

TOWN OF JAMES ISLAND
BOARD OF ZONING APPEALS
SUMMARY OF NOVEMBER 20, 2018

Members present: Mr. Jim Fralix, Mr. Jason Gregorie, Vice Chair, Mr. Roy Smith, and Mrs. Brook Lyon, Chair. Also, Kristen Crane, Planning Director, Ashley Kellahan, Town Administrator, Flannery Wood, Planner I, Leonard Blank, Councilmember/Mayor Pro-tem, Bonum Wilson, Town Attorney, Bill Woolsey, Mayor, Bill Lyon, Planning Commission Member and Mark Johnson, Public Works Director
Absent: Mr. Sim Parrish, and Frances Simmons, Secretary to the BZA and Town Clerk

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 wished, to join 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 BZA, staff members, Kristen Crane, Planning Director, Ashley Kellahan, Town Administrator, Mark Johnson, Public Works Director, and Flannery Wood, Planner I, Town Attorney, Bo Wilson, Councilmember and Mayor Pro-tem, Leonard Blank, Planning Commissioner Bill Lyon, and Mayor Bill Woolsey.

Chairwoman Lyon noted that Flannery Wood would be filling in as Secretary to the BZA for Frances Simmons who is absent due to a death in the family. She asked those present to please keep her and her family in their thoughts and prayers.

Review Summaries and Rulings from the September 25, 2018 BZA Meeting: Chairwoman Lyon asked if there were changes, if not, a motion and a second is required to approve. Motion to approve was made by Mr. Fralix, seconded by Mr. Smith and passed unanimously.

1. BZAS-7-18-016

TMS #425-16-00-126

Special Exception request for the placement of a Gasoline Service Station in the Community Commercial (CC) Zoning District at 1233 Camp Road: DENIED

2. BZAV-7-18-019

TMS #425-16-00-126

Variance request for the removal of a grand tree (20"+26"+34" DBH Live Oak) for the placement of a Gasoline Service Station in the Community Commercial (CC) Zoning District at 1233 Camp Road: WITHDRAWN

3. BZAV-7-18-020

TMS #425-16-00-126

Variance request for the reduction of the required 25' Land Use Buffer and the required 20' Right-of-Way Buffer to 5' for the placement of a Gasoline Service Station in the Community Commercial (CC) Zoning District at 1233 Camp Road: WITHDRAWN

Chairwoman Lyon asked the Board members to consider a possible change to the agenda. Under additional business there was an item to discuss a change to the Rules and Procedures. She stated that the time limit in question was for staff. Chairwoman Lyon noted that it was important for staff to have enough time for their review and currently our rules allow 5 minutes. She indicated that she would need a motion to approve a change to the agenda for the purpose of discussion. Mr. Fralix made a motion to approve an amendment to the agenda and it was seconded by Mr. Smith. Chairwoman Lyon then asked for discussion on the change to the time limit. Chairwoman Lyon recalled that Mrs. Crane ran out of time to finish her staff review at the last meeting but the Board had read the case carefully and asked questions that allowed her to finish. Chairwoman Lyon then mentioned that she looked at the time limit for staff at other municipalities. Folly Beach had a 10 minute limit, the City of Charleston has unlimited time for staff, and the County had a five (5) minute limit like us but it was not enforced. Chairwoman Lyon stated that while she recognized that we are not those municipalities, it is good to consider what those around us are doing. She mentioned that staff would not run the time off the clock, as it has happened on previous occasions. Mr. Gregorie asked if we had discussed time limits before and if we changed the time limit for the applicant. Chairwoman Lyon responded yes we changed the time for the applicant to 10 minutes from five and figured that that would be ample time. Mr. Gregorie asked if we were only discussing time for staff. Chairwoman Lyon responded yes. She then expressed the need for a vote, second and then motion. Chairwoman Lyon asked for all in favor to amend the agenda and the motion passed unanimously.

She then asked for a motion to change the rules and procedures to extend the time limit for staff.

Mr. Fralix moved to allot staff the same amount of time given to the applicant (10 minutes). Mr. Smith seconded for the purpose of discussion. Mr. Smith stated that he thought that a 10-minute limit was too short. He said that staff would not abuse extended or unlimited time and it is important for public to hear and understand the answers that have been given to the board. He noted that he did not think this could be done with a strict time limit. Mr. Smith said he thought it hurt the Board at the last meeting to not hear the entire staff review and it did not allow the public to understand.

MOTION: Mr. Smith made a motion to amend the previous motion allowing from 10 minutes for the staff review to unlimited time and then approve the amended motion. Seconded by Chairwoman Lyon.

VOTE TO APPROVE:

Mr. Fralix	aye
Mr. Gregorie	aye
Mr. Smith	aye
Chairwoman Lyon	aye

Chairwoman Lyon announced the motion carried and the board approved changing the time limit for staff to unlimited time.

Brief the Public on the Procedures of the BZA: Chairwoman Lyon explained how the Board of Zoning Appeals Hearings would be conducted. She announced that Staff would have unlimited time.

Administer the Oath to those persons presenting testimony: Attorney Wilson swore in the persons who wished to provide testimony in tonight's cases.

Review of the following Applications:

New Business:

BZAV-11-18-021

TMS #452-01-00-184

Variance request for the removal of two grand trees (26”+ 28” DBH Live Oak and 25” DBH Live Oak) for drainage and sidewalk improvements on Lighthouse Boulevard in the Low-Density Suburban Residential District (RSL) at 849 Fort Johnson Road.

Planning Director, Kristen Crane, presented the staff review. The applicant, The Town of James Island is requesting a Variance for the removal of two grand trees (26” + 28” DBH Live Oak) for drainage and sidewalk improvements on Lighthouse Boulevard in the Low-Density Suburban Residential District (RSL) at 849 Fort Johnson Road.(TMS#452-01-00-184). Adjacent property to the east is zoned RSL in the Town of James Island. Adjacent property to the north, east and south is also zoned RSL and is in the Town of James Island (with the exception of one parcel). To the west is a Planned Development that is currently being utilized by the James Island Youth Soccer Club, in the Town of James Island. The subject property is owned and occupied by New Beginnings Community Church. The subject property is 8.31 acres in size and currently has several buildings, including a sanctuary, Family Life Center, office, fellowship hall and shed. The requested trees are to be removed to accommodate the proposed drainage improvements as part of the Lighthouse Road Sidewalk Project undertaken by Charleston County.

Town of James Island Zoning and Land Development Regulations Ordinance § 153.334 (A) (4) on tree protection and preservation defines a “Grand Tree as: Any species of tree measuring 24 inches or greater diameter breast height (DBH) except pine and sweet gum. It states that grand trees are prohibited from removal unless a grand tree removal permit is issued.

In the letter of intent, the applicant explains, “The design team evaluated three alternatives in order to develop a design that provides for the best pedestrian access, properly addresses the flooding potential, and minimizes impacts to the existing trees along Lighthouse Road. The preferred design consists of placing approximately 600 linear feet of both 30” and 36” diameter drainage pipe along the east side of Lighthouse Road and 990 linear feet of a variable width asphalt path along the west side.”

Mrs. Crane stated that according to §153.049 F Approval Criteria of the Town of James Island Zoning and Land Development Regulations Ordinance the Board of Zoning Appeals has the authority to hear and decide appeals Zoning Variance when strict application of the provisions of this Ordinance would result in unnecessary hardship. Mrs. Crane reviewed seven (7) criteria in the Findings of Facts. The Board of Zoning Appeals may approve, approve with conditions or deny Case #BZAV-11-18-021, based on the Findings of Facts unless additional information is necessary for the Board to make an informed decision.

Questions from the Board:

None.

Applicant Presentation:

Ashley Kellahan, representing the Town of James Island
1122 Dills Bluff Road:

Mrs. Kellahan stated that it was very unfortunate that the Town of James Island had to come before the Board tonight to request a variance for the removal of two grand trees – however, the Town alongside its engineers, Charleston County and County Engineers have looked at every possible scenario for drainage improvements and sidewalk improvements along Lighthouse Blvd and this alternative was the one that had the least impact to trees yet still managed to serve the project goals. This alternative not only allows us to alleviate flooding concerns, provide safe pedestrian access in and out of Lighthouse Point Blvd, but it also saves 56 grand and significant trees, in addition to 49 various small diameter trees. The Town feels very strongly it has done its due diligence to weigh the needs of its residents, protect the property and wellbeing of its citizens and protect the natural resources entrusted to it.

Mrs. Kellahan talked about how this project began in 2015 when the Town asked County engineers to look into pedestrian improvements to help tie in a new sidewalk along Lighthouse Point to tie into the newly installed sidewalk along Ft. Johnson Rd. We then had the 1,000 year flood – dangerous conditions – were able to alleviate some flooding at that intersection but subsequent storm events – Matthew and Irma – proved it wasn't enough. The Town was awarded TST funding in 2016 and the Town hired Forsberg Engineering to do a preliminary study – LIDAR – utilities – made this project extremely challenging. It was fully funded in 2017, and County engineers using Reveer Engineering took over the design and after many meetings and discussion with New Beginning Church and The James Island Youth Soccer Club (JIYSC); this is the alternative that served the project best. The sidewalk meanders behind the trees and the drainage would run under Ft. Johnson Road piped in to the outlet at Brigantine.

Mrs. Kellahan indicated that she included letters of support from residents who have suffered from the flooding at this intersection, as well as letters of support from the two entities willing to provide gratis easements to the Town of James Island for this project, the Soccer Club and New Beginnings Church. She deferred the rest of her time to Eric Adams, Charleston County Transportation, for more specific information about the project design.

Eric Adams

Charleston County Transportation Department:

Mr. Adams stated that he has worked with this project since the beginning and they have looked at all alternatives. He described the project as exciting and a good opportunity for the placement of a meandering sidewalk while trying to address the two issues associated with this site, pedestrian safety and flooding. He said many alternatives were examined and this was the option that impacted the least amount of trees. They looked at drainage closer to and further from the road. Mr. Adams indicated that moving further onto the church property ran into conflicts and more trees would have been affected. Options closer to the road conflicted with the underground utilities such as a fiber optic cable and the water line. Ultimately, trees and utility lines have caused many constraints in this corridor. He indicated that this option impacted the least amount of trees possible. He found that the option decided by the Town and County engineers was a unique way to alleviate both problems with the least impact.

Questions from the Board

Mr. Fralix asked where the drainage line would take the water and indicated he was trying to understand how taking two trees down would improve standing water on Fort Johnson Road. Mr. Adams described that a pipe with an inlet at the top of the system would flow under Fort Johnson Road and along Lighthouse Boulevard to the bend in road before emptying into Parrot Creek. Mr. Fralix asked if Parrot Creek flooded during high tide, and expressed concern that it could handle an increased volume of water from this project. He compared it to the flooding during high tide at Folly and Fort Johnson Roads. Mr. Adams expressed confidence that it would drain properly and indicated that they had not had any reports of property damage from flooding in that area. He said the area that Mr. Fralix was thinking of that flooded during the tide goes more toward Signal Point. He described Fort Johnson acting as a dam preventing natural flow of water towards Parrot Creek- going around an arm to get to an elbow type of situation where the water goes in circles. This drainage plan provides a more direct route. Mr. Adams stated that a slight elevation made this situation unique in that it has both a good outfall point and a change in elevation to help the water.

Chairwoman Lyon asked why these trees had to be taken out. She said that to the naked eye some other trees looked closer to the ditch than the ones in question. Chairwoman Lyon asked why they could not be saved and asked if the current underground utilities were affecting them. Mr. Adams explained that in order to facilitate drainage an underground pipe system must be installed. The 36" concrete pipe would eventually taper down to 30 inches but burying it would require a dug out trench wider than the pipe bed underground. He said a trench that large was needed to compact around the pipe to prevent any future sediment issues. Mr.

Adams explained that while they were not going directly near the trees, this trench would be close enough to the tree that the root system would be severely damaged. Mr. Adams stated that their arborist indicated that this would ultimately kill the tree. Even if it managed to stand after the construction was complete it would eventually become a hazard to passing automobiles because the trench was so close to the base of the tree. Mr. Adams also noted that one Gum Tree, several smaller trees and one tree that was diseased or dying and did not require removal permits would also be lost to the trench. Chairwoman Lyon asked where the utility lines that limited the project were. Mr. Adams indicated that these lines ran under the current ditch and that a water line owned by Charleston Water Systems had a required clear distance. Chairwoman Lyon asked what the clear distance was and Mr. Adams said a minimum clear distance of three feet. He said that they do not want conflicting systems between the current utility lines and the drainage project and it has become a balancing act to get the pipe in without much impact.

Mr. Gregorie noted that most of the letters of support came from individuals who lived across Fort Johnson Road into Harborwoods beyond the aerial photo provided to the Board. He asked if this project will help with flooding beyond what is in the photo and how large the drainage basin is that will be helped by this improvement. Mr. Adams replied the drainage basin does extend back into the woods this direction and that the natural lay of the land is to flow toward Parrot Creek with Fort Johnson Road being the highpoint. He stated that the roadside ditches near Mikell Drive flow down toward Lighthouse Boulevard along with sheet flow drainage from adjacent properties.

In Support

Mayor Bill Woolsey, 961 Mooring Drive: said James Island was once a farming community entirely clear cut for cotton eventually ended by the boll weevil. The extensive drainage system at this time was private with no public easement and was eventually abandoned. Over the years the system was abandoned and trees grew and it is now covered by suburban neighborhoods. He said that we need to establish new drainage. He would love to save all of the trees but it just is not possible. Mayor Woolsey described this project as a first step. He described the need to be prepared for heavy storms as we have seen over the last several years. The Town operates a drainage program based on complaints where we try to deal with it and suddenly we have days of rain and massive flooding and no one looked at where water was supposed to go. On the soccer side between soccer side and road there are trees that have been there since this was a small farm road surrounded by cotton. He pointed out here there are the truly historic oaks on the soccer club side of Lighthouse Boulevard, one of which actually overshadows one of the trees slated to be removed. He noted that not one of these trees is going to be touched. He said he was sorry they have to take down any trees but he thought it was the least bad option. He asked the Board to please support their application.

Barbara Atwater, 834 Fort Johnson Road: has lived in her home on James Island for 52 years. In past years, she said she has had flooding but in the past few years the storms have been so bad she has not been able to get out of her yard. She came to plead for the drainage project to go forward. She noted that recently, (in the last few years), her yard has flooded badly in storms like Irma and the thousand-year flood. She provided photos of flooding on her property to the Board. She said that she needed this project to move forward. She has flood insurance, but has had nearly \$30,000 in property damage over the last several years. Mrs. Atwater stated that she gets very anxious every time storms come now, which is no way to live. She said if it is necessary to take trees out to resolve this, then it has to happen.

Terry Benton, 1000 Benton bend Road: said he used to live around the corner at 842 Fort Johnson Road and Mayor Woolsey gave a great description of the older drainage systems. He described that to left in photo is a half-acre irrigation pond that belonged to the old Rogers Nursery. He described this low point is in effect the center of the problem and the only engineered system to help with the water at this low point is an old 4 inch clay duck tile pipe that goes diagonally across the soccer fields and empties into Parrot Creek. He stated that when it floods the outskirts are what you see in photos of staling water on Fort Johnson

Road. He said we need this project the Town and others have come up with. He stated that he is in favor of this variance and that we need this project and thanked the Board.

Paulette Mikell, 880 Fort Johnson Road: said she is in full agreement with Mayor Woolsey and what he has done. She stated that the drainage issue going to Parrot Creek and the proposed solution seemed like a real simple issue; flooding on a sharp curve of a main thoroughfare needs to be fixed.

In Opposition

Robert Schurmeier, 706 Creekside Drive: stated he was glad to see people here attending this meeting. Mr. Schurmeier described how he actively participates in the PSD, would like to see more people at that, and said that people do not realize that 95 percent of the services they receive comes from the PSD. He said that if you take down trees down, God is not going to give you another one. He then stated that we are working to destroy the environment that we moved here to enjoy. He said that you are not putting a pipe into drainage ditch, that it is a creek. He described boats that use the creek, said that people use the creek, and said we are going to pollute it by putting a pipe into the creek. He described when they installed a sidewalk on Harborview Road and how it caused more problems and polluted runoff. He asked the Board to reconsider and not to approve the project.

Laney Mills, 565 Schooner Road: said he found it hard to gather words to express how scandalized he was that we would consider removing trees that define the atmosphere in which we lived. He stated that he drives in and out of Lighthouse Point all the time and has never had a problem with flooding there. He said he wished that the Town kept statistics of how many days a year there was not a flooding issue here. He can remember one or two times but not an everyday thing like is being described here. Mr. Mills expressed concern that we were going to turn Parrot Creek into a sewage creek and asked if anyone had anyone done studies about what will happen. Mr. Mills said he came here a long time ago and now we are trying to do everything we can to destroy it, it just knocks him over and he cannot believe we are not smart enough to come up with something else. Instead, we dump water in the creek and want to cut down trees that are one of the best parts of living here. He said that we are going to turn Parrot Creek into some sort of drainage ditch and finds it hard to believe that we are going to cut down trees that were here long before us. He stated he could not believe that we cannot find another way to alleviate the problem.

Pat Becker, 710 Creekside Drive: had questions and asked the Board if anyone has done studies on how this would affect Parrot Creek. She expressed fear that fresh water flowing from Fort Johnson Road would have pollutants and contaminates flowing into the creek. She said she had a horrible vision of marsh life and fish and crabs being effected. Mrs. Becker also asked how confident the engineers were of the drainage working even during a high tide. She also asked who was responsible for the other trees on the site to ensure they are protected during this project.

Rebuttal

Mr. Adams stated that he would address the three main concerns that residents seem to have. He addressed concerns about pollution and the quality of water flowing into creek. Water currently flows to Parrot Creek naturally just slowly through clogged system. He indicated that the drainage improvements would bring the water there in better a capacity. Mr. Adams said that the quality of water would be monitored during construction, and increased runoff from cars such as engine oil, would not be significant. He indicated that those involved with the project were not concerned with increasing pollutants. He stated that water quality would have to adhere to OCRM, Stormwater and DHEC standards and that they were working with DHEC on project permits. He also addressed concerns about flooding during high tide saying that a tide flux gate could be installed if necessary but that there would not be a large enough increase in water volume to cause flooding. Lastly, he said that all trees within the project limits would be closely monitored and protected during construction.

Chairwoman Lyon closed the public hearing and asked for a motion and second from the Board to approve, approve with conditions or to deny the request.

MOTION: Mr. Fralix made a motion to approve the Town’s project. He stated that he had the same concerns about trees and an ultimate solution to the problem as the public. While this may not be the ultimate solution, he agreed that it was probably the best we have available right now. Mr. Fralix moved to approve Case BZAS-11-18-021, Variance Request for the Removal of two Grand Trees (26”+ 28” DBH Live Oak and 25” DBH Live Oak) for drainage and sidewalk improvements on Lighthouse Boulevard in the Low-Density Suburban Residential District (RSL) at 849 Fort Johnson Road. Mr. Smith seconded for discussion.

Mr. Gregorie said he was inclined to vote in favor of the motion but wanted to amend the motion to include the conditions set by staff. He noted that was it important to realize that the outfall was near Lighthouse Point, but not for residents of Lighthouse Point. This project was for the folks across street from Fort Johnson Road. He stated that flood mitigation needed to be taken seriously and this is in the best interest of all residents.

MOTION: Mr. Gregorie moved to approve with the conditions set by staff Case BZAS-11-18-021, Variance Request for the Removal of two Grand Trees (26”+ 28” DBH Live Oak and 25” DBH Live Oak) for drainage and sidewalk improvements on Lighthouse Boulevard in the Low-Density Suburban Residential District (RSL) at 849 Fort Johnson Road. Mr. Smith seconded.

VOTE TO APPROVE WITH CONDITIONS:

Mr. Fralix	aye
Mr. Gregorie	aye
Mr. Smith	aye
Chairwoman Lyon	aye

The motion passed unanimously. Chairwoman Lyon stated the legal reason for the approval of the variance request was that it met all the criteria. It appears that the concerns of public have been address and can leave happy tonight having their concerns addressed. The final decision of the Board will be mailed to the applicant within ten working days and they may contact the Planning and Zoning staff with questions about the approval or conditions.

Next Meeting: The next meeting of the Board of Zoning Appeals will be held on December 18, 2018.

Adjourn: There being no further business to come before the body, the meeting adjourned at 7:58 p.m.

Respectfully submitted

Flannery Wood, Planner I for Frances Simmons
Town Clerk and Secretary to the BZA