

TOWN OF JAMES ISLAND  
BOARD OF ZONING APPEALS  
SUMMARY OF AUGUST 16, 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, Ashley Kellahan, Town Administrator, Leonard Blank, Town Council, Bonum S. Wilson, BZA Attorney, and Frances Simmons, Town Clerk and Secretary to the BZA.

*\*7:00 p.m. Chairman Smith announced that the meeting would begin upon arrival of BZA Attorney Wilson.*

Call to Order: Chairman Smith called the Board of Zoning Appeals meeting to order at 7:11 p.m.

Prayer and Pledge: Chairman Smith led the Pledge of Allegiance and followed with 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.

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 July 26, 2016 BZA Meeting: Chairman Smith asked if there were changes to the minutes. There were no changes. Motion to approve was made by Mr. Fralix, seconded by Mr. Parrish and passed unanimously.

Executive Session: Chairman Smith called for a motion to enter into an Executive Session for legal considerations regarding the applicant and the enforceability of terms. A motion to enter was made by Mr. Fralix; seconded by Mrs. Lyon and passed unanimously at 7:13 p.m.

Return to Regular Session: Chairman Smith announced that the Board took no action during the executive session and asked for a motion to return to regular session. The motion was made by Mr. Parrish; seconded by Mrs. Lyon and passed unanimously at 7:45 p.m.

Public Comments: Chairman Smith asked for public comments. He stated that no one would be sworn in and their comments would not be considered as testimony.

Sylvia Pratt - 1009 Bradford Avenue (mother's residence): Mrs. Pratt stated that she is the power-of-attorney for her mother. She talked with neighbors within the 300 ft. radius and some others, and at least two neighbors in that radius did not receive notice. When she called the Town about it, she was told that it was too late to make comments. She said some of individuals are renters and it is unfortunate they did not have time to oppose.

Mandy Coleman - 612 Majestic Road: Ms. Coleman is the Broker for the property owner at 1006 Folly Road. She said noise has been a big issue with this case. Others interested in the property are bars or restaurants that stay open until 2 a.m. and has noise, loitering, and smoking outside. She said if the Wag Factory doesn't get the property it will become another bar. Noise from a bar open until 2 a.m. is more intense than a kennel opened from 9-5.

Review of the following application: Chairman Smith announced that Case #BZAS-6-16-008, a Special Exception Request for the placement of a Small Animal Boarding Facility in the Community Commercial Zoning District and the Folly Road Corridor Overlay Zoning District at 1006 Folly Road, was held on July 26. He said in order to continue discussion and take a vote on this case, a motion is required. Mrs. Lyon moved to lay the Special Exception back on the table; Mr. Parrish seconded.

VOTE:

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

Motion passed unanimously.

Chairman Smith said the motion from the July 26 meeting was viable before it was tabled and under discussion. The motion was made by Mr. Fralix to approve the request. Chairman Smith opened the discussion. Mrs. Lyon asked to review the conditions individually as the Board did last month. She said the Board had questions about some of the staff's conditions and had asked for additional information which has been received.

Board Review of Conditions and Discussion:

#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. **NO CHANGE RECOMMENDED**

#2: An 8' wooden privacy fence lined with "Acoustiblok" material or some other noise reduction material shall be installed along the entire rear perimeter and around any outside enclosure to ensure quietness. **RECOMMENDED CHANGE OFFERED** by Mr. Gregorie: #2 An 8' wooden privacy fence lined with "Acoustifence" by "Acoustiblok" or an approved equivalent acceptable to staff, shall be installed and maintained along the entire rear perimeter and around any outside enclosure to ensure quietness.

Mrs. Lyon asked if the "Acoustifence" would go on the privacy fence? Would a block wall make it even more sound-proof? Is a privacy fence the best thing to hang it on? Also, there is an additional fence around the perimeter; will it hang on that or will it hang on the fence in the play area; will there be a double layer of fence. She said these are questions the Board should consider and it did not appear that way from the applicant's plan. Mr. Fralix said for the record that Mr.

Gregorie commented that it is to be “approved by staff”. Mr. Gregorie said he interprets an 8’ wooden privacy fence that is a stand-alone with the “Acoustifence” material hung on the surface of the wooden fence; or an approved equivalent acceptable by staff. Mrs. Lyon said she wanted to clarify if it is around the play area and the back of the perimeter, just the play area; or just the back of the perimeter. There is also an old fence around the back of the property. Mr. Gregorie said it shall be installed and maintained along the entire rear perimeter and around any outside enclosure to ensure quietness. Mr. Gregorie asked if it should be changed to say “shall be installed around the entire rear perimeter property line”. Mrs. Lyon said it could, then she had a question about the play area. Mrs. Crane answered that play area is the outside enclosure. Chairman Smith said we could say “around any outside enclosure used by the animals”. Mrs. Lyon commented that her biggest concern, and why the Board is discussing it, is because Condition #2 seems to be the one in question as to how it will affect the homeowners in the back. She said the applicant appears to meet the other conditions; but Condition #2 is the one that if there is no way to make it ok; the applicant will not meet the conditions for the Special Exception. She said we (the Board) are discussing whether we can come up with conditions they can meet for approval or not. Mr. Parrish explained that the “Accoustifence” is to be installed along the entire rear perimeter which is the outside fence and around the outside enclosure, which is the play area. He said there are two fences, the rear perimeter and the enclosure. He said the two separate fences will have the “Acoustifence” material on it according to the staff’s recommendation. He said there will be two layers of “Acoustifence”.

#3: Any indoor boarding or play area, including walls and ceilings shall be lined with “Acoustiblok” material or an approved equivalent or some other noise reducing material acceptable to staff. **RECOMMENDED CHANGE OFFERED by Mr. Gregorie:** Any indoor boarding or play area, including walls and ceilings shall be lined with “Acoustiblok” material or an approved equivalent acceptable to staff. Mr. Gregorie explained why he wanted to add “an approved equivalent acceptable to staff” and strike “or some other noise reducing material acceptable to staff” because that could be interpreted as any other material or a reduced equivalent and he wants to eliminate that possibility.

#4: Chronic barking dogs (dogs that exhibit excessive, continuous or untimely barking or howling which interferes with reasonable use and enjoyment of neighboring properties) shall not be allowed for boarding or daycare. **NO CHANGE RECOMMENDED**

#5: There shall be no more than 10 dogs for every staff member during outdoor playtime.

Mrs. Lyon commented that the applicant had said this would be a deal killer; that the number depended on the dogs, staff, and the situation. Mr. Fralix cautioned the Board to be careful and not confuse staff member at the facility to staff member at the Town. Mrs. Lyon said she thought the one per 10 sounded reasonable when she read it last month; then after looking at the video and doing the site visit there were probably 25 dogs outside with two staff and she did not hear any excessive barking. Mrs. Lyon said she was surprised because there were a lot of dogs in a small area; she had never been to a doggy daycare kennel before so she wanted to see it because of the Board’s concern about noise for the neighbors. Mrs. Lyon said that she was impressed and wanted to share that information with the Board. Also, this may need to be done on a case-by-case basis; one person for 10 dogs sounds like a lot of dogs but not if they are all friendly and used to being

together. When she visited the site, it wasn't wild or crazy as you might imagine. Mr. Fralix complimented the video. Mr. Parrish asked a staff of the Wag Factory for clarification on the number of dogs allowed at the facility at one time. Samantha MacDougal said an average of 40 dogs are in the play yard with two to three staff outside. Mr. Parrish said he would recommend striking Condition #5 and change the ratio to one staff per 25 dogs. All Board members said they would support this change. Mrs. Lyon added that the staff is willing to remove barking dogs. Attorney Wilson recommended for clarity of enforcement that a staff member is "present outside during outdoor playtime." This was agreeable to the Board. **RECOMMENDED CHANGE OFFERED** by Mr. Parrish: There shall be no more than 25 dogs for every facility staff member present outside during outdoor playtime.

#6: A 24-hour web cam with video shall be available to Town staff when requested with viewing ranges of outdoor playtime. **NO CHANGE.**

#7: Noise-reducing construction and maintenance shall be subject to the discretion of the Town as to whether quietness is or has been ensured. **RECOMMENDED CHANGE OFFERED BY Mr. Gregorie:** add after the word maintenance of the noise reducing construction. To read: Noise-reducing construction and maintenance of the noise reducing construction shall be subject to the discretion of the Town as to whether quietness is or has been ensured.

#8: Restriction of outside activities and/or loss of Business License may occur at the discretion of Town staff. Mr. Gregorie: Mr. Gregorie said his point of discussion is that the legal entity for negating a business license is the Town Council and suggested Restriction of outside activities and/or loss of Business License may be recommended to Town Council by Town staff. Mr. Fralix suggested substituting Town staff with Town Council. **RECOMMENDED CHANGE:** Restriction of outside activities and/or loss of Business License may occur at the discretion of Town Council.

Chairman Smith summarized each condition based upon the discussions of the Board:

#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 "Acoustifence" by "Acoustiblok" material or an approved equivalent acceptable to staff, shall be installed and maintained along the entire rear perimeter and around any outside enclosure to ensure quietness.

#3: Any indoor boarding or play area, including walls and ceilings shall be lined with "Acoustiblok" material or an approved equivalent acceptable to staff.

#4: Chronic barking dogs (dogs that exhibit excessive, continuous or untimely barking or howling which interferes with reasonable use and enjoyment of neighboring properties) shall not be allowed for boarding or daycare.

#5: There shall be no more than 25 dogs for every facility staff member present outside during outdoor playtime.

#6: A 24-hour web cam with video shall be available to Town staff when requested with viewing ranges of outdoor playtime.

#7: Noise-reducing construction and maintenance of the noise reducing construction shall be subject to the discretion of the Town as to whether quietness is or has been ensured.

#8: Restriction of outside activities and/or loss of Business License may occur at the discretion of Town Council.

Chairman Smith announced that the Board had a motion to approve and discussion and called for the vote. Mr. Gregorie moved to amend the approved motion to include the conditions read by the Chair. Mr. Fralix seconded.

Mrs. Lyon commented that she struggles with Condition #2; once we approve this, it's too late. She said this is a great thing for our community, but worries about the residents. Now the property is a bar and the American Legion is next door with a lot of noise; but she struggles with that. She said the Board did not discuss the material the "Acoustifence"; and asked if the Board feels it will make a difference. She did research after the last meeting on the internet and some of the same information was provided from the applicant. She said everything the Board has gotten is from "Acoustiblok" which is more of a marketing thing; she is throwing this out for thought and she asked does it really work? Mrs. Lyon said she wished there was a facility around here that uses the material that she could've talk to as well as the neighbors, but unfortunately there is not. She doesn't know how she will vote. She would love to vote to approve it with these conditions but she has concerns whether we are meeting criteria #2; that we are not adversely affecting the welfare and character of the immediate community. If we are sure that with these conditions we are, she will wholeheartedly approve it. She felt the need to say this for the record.

Mr. Parrish said we have diligently looked at the information. He said for Condition #2 we have tried to our best to lessen noise. He said Conditions #5-8 will help to determine whether Condition #2 is working or not. He thinks our bases are covered due to actions we are taking by adding these conditions. He said if there are problems with noise, then we have the means to correct them within these conditions. Chairman Smith called for the vote.

VOTE

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

The vote was unanimous to approve Case #BZAS-6-16-008, a Special Exception Request for the placement of a Small Animal Boarding Facility in the Community Commercial Zoning District

and the Folly Road Corridor Overlay Zoning District at 1006 Folly Road, with the amended conditions.

Chairman Smith announced that the final decision will be mailed to the applicant within 10 working days and they may contact the Planning/Zoning staff for questions.

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

Adjournment: There being no further business to come before the body, the meeting adjourned at 8:21 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 and Town Clerk