the applicants request for a waiver. Mrs. Delger said that she lives around the corner from the proposed carwash and has sent a letter of opposition to the Board. She understand this is a development company with many businesses. She is not against development; but does not want it in this area because it is already in danger. She understands their new technology where water is filtered, put in tanks and reused; but the area has now flooded three years in a row and residents have had to deal with a lot of contamination. She said the marsh used to be beautiful, almost over her head when they were in their boat, but it is gone now because of the buildings, and bridges. Nesting birds, such as Isis, Cranes, predatory birds, and different animals will be impacted. She is in opposition to this request.

Chris Carr, 1551 Patterson Avenue, spoke in objection to the carwash. He will live across the street from the carwash and it will look tacky. He does not want to have five carwashes on Folly Road.

Requests for Approval:

Request for waiver of one-year waiting period for resubmittal of applications for a carwash at 765 Folly Road, per §153.040 (M) (2) of the Zoning and Land Development Regulations Ordinance:

Chairwoman Lyon introduced the agenda item that the Board would hear one request for a waiver of the 12-month waiting period for resubmittal of applications for a carwash per Section 153.040 (M) (2) of the Zoning and Land Development Regulations Ordinance. Written notice of the waiver request was included in the Board's packets.

Applicant Presentation:

Mike McDonald, Pavilion Development is contracted to purchase the parcel and the Title Max parcel for the proposed development called AutoBell Carwash, (a full service, high-end car wash). Mr. McDonald said they are present to request a waiver in order to appear before the Board on April 17. The request was originally submitted in January for the February 20 hearing but at that point, they did not have the Title Max property under contract. Since then, they were able to come to an agreement that he feels will improve the project from the original application they submitted and this is why they withdrew. Mr. McDonald said he believes the development will improve the situation from an environmental standpoint that will be great for the community. A meeting with the public has been scheduled for April 3 at the Spring Hill Suites to answer questions and concerns about the carwash. Mr. McDonald asked the Board to grant the waiver so they can present their case before them.

Ross Appel, 31 Lyttleton Street, Attorney for the Pavilion Company. Mr. Appel reiterated that the focus of this meeting is for consideration for a waiver to present and proceed with the revised, improved, and more environmentally sensitive development from the one submitted in January. He touched on the meeting with the public scheduled for April 3. This meeting will be advertised through social media and on other available avenues. Mr. Appel said he thinks there is a considerable, practical and legal case for granting the waiver. From the practical side, he said it encourages developers to do the right thing. His clients understand there is public concern about the project and is why the original application was withdrawn. Another application was submitted last Friday. This is an improved design as they have acquired the Title Max property to the north. The need to encroach on the OCRM buffer has been removed and there is no need for a variance from the critical line setback. He said by allowing them to present the case sets the precedence that developers are encouraged to listen to the public, the Town, and staff to improve the design as they move forward. He said legally there are issues with there being a waiver process. He does not think it is allowed under State law as there is no objective criteria for the Board to consider whether to grant a waiver. As an example, when there is a variance request there is a legal test. There is no legal test for a waiver. He thinks it would be appropriate from a practical and legal standpoint for them to be able to proceed and have their day before the BZA. He promised that his clients would present a professional and serious presentation on April 17 that the Town deserves. In closing, he said the Town deserves a quality, well thought out development and that is what his clients will bring to the table. He respectfully requested to be allowed to proceed.

Carl Howard, 1521 E. Third St., Charlotte, NC, is the owner of Autobell, a family run business with 80 carwashes along the east coast. He said they capture wastewater, treat it, and give it back to cities cleaner than when they got it. He said a mini-water treatment plant is on each carwash site and the current condition is not capturing the stormwater. They will do that by treating wastewater before releasing it into James Island's storm sewer system. The current conditions at the site will be improved more than what is now being done on the island. They will improve driveway car washing, capturing the wastewater instead of allowing it to fall onto concrete.

Questions for the Applicant: None

Chairwoman Lyon asked for a motion from the Board in order to have discussion. Vice Chair Gregorie moved to grant approval of the waiver, and Mr. Fralix seconded.

Mr. Smith asked Mrs. Crane and Attorney Wilson if a waiver such as this had been granted before, and if so, when. Mrs. Crane responded that Town Council did about three years ago for a Planned Development.

Mr. Smith commented on the rules about withdrawal of applications after advertising for public hearings or signs posted on the subject property that it shall be treated the same as a denied application. He said it seems from the wording that it causes work for staff and it could happen again and again. Mr. Smith asked is this cumbersome, overly cumbersome, does the application pay for itself; and does it tax the Town's resources. Mr. Wilson said this would not happen again and again because an applicant is only allowed one withdrawal. He commented about how this could be an endless process, but this would be treated on a case-by-case basis should it occur. We do not anticipate more than one withdrawal without a reasonable explanation for such.

Chairwoman Lyon commented that the hearing tonight is not to be for or against the carwash, it is whether to grant the applicant's waiver. She said from the information and evidence they have presented, to her it seems they are trying to take into consideration the public's oppositions and concerns by making the application less offensive and obtrusive by dropping the variance for OCRM's critical line setback. Since the applicants have not had a hearing, it would be unfair to deny them a chance to come before the Board.

She said at that time the Board can look at the evidence and make its decision. Legally and professionally, we would want to consider that.

Chairwoman Lyon called for the vote. The roll was called and votes were recorded as follows:

Mr. Fralix	aye
Mr. Parrish	aye
Vice Chair Gregorie	aye
Mr. Smith	nay
Chairwoman Lyon	aye

Chairwoman Lyon announced that the motion carried upon a vote of 4-1 and the request for a waiver has been granted.

Additional Business

Next Meeting: April 17, 2018

Adjourn: There being no further business to come before the body, the meeting adjourned at 7:23 p.m.

Respectfully submitted:
Frances Simmons
Town Clerk and Secretary to the BZA