

TOWN OF JAMES ISLAND
BOARD OF ZONING APPEALS
SUMMARY OF JULY 26, 2016

Members present: Mr. Jim Fralix, Mr. Jason Gregorie, Vice Chair Brook Lyon, Mr. Sim Parrish, and Chairman Roy Smith, who presided. Also present: Kristen Crane, Planning Director, Leonard Blank, Town Council, 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 7:00 p.m.

Prayer and Pledge: Chairman Smith led the Pledge of Allegiance, followed by a moment of silence.

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. Fifteen (15) days prior to this hearing, a public hearing notice was printed in the Post and Courier, a sign was posted on the designated property, and a notice was mailed to the applicant or representative, property owner and 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 Smith introduced the members of the Board of Zoning Appeals, Town Staff, Town Attorney, and Town Council.

Review Summary and Minutes from the June 21, 2016 BZA Meeting: Chairman Smith called for changes or discussion to the minutes; no changes were made. Motion passed unanimously.

Executive Session: Chairman Smith called for a motion to cancel the executive session if it is not required. Mrs. Lyon moved to cancel, Mr. Parrish seconded. Motion passed unanimously.

Brief the Public on the Procedures of the BZA: Chairman Smith 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: Chairman Smith introduced the Special Exception request, stating that it must meet criteria 1-6 in the Ordinance.

New Business

BZAS-6-16-008

425-09-00-027

1006 Folly Road

Special Exception request for placement of a Small Animal Boarding Facility in the Community Commercial (CC) Zoning District and the Folly Road Corridor Overlay (FRC-O) Zoning District:

Planning Director, Kristen Crane gave the staff's review. She stated the applicant, Mr. Ryan Reed of the Wag Factory, is requesting a Special Exception for the placement of a Small Animal Boarding Facility in the Community Commercial (CC) District and the Folly Road Corridor Overlay Zoning District (FRC-O) at 1006 Folly Road, TMS #425-09-00-027). Adjacent properties to the north, west and south are also in the Community Commercial Zoning District. Adjacent properties to the east are in the Low-Density Suburban

Residential District. The Overlay’s land use recommendation for the subject property is commercial, which matches the current Zoning District. Other uses within 300’ of the subject property include restaurants (Lowdown Oven and Bar, Zaxby’s); health care services (Dialysis Clinic); retail sales (AutoZone); educational services (Loving and Learning); vehicle repair (EuroPro Auto, Bert’s Motorworks); self-storage (CubeSmart); and social club or lodge (American Legion).

The Town of James Island’s Zoning and Land Development Regulations, Table 153.110 indicates that Small Animal Boarding in the Community Commercial District is a use subject to the Special Exception procedures of the Ordinance.

Mrs. Crane said the applicant’s letter of intent explained “*the property the Wag Factory currently occupies at 719 Folly Road has an accepted purchase agreement and plans to not include retaining any of the current tenants. We plan on providing James Island with a state-of-the-art pet care facility. This would be accomplished by demolishing the current structure and building a new 4,275 sf building with great considerations made regarding the architecture and aesthetics.*”

Findings of Facts:

According to §153.045 E, Special Exceptions Approval Criteria of the Town of James Island Zoning and Land Development Regulations Ordinance (ZLDR), Special Exceptions may be approved only if the Board of Zoning Appeals finds that the proposed use:

E. (a): *Is consistent with the recommendations contained in the Town of James Island Comprehensive Plan and the character of the underlying zoning district “Purpose and Intent”;*

Response: *The Town of James Island Economic Development Element, Strategies and Time Frames states, “Ensure all new commercial development is of a style and character similar to the desired pattern of buildings and structures in the Town of James Island.” Additionally, “Encouraging sensitive and sustainable development practices” is listed as a Land Use Element Need. Therefore, this application may be consistent with the Town of James Island Comprehensive Plan as implemented through the CC District.*

E (b): *Is compatible with existing uses in the vicinity and will not adversely affect the general welfare or character of the immediate community;*

Response: **The proposed use may be compatible with other uses within 300’ of the subject property to the north, south and west. However, the subject property is bordered by residential property to the east.**

E (c): *Adequate provision is made for such items as: setbacks, buffering (including fences and/or landscaping) to protect adjacent properties from the possible adverse influence of the proposed use, such as noise, vibration, dust, glare, odor, traffic congestion and similar factors;*

Response: **The proposed site plan shows adequate landscape buffer requirements and a comprehensive landscaping plan will be submitted. Additionally, the applicant’s letter of intent states they will be “investing in the best products the industry has to offer including K9 artificial grass, new boarding enclosures, Hydrosurge pet bathing system, etc.” Additionally, “we plan on working closely with the Acoustiblok company, the US leader in noise reduction, to ensure the facility and our**

surroundings are quiet. Products may include Acoustifence, Indoor Sound Panels, Acoustiblok, etc.”

E (d): *Where applicable, will be developed in a way that will preserve and incorporate any important natural features;*

Response: The trees on the perimeter of the parcel will be preserved and the natural buffer on the rear of the parcel will be undisturbed.

E (e): *Complies with all applicable rules, regulations, laws and standards of this Ordinance, including but not limited to any use conditions, zoning district standards, or Site Plan Review requirements of this Ordinance; and*

Response: The applicant is in the process to ensure compliance with the applicable regulations.

E (f): *Vehicular traffic and pedestrian movement on adjacent roads shall not be hindered or endangered.*

Response: The applicant is installing a 5’ sidewalk down the length of the property. Vehicular traffic and pedestrian movement shall not be hindered or endangered.

Mrs. Crane informed the Board that they may approve, approve with conditions, or deny Case # BZAS 6-16-008 based on the Findings of Facts, unless additional information is necessary to make an informed decision. In the event the Board decides to approve the application, the Board should consider the following conditions:

1. Prior to obtaining a Zoning Permit for the proposed site improvements, the applicant/owner shall install tree barricades around the grand and protected trees on the property, as described in §153.334 of the Ordinance.
2. An 8’ wooden privacy fence lined with “Acoustiblok” material, or some other acceptable noise-reduction material, shall be installed along the entire rear perimeter and around any outside enclosure to ensure quietness.
3. Any indoor boarding or play area shall be lined with noise-reducing materials.
4. Chronic barking dogs shall not be allowed for boarding or daycare.
5. There shall be no more than 10 dogs for every staff member during playtime.
6. A 24-hour web cam with video and sound shall be available to Town staff when requested with viewing ranges of any areas used by dogs.
7. Construction and maintenance shall be subject to the discretion of the Town as to whether quietness is or has been ensured.
8. Violations may result in restriction of outside activities and/or loss of Business License.

*Mrs. Crane added the following amendments to Conditions #7 and #8:

#7 place “noise reducing” at the front of sentence, to read: Noise reducing construction and maintenance shall be subject to the discretion of the Town as to whether quietness is or has been ensured.

#8 strike “violations may result in”, sentence to read: Restriction of outside activities and/or loss of Business License may occur at the discretion of Town staff.

Questions to Staff:

Mr. Parrish recalled he was on the BZA when the Wag Factory first came to James Island; however, he could not remember if there was a restriction on the number of animals allowed at the facility during the day. Attorney Wilson said he did not believe there was a restriction on the function; although he believes they suggested the number of dogs they would board. He said there were no restrictions on the license.

Applicant Testimony:

Ryan Reed, 8766 E. County Road, 200 N. Seymour, Indiana 47274: Mr. Reed said one of his greatest source of pride is the success of the Wag Factory and it is proof that the American dream of working hard and determination are the ingredients for success. He was unemployed in 2009 with no money and he and his wife were expecting their first child. They had no doubt, however, that an all-in-one boarding, grooming, and doggy daycare facility was needed on James Island where they lived. They took out a small loan and renovated the first facility by themselves. Mr. Reed announced being proud to enter the 8th year in business at the Wag Factory and they are continuing to grow. That is where they came from – here is where they hope to go. They plan to transform the property by advancing the Town’s efforts to make the Folly Road Corridor more accessible, aesthetically pleasing and pedestrian friendly. The current building will be demolished because it does not meet building standards and a new building will be constructed. All trees on site will be kept and protected. Mr. Reed said after more thought and research he believes it would be too detrimental to business, and not financially feasible to build such a large building and not have the option of an enclosed building and an outdoor play area. One of the biggest changes from the current location is a significant investment will be made to implement a variety of noise reduction and sound proofing products for both indoor and outdoor. They will be working with one of the nation’s largest soundproofing company called “Acoustiblok” to ensure the quietness of the facility at all times. He said James Island and the surrounding community benefits greatly from the Wag Factory’s presence. Charleston was named by realtor.com as #1 destination in the nation for dogs. He said people in the Charleston area care so much about their pets that they seek pet services as a prerequisite to finding a home for their family. He referred to a letter of support from the Sweeney family as an example. The Wag Factory draws vacationers to James Island and those from downtown Charleston where this type of service does not exist. Mr. Reed said a Special Exception for the property is essential for the Wag Factory to remain on James Island. His goal is to remain within the Town’s jurisdiction and to find suitable commercial property which is nearly impossible. He said if the Special Exception is denied, it is likely that he will have to search outside of James Island. The Wag Factory was voted #1 by the readers of the Charleston City Paper; and recently awarded the Mom’s Choice Award by the readers of the Low Country Parent Magazine. Over the years the Wag Factory has served more than 5,000 families and provided care for over 6500 pets; the online ratings on Google, Facebook, Yelp, and other social media rank very high. He said the Wag factory serves the community by providing well paid jobs. Mr. Reed said he thinks the Wag Factory not continuing on James Island would be detrimental to local citizens and the economy.

Sean O’Connor, Attorney, Finkel Law Firm, 4000 Faber Place Drive, Suite 450 North Charleston: Mr. O’Connor is the Attorney that represents the Wag Factory. He addressed some of the proposed conditions in the Staff’s Review. He said his client had no issues with Conditions 1-4. However; there are significant issues with the adoption of any of Conditions 5-8. He said the imposition or adoption of any of those 4 Conditions would be detrimental to the applicant and it would be a deal breaker and tantamount to a denial. On Condition #5, the staff ratio; he did a survey and reviewed other comparable municipal ordinances and found it to be uncommon for such ratios to be included in ordinances. He said his client’s business track record in 8 years has reflected that it is very possible to ensure the health, safety, and quality care of the pets without imposing that ratio. The bottom line is it is not common in other ordinances; it is not standard

in the industry; and it is not commercially reasonable. He said this would result in business conditions that his client could not sustain and it would result in a denial. Under Condition #6, he said there are reasonable alternatives to this procedure. He said Mr. Reed does not have the capacity or the ability to implement and operate that type of a video system; he does not have audio or the ability to call up all of the cameras or views. He said the existing inspection of DHEC and the Town could ensure the same level of assurance that all applicable laws or ordinances are being complied.

Questions from the Board to the Applicant

Mrs. Lyon asked how noise will be mitigated? Mr. Reed said they will be working with a company called Acoustiblok to use materials they feel will mitigate noise from the facility. His Site Plan showed a 9ft wooden privacy fence wrapped in the Acoustifence noise reduction material. He said this type of product has been used at dog parks with satisfactory results. Mr. Reed said he will be making a significant investment in the property which is something he was unable to do at the present building.

Mrs. Lyon asked if there are plans to limit the number of dogs outside at a time? Mr. Reed said 'no', not at this time. She asked how many dogs are out at one time, on an average per day? Mr. Reed said there is an average of 53 dogs per day; 23 at night for boarding; and 40 for daycare. Mrs. Lyon asked if the dogs are separated by size, or temperament? Mr. Reed said the dogs are separated by size and temperament and the staff rotates them inside and outside as they see fit. Mrs. Lyon asked what is the maximum number of dogs out at one time; and Mr. Reed answered that it depended upon business; they have had 60 plus out at one time on a busy summer day when the daycare is successful.

Mrs. Lyon asked how does the size and space at the current facility compare to the new location, i.e., the building size and outside pen size? Mr. Reed said the new facility is doubled the size of the present one and more emphasis will be placed on indoor play time rather than outdoor. The indoor and outdoor facility is twice as large.

Mrs. Lyon asked if one of the conditions were to limit the number of dogs out at one time, is that something he could work with. Mr. Reed said he thinks they can be depending upon what that number is.

Mrs. Lyon said the driveway is very precarious, i.e., someone cannot come in while someone is going out. She said this question may be more appropriate for Mrs. Crane to answer since it is a DOT road and she is unsure how it will be affected by the Folly Road Plan. However, she asked Mr. Reed if that is something they will address, such as the curb and drive. Mr. Reed said they will do whatever is necessary to alleviate any traffic concerns at the facility. Mrs. Lyon said she was very impressed by the number of support letters the application received.

Mr. Gregorie asked if the access drive on the site plan is one-way or two-ways. Mr. Reed said it is two-ways, but if it is not, two-way is something he will only consider because of cars coming in and going out on a daily basis.

Mr. Gregorie mentioned on the first illustration that was shown, there was an additional diagram that was not included in the Board's packet. Mr. Reed said it is an artist rendering of a similar architectural style that they may implement. He said it is a very common architectural style on James Island and the City of Charleston. The other diagram reiterates his point that Charleston was named the #1 dog friendly town by realtor.com.

Mr. Gregorie asked about Condition #5, the proposed ratio, if playtime is outdoor time; specifically, what is considered as playtime. Mr. Reed said playtime is the period from 8 a.m. to 6:00 p.m. for the pets in doggy daycare. One of the biggest problems he has with the ratio of 1-10 is its commercial impact. He cited the cost of an average day of daycare is \$17; 10 dogs would provide \$170; and his average daycare

staff earns \$12 an hour. For a ten-hour period, this would only result in a \$50 profit and it does not include taxes, insurance, and other overhead costs. Commercially, he is unable to meet a 1-10 ratio. Mr. Gregorie asked if he saw Condition #5, as indoor and outdoor; not outdoor only. Mr. Reed said he understands it as the hours in actual daycare. Generally, his staff to dog ratio would meet anywhere from 1-10 to 1-20, however; it might not specifically be in the play area at certain times. He said daycares without restrictions may have ten dogs that requires two staff persons or 30 dogs that requires one staff person. A dog daycare is unlike a child's daycare where there is a 1-6 or 1-10 ratio. Also, a dog's behavior and its pack mentality is different; some staff can handle more dogs and others require less in their group.

Mr. Gregorie asked if there were other animal boarding facilities on James Island. Mr. Reed said he understands that Head to Tail boards; however, their capacity and volume is different from the Wag Factory.

Mr. Fralix asked if there will be a dog-run area at the new facility? Mr. Reed said there will be an outdoor play area and all of the dogs will be kept indoors overnight. He said the dogs are only outside when they are supervised by staff.

Mr. Fralix asked Mr. Reed when he has to vacate his present location? Mr. Reed said he is waiting to hear from the landlord on the sale of the building. Mr. Fralix asked if he knew how long it would be before the new building will be completed. Mr. Reed said even if the deal fell through for his current landlord; he would still look to purchase property and move forward with plans because he does not own the building and the landlord will keep it for sale; and he will not know when he has to move out. Mr. Fralix said he was also impressed with the number of support letters.

Mr. Fralix asked were there any complains at the present facility, and if anyone has filed a noise complaint? Mr. Reed said 'yes'. Mr. Fralix asked how was it resolved. Mr. Reed said there have been several cases where he has been accused of many different things and they simply are not true; i.e., leaving dogs outside unattended and barking. He said when the dogs are outside they are always attended. At the current facility, if you walk up to it, you would think the dogs are outside, but they are inside barking. The building is cinderblock made of thin metal with a non-insulated roof. Several years ago he had a noise specialist do a noise study but the person has passed away. The study found at the distance of 420 feet (over a football field away) was not a level that would be a nuisance – he said noise from the road at 226 feet (Folly Road) picks up more traffic noises.

Mr. Parrish asked if the outdoor play area would be paved or concrete? Mr. Reed said it will be an artificial turf. Mr. Parrish asked on what type of surface; and Mr. Reed said on crushed stone. Mr. Parrish asked how the feces and urination would be handled? Mr. Reed said they currently have astro turf and the sunlight does something with the urine and it is drained off. He told the Board that he has a letter from DHEC stating that his feces removal program is acceptable. Mr. Parrish asked to obtain a copy of the letter for the Board. Mr. Parrish explained his concern from attending a Town Council meeting there were a lot of complaints about runoff from that type of surface. He said a lot of concern were expressed about how wastes would be managed. Another concern he had was a couple of months ago a dog suffered from heat problems. He asked Mr. Reed how that type of situation would be handled. Mr. Reed said that situation was a staff error, but he did not know all of the details. He said the Wag Factory has a good reputation for providing good staff training. He commented that several letters were received from local veterinarians that supports his business. In response to the runoff and feces, as he understands it, and concerns for the James Island Creek are baseless claims. He noted that Water Keeper's results for the time period they have been at the current location that the first reading level was above 1,000 for every unit they used. He has looked at historical data and the trend has gone down for the level of bacteria in that water stream. Mr. Parrish said his concern now is not so much the Creek, but for neighboring properties around the facility. He said the new building does not meet flood requirements – it is in a low-lying area. He asked where will the washout go? into a storm drain, a sanitary sewer, or will it accumulate on the property and build over time. Mr. Reed said the

outdoor area will be artificial turf, and he did not know the exact answer to Mr. Parrish's question. He said the feces will be removed daily from the turf and dog urine is 98% water, it drains through the astro turf and it is naturally biodegraded. He said before closing staff sprays the entire surface with substance safe for the environment, it is a cleaner, deodorizer and a disinfectant; formulated for outdoor play areas.

Mr. Gregorie said to Mr. Reed that if he disagreed with Conditions 5-8, would he be agreeable to a specifically worded condition that requires the use of Accoustifence material on all fences. And, would he be agreeable to language that states he will use Accoustiblock on all interior walls and ceilings of the building. Mr. Reed said 'yes', as that is illustrated in his plan. He said not only will he have a 9 ft. fence aligned with Accoustifence, he will have significant landscape buffers and the other fence will also be aligned with Accoustifence material. A variety of materials are available and he will be working with a consultant with the company and provide information to the Town while he is going through the construction process to make sure they are doing everything for the quietness of the facility.

Mrs. Lyon asked the possibility of having 20 dogs out at a time and rotate them vs. limiting the number. Mr. Reed said he would prefer to have a time period in the facility so they can see if there are complaints.

In Support

Susan Carter, 1155 Fort Lamar Road: She and her husband has been clients of the Wag Factory since 2010. They have two standard poodles. All you have to do is watch the dogs go into the Wag Factory and you know everything you need to know about what goes on there. From a client's point of view, the Wag Factory is wonderful with caring people the dogs love. They take in and house rescues. If you have questions, go and visit them.

Melissa Garvin, 1513 Blaze Lane: Hasn't been with the Wag Factory long but she takes her rescue Basset Hound there. They have a great camera system and she can watch her dog all day if she wants to. The staff is professional and caring. She uses astro turf at her home and has never had a problem with the stink. She hoses it down and dispose of the feces – it has not been an issue for her. The staff is trained in CPR and know the signs of heat stress. The Wag Factory have been successful for 8 years; she has nothing but Kudos for them.

Nicole Grant, 718 Jessica Drive: She lived in North Charleston and could not find a place to board her two large Golden Retrievers so she moved to James Island because of the Wag Factory. It is difficult to board her dogs elsewhere because they require large cages. She will look for another place to live if she has to. She is a veteran and her Retrievers keeps her off of PTSD medication; giving up her dogs is not a possibility. She also spoke about the cameras on premise.

In Opposition

Sylvia Pratt, for Eva Inabinett, 1009 Bradford Avenue: Ms. Pratt said her mother owns the property behind the proposed location of the Wag Factory. She is in opposition for many reasons. She is the power of attorney for her 84 years old mother. The Wag Factory is not conducive in a residential area. All of the things mentioned are big concerns. She grew up at the house and spends a lot of time there because her mother requires care 24 hours. She loves dogs but does not think the property is conducive for that many animals. Her mother's property is probably the same size and having two animals in the fenced yard can be a lot -- talking about the number of dogs that were discussed. She does not think that is the right place for them. She asked if the facility is staffed at night and buffering noise above a 9-10 feet fence.

Kate Anderton, 950 Bradford Avenue: Her house is near the American Legion and a child's daycare, within a 300 ft. radius. The daycare produces a lot of noise, which is to be expected during the day; this would probably be the same time most of the dogs are walked. The American Legion has a lot of festivals and plays music outside at night; they set off fireworks frequently on major holidays; also a time when there

could be lots of animals at the facility. All of those noises combined puts a burden of those who live in the 300 ft. area. She has no doubt that Mr. Reed cares for the animals and the facility is well staffed. She is not against the business but residents have to be considered. As the Board mentioned, she too has concerns about the smell, disposal of excrement, and the quality of life for the residents.

Rebuttal

Mr. Reed said he appreciates everyone's concern. One of the things about James Island, and specifically the Folly Road Corridor where his business has been for the past 7 years is there are no properties that do not border residential properties. He said the facility is not staffed at night; they are open from 6:45 a.m. to 7:00 p.m.; and it is generally quiet during that time. He will be providing significant noise and sound-proofing material that he believes will keep the noise in the facility at night. He said the American Legion is a pub and he does not think his facility would be any worse for the noise; the pub is opened late nights and he is not. He feels they will operate satisfactorily.

Mr. Gregorie asked if the dogs are outside at night or are they always kept inside. Mr. Reed said they are kept inside (100%) at night in kennels.

Mrs. Lyon asked if there is concern about fireworks and the dogs; and would sound-proofing the building protect the dogs from that. Mr. Reed said the sound-proofing works two-ways – the outside noises will be difficult to come inside; and inside noises will be difficult to go out.

Chairman Smith closed the hearing to the public at 8:00 p.m. and asked for a motion to approve or to deny the Special Exception.

Mr. Fralix moved to approve the Special Exception; Mr. Parrish seconded. Mr. Fralix said the applicant is doing everything possible to alleviate problems that might occur; and as far as the noise police will respond to noise issues. He said if the applicant is unable to complete his journey to get the noise contained, they will not be in operation – he thinks this is a worthwhile venture. Mrs. Lyon said if the Board considers approval, she asked that they consider the conditions recommended by staff; and limit the number of dogs outside at a time for current and future protection of residents. Chairman Smith stated the motion is to approve the Special Exception and asked Mrs. Lyon if she wanted to amend it, to which she agreed. Mr. Gregorie agreed with amending the motion, but to have the Board review and discuss each condition separately.

Review of Recommended Conditions

Condition 1: Agreed by the Board

Condition 2:

Mr. Gregorie suggested striking Acoustiblok and replace it with Acoustifence by Acoustiblok or an approved equivalent. It was clarified for Mr. Wilson that an approved equivalent would be decided by the Town. Chairman Smith suggested striking or some other acceptable noise reduction material. The sentence would read: some other noise reduction material acceptable to the staff. Mr. Gregorie stressed the importance to include the material is "equivalent". Chairman Smith said if this passes, the language would read:

An 8' wooden privacy fence lined with "Acoustifence" by "Acoustiblok" or some other approved equivalent acceptable to staff shall be installed along the entire rear perimeter and around any outside enclosure to ensure quietness.

Mr. Wilson said he is not familiar with Acoustifence; or if there is only one type of Acoustifence. He said if there are grades of Acoustifence there could be a problem not specifying which Acoustifence product we are talking about. He is unfamiliar with the range of Acoustifence products for noise reduction. He said if it is at staff or Council's discretion for the sound-proofing ability we will probably be covered. However, we do not want to be tied to a brand or a type within a brand – also a concern about enforcement of the order should it pass. Mrs. Lyon asked if the applicant could provide further information; and Mr. Wilson said he could, or the Board could table it. Mr. Fralix said he had a problem with “acceptable to staff” and asked why the staff is being required to bless this when the applicant has access to the contractors and manufacturers. They should meet the acceptable prerequisites for noise abatement. Mr. Gregorie said the staff would be the one if a substitution is provided to determine if it is approved or equivalent. Chairman Smith expressed concerned that we do not know how to measure this. The applicant are the ones that want to use the material, but we do not know what it does. He said either we are buying off on this without research, or we need to research it further. Mr. Gregorie agreed and suggested that the applicant provide additional data and detail of his design. Chairman Smith called Mr. Reed for further questioning. Mr. Fralix asked how he came to decide upon Acoustiblock material; and if he knew whether it has been tested and is acceptable. Mr. Reed said Acoustifence is the product made by Acoustiblok. It is used at dog parks and in the same environment. He said the Acoustifence product is a noise tested coefficient that is rated. If he didn't use Acoustifence it would be acceptable to use a product that has the same or a better noise reduction coefficient. Chairman Smith asked if he knew of other facilities in the tri-county area that uses the product; and Mr. Reed did not. Mr. Parrish raised a point to the Chair that a motion was brought forth to amend Condition #2 and he asked if the Board will vote on the conditions one-at-a- time. His opinion is since the Conditions are being amended that way, they should be voted on in that manner. Chairman Smith moved to defer Condition #2 for further information, Mr. Parrish seconded. Chairman Smith said this puts everything off, but the Board may continue to discuss the other Conditions so staff and the applicant will have the information for further research.

Condition #3: Mr. Parrish said this Condition relates to Condition #2. Mr. Gregorie explained his opinion that Condition #2 is for interior fencing and Condition #3 is for the building. He suggested that a condition be placed on the construction of the building and that the new building contain Acoustiblok sound attenuating materials in the walls and ceilings of the building. Mrs. Lyon said she read in the packet that this was the applicant's intent. Mr. Gregorie said it is also important that the applicant state that he is constructing a new building that is energy code compliant with the newest insulation. He said this will help with the reduction of sound. Chairman Smith said if this Condition is tabled, the Board may require additional information.

Condition #4: Chairman Smith asked how is chronic determined? Mrs. Lyon said that is a good point and the applicant did not have a problem with that condition. However, this should be clarified. Chairman Smith asked the Board to study this among themselves for discussion next time.

Condition #5: Chairman Smith said the Board does not know how to determine playtime. He said it has been suggested this is when the dogs are outside; also while they are inside. Chairman Smith said clarity is needed. Mr. Gregorie said it is important to note the economic restraints on the applicant. Mrs. Lyon said personally as long as there is a staff member present when the dogs are there -- 10 may be too low and we can change the number to something that would not be a deal killer; something we may be able to approve with the right conditions. Mr. Fralix said this is an operational function; who will police it; and the owner is required to do some of these automatically. Condition #5 was strikened by general consensus.

Condition #6: Chairman Smith noted that the applicant does have a camera. Mrs. Lyon said the Condition sounded as if it would not fulfill that requirement; however, she is okay with striking it as there is some webcam activity that could be looked at if someone needed to. Mr. Gregorie said whether or not webcams

are available to his clients, he has an issue with this from a privacy standpoint that a public entity to say we must have webcam access to a private business.

Condition #7: Mr. Parrish said this condition relates to 2&3 because if the applicant and Mrs. Crane oversees the quality of the materials being installed, that should take care of itself. Mr. Gregorie agreed and offered a provision that the Town shall inspect during construction to ensure that Conditions 2 and 3 has been met.

Condition #8: Chairman Smith read the change proposed for this Condition. No discussion or changes were offered.

Chairman Smith said having reviewed and discussed the conditions; Condition #2 requires further information; he prefers having more time to find out about the material and its properties. He asked Mrs. Crane to work with the applicant to obtain additional data and specifications; also on the fence, construction of the building; and what sound attenuation properties it may/may not have so that the Board better understands the request.

Chairman Smith said he would like to neither move forward nor vote on the motion but suspend it. Mr. Fralix and Mrs. Lyon suggested tabling the vote until the additional information the Board requested is received.

Mrs. Lyon moved to table the vote on the Special Exception until additional information is received in order to proceed; Mr. Parrish seconded. Mr. Parrish asked that the applicant provide the document from DHEC along with this information.

Vote:

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

Motion passed unanimously

Chairman Smith announced that the hearing has been suspended for the evening and will be taken up at the next meeting. He asked the applicant to provide information Mrs. Crane asks for as soon as possible to give the Board time to review it. Mrs. Lyon said she would like to visit the facility and encouraged other members of the Board to also. Mr. Fralix rose to a point of order that business can only be taken up at the next meeting if it is taken off of the table. Mr. Wilson said the Board is under a time restraint and he stressed the importance of the case to be heard at the next meeting. He said if the information is not received, the Board will then rule on what it has.

Additional Business: Mrs. Crane announced that no new applications were received for August.

Adjournment: There being no further business to come before the body, the meeting adjourned at 8:30 p.m.

Respectfully submitted:

Frances Simmons, Secretary to the BZA and Town Clerk