

TOWN OF JAMES ISLAND  
BOARD OF ZONING APPEALS  
SUMMARY OF APRIL 18, 2017

Members present: Commissioners: Jim Fralix, Jason Gregorie, Brook Lyon, Vice Chair, Sim Parrish, and Chairman, Roy Smith, who presided. Also present: Kristen Crane, Planning Director, Bonum S. Wilson, BZA Attorney, and Frances Simmons, Town Clerk and Secretary to the BZA.

Call to Order: Chairman Smith called the Board of Zoning Appeals meeting to order at 7:30 p.m.

Prayer and Pledge: Chairman Smith asked for a moment of silence, afterward followed with the Pledge of Allegiance.

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

Introductions: Chairman Smith introduced members of the Board of Zoning Appeals, Town Staff, and BZA Attorney

Review Summary and Rulings from the March 21, 2017 BZA Meeting: Chairman Smith 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.

BZAS-2-17—009

454-00-00-006

221 Fort Johnson Road

Special Exception request for the demolition of three (3) historic structures at 221 Fort Johnson Road.

**DENIED**

BZAS-2-17-010

425-08-00-012

1595 Highland Avenue

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

**POSTPONED**

BZAV-2-17-008

425-08-00-012

1595 Highland Avenue

Variance request for the removal of one grand tree (25" DBH Hackberry) for the driveway of a Fast Food Restaurant in the Community Commercial (CC) District and the Folly Road Corridor Overlay Zoning District (FRC-O)

**POSTPONED**

Brief the Public on the Procedures of the BZA: Chairman Smith explained how the Board of Zoning Appeals hearing would be conducted.

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

Review of the Following Application:

BZAV-3-17-009

425-16-00-124

1235 Camp Road

Variance request for the reduction of the 20' required rear setback by 11'10" to 8'2" for the encroachment of a building addition in the Community Commercial (CC) Zoning District.

Mrs. Crane provided the staff's review stating that the applicant, Mr. Bernard Myatt, III of Myatt Air Conditioning, LLC is requesting a variance for the reduction of the 20' required rear setback by 11'10" to 8'2" for the encroachment of a building addition in the Community Commercial (CC) Zoning District at 1235 Camp Road, having TMS # 425-16-00-124). Adjacent properties to the north, east, and west are also in the Community Commercial Zoning District. Adjacent properties to the south are zoned Low-Density Suburban Residential (RSL) and are in the Town of James Island's jurisdiction. By show of an aerial, Mrs. Crane pointed to the applicant's Mr. Myatt's building, Dinkins Auto Repair, and Heads to Tails. The new building addition would go out to half of what the Dinkins Auto Repair building is.

The subject property is 0.36 acres in size and currently has one, two-story building and attached garage. There is a mix of chain link and wooden privacy fencing off varying heights surrounding the property. Employee parking and dumpsters are located on the eastern side of the property. Site Plan depicting specific location of the buildings referenced above was shown.

Mrs. Crane informed the Board that according to §153.049 F, Zoning Variance Approval Criteria of the Town of James Island Zoning and Land Development Regulations Ordinance (ZLDR), the Board of Zoning Appeals have authority to hear and decide appeals for a Zoning Variance when strict application of the provisions of this Ordinance would result in unnecessary hardship. A Zoning Variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the seven criteria in the Findings of Facts. (Attached). Mrs. Crane stated that the Board of Zoning Appeals may approve, approve with conditions or deny Case # BZAV-3-17-009, based on the Findings of Facts, unless additional information is deemed necessary to make an informed decision.

Applicant Presentation

Bernard Myatt, III

Myatt Air Conditioning

1235 Camp Road

The applicant, Bernard Myatt read a letter that he submitted in support of his request (copy attached). Afterward, Mr. Myatt stated that Dinkins Auto Repair, (located next to his business) extended their building about five (5) years ago to the property line. Mr. Myatt said his building would only be extended as far as Dinkins. Mr. Myatt said he stores air condition units, extra materials, and he makes ductwork at the back of his building. He stressed to the Board his need for the extension to perform those services. He also noted that working indoors would help reduce the level of noise to the neighbors. Mr. Myatt said he is not asking for anything special, only to increase his storage needs.

Questions for the Applicant

Mr. Fralix asked if Mr. Myatt would be encroaching upon another person's property at the rear, and Mr. Myatt said no. Mr. Myatt spoke that he could have ordered a building to go on the property line but he did not want to do that. If this request is denied, he said that he would still construct a building, but a little back from the property line so everyone is happy. Mr. Myatt said if the neighbors are willing to give him feedback he would be happy to receive it. He does not want to hurt anyone, he only wants to increase the storage space on his property.

Mr. Gregorie asked the height of the proposed building. Mr. Myatt said it would be slanted back from 10' to 8'; 36x15. Mr. Gregorie asked and Mr. Myatt confirmed that the proposed addition would be smaller. Mr. Gregorie asked if this would be an enclosed structure. Mr. Myatt said the back wall of his current building will be taken out, a slab installed, and three sides will be placed on the back. He will go from having a 1,000 square feet building to 1,600 square feet.

Mrs. Lyon asked Mr. Myatt if the variance were not approved what he would build. Mr. Myatt said he would have to build a separate building behind the present one. Mrs. Crane explained that accessory structures in commercial zones do not require setbacks. Mr. Myatt explained that a worker was cut by materials and he needs space. Mr. Myatt said he has lived on James Island all of his life and wants to do the right thing.

Mr. Gregorie asked Mrs. Crane if there would be no restrictions to construct a detached structure. Mrs. Crane said there are no restrictions; however, this could change in the future. At this time, in commercial zones no setbacks are required for accessory structures. Mrs. Crane further explained that Dinkins Auto Repair was in Charleston County's jurisdiction when his building was extended, prior to the last formation of the Town. Mr. Myatt added that he could build an 8' fence behind the building; put in landscaping (plants), or whatever he can do to make everyone happy.

#### In Support of Application

No one spoke

#### In Opposition of Application

Judy M. Alcorn, 1246 Honeysuckle: Mrs. Alcorn said she lives directly behind Mr. Myatt's building. She said trash from his dumpster is blown into her yard and ends up in her swimming pool that she has to fish out. She said if Mr. Myatt puts stuff into the dumpster, there should be a cover on it. She did not know a building would be allowed behind her home, or she would never have purchased her home. She commented that the neighbors clapped their hands when the gas station on the corner closed and they thought there would be no more commercial behind them. Now, she said, two buildings are going up and they were not notified. Mrs. Alcorn said her property is the same length as Mr. Myatt's building; and, she is tired of picking up trash.

Max Plimpton, 1244 Honeysuckle: Mr. Plimpton said he lives directly besides Mrs. Alcorn in direct line of site of Mr. Myatt's building. He opposes it because it is an eyesore. He said if it encroaches more on the property line, it would hurt his property value; but it would especially hurt Mrs. Alcorn's property value. He commented that Mr. Myatt has a large lot, and for him to put the growth closer to residents seems backwards. Mr. Plimpton said he cleans Mrs. Alcorn's pool and with Dinkins, noise, guns going off, and now Mr. Myatt wants to put a giant building beside the residents' house.

Mr. Parrish was shown Mr. Plimpton's property on the aerial. Mr. Gregorie was given the proximity of Mr. Plimpton's s property to Mr. Myatt's building. Mr. Gregorie asked the height of the fence and Mr. Plimpton said 6'; between his and Mrs. Alcorn's property there is a chain link fence. Mr. Fralix asked if the expansion would be close to the pool and Mrs. Alcorn answered yes.

Andy Borgman, 1206 Gunpowder Court showed the location of his home on the aerial. He expressed concern about noise the additional work will cause if the building is moved back. He mentioned not knowing what ductwork entails, but it seems there would be additional noise. He also voiced concern that this could be a precedence for future development, restriction of space and airflow between the building and the residents' homes, and resale value of the homes. He commended Mr. Myatt for trying to work with the neighbors. He said looking at the pictures, there seems to be a lot of area in the front for a building to

be expanded forward or to the side. Mr. Borgman said he feels that is not a necessary place to put an expansion.

Applicant Rebuttal: Mr. Myatt explained his position and addressed the concerns that were voiced. He said residents will not be able to see into the building, and if he needs to, an 8' fence could be installed; they would only see 2' over the top. He said this expansion would not hurt the property values on James Island. He told Mrs. Alcorn if debris from the dumpster is going into her swimming pool he will correct that, but this is the first he has heard this.

Chairman Smith closed the Public Hearing at 8:00 p.m. and asked for a motion and second for discussion. **Mr. Parrish moved to accept the application as presented, Mr. Gregorie seconded.**

Mrs. Lyon commented being conflicted because in her opinion the applicant does not meet a couple of the criteria. She said F(c): the application does not prohibit utilization of the property in its current state because he is currently utilizing the property, and F (f): the need for the variance may be the result of the applicant's own actions due to the proposed expansion. Her concern is the protection of the residents, as well as Mr. Myatt's willingness to work with them. She noted, as it was stated that Mr. Myatt could build whatever he wants on the property line as a freestanding building. Not that he would, and thumb his nose and say I will do whatever I want -but he can under the current zoning. She asked if the Board could approve the request but add conditions such as a fence, a cover for the dumpster and perhaps landscaping to buffer the noise. She noted that noise could be lessened in a building. Mrs. Lyon said she would not vote on the motion as it stands, but she will consider voting for it with conditions. Moreover, the way it is written, this could be considered as a Board.

Mr. Gregorie said he is open to consider conditions. Mr. Gregorie referred to criteria F (c) and F (f), that legally Mr. Myatt can build a structure at the rear, but by our ordinance, he cannot build an attached structure. He said the applicant is amenable to building a fence and doing some other things such as landscaping. He voiced an interest in hearing the Board's thoughts on entertaining some conditions.

Mr. Fralix recommended that the applicant and neighbors come together and try to work it out. Mr. Fralix confirmed that his recommendation is to defer a decision and allow the applicant to work with the neighbors; and allow a certain length of time. Mrs. Lyon said the Board need to legally protect the residents and have conditions. The Board discussed tabling the request to allow the residents to discuss with the applicant and recommend what could be added as conditions. Mr. Gregorie added that staff did not recommend conditions, which is not typical for many of the cases the Board has heard. Mr. Parrish pointed out that if the variance is postponed or tabled, the applicant still has the option to build an attached building of any size that he wants based on the current statutes, and he does not have to come back to the Board or work with the neighbors. Chairman Smith added that if the variance is granted, the applicant does not have to accept it and could still build a structure up to the property line. Mr. Parrish said the conditions could include the applicant working with the neighbors to resolve these issues. He again noted that if the variance is postponed or denied the applicant could still build a building that may not be what the neighborhood would like to see. Mrs. Lyon said the neighbors are concerned about trash, an eyesore and noise. She said if the applicant covers the dumpster, builds a fence for the eyesore, and add some landscaping buffer, those three issues would be addressed.

After discussion, Chairman Smith announced that the Board could vote on the motion, amend it or table it.

Mr. Fralix moved to table case BZAV-3-17-009 to the May 16, 2017 meeting to allow the applicant to work with the neighbors for solution. The motion was seconded by Mr. Gregorie. The roll was called and votes were recorded as follows to table:

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

Chairman Smith announced that no final decision was made by the Board of Zoning Appeals for case BZAV-3-17-009.

Additional Business

Next Meeting: May 16, 2017, 7:00 p.m.

Adjourn:

There being no further business to come before the body, the meeting adjourned at 8:10 p.m.

Respectfully submitted:

Frances Simmons

Town Clerk and Secretary to the BZA