

TOWN OF JAMES ISLAND
BOARD OF ZONING APPEALS
SUMMARY OF DECEMBER 15, 2020

The Board of Zoning Appeals held its regularly scheduled meeting on Tuesday, December 15, 2020 by Zoom Virtual Platform, 1122 Dills Bluff Road, James Island. Commissioners present: Brook Lyon, Chair, Sim Parrish, Roy Smith, Corie Hipp Erdman and David Savage, Vice Chair. Also, Kristen Crane, Planning Director, Ashley Kellahan, Town Administrator, Bonum S. Wilson, Town Attorney, and Flannery Wood, Planner I, standing in for Frances Simmons, Town Clerk and Secretary to the BZA. A quorum was present to conduct business.

Elected Officials: Councilwoman Cynthia Mignano.

Call to Order: Chairwoman Lyon called the BZA meeting to order at 7:01 p.m.

Compliance with the Freedom of Information Act: In compliance with the Freedom of Information Act and the requirements of the Town of James Island, members of the public were provided a link for participation.

Introduction:

Review Summaries and Rulings from the September 15, 2020 BZA Meeting:
BZAS-8-20-020
DISAPPROVED ON 9/15/2020

Chairwoman Lyon said we need a motion to approve the November 19, 2019 meeting minutes. She then moved for approval, seconded by Commissioner Parrish, and passed unanimously.

Brief the Public on the Procedures of the BZA: Chairwoman Lyon explained how the Board of Zoning Appeals Hearing would be conducted.

Administer the Oath to those Presenting Testimony: Chairwoman Lyon said each person who wants to address the Board would be sworn in. Each person speaking via the Zoom chat feature or speaking in person at the Town Hall would be sworn in individually by Attorney Wilson before giving testimony.

Review of the Following Application:

New Business:
BZAS-8-20-021

Chairwoman Lyon stated that this is a Special Exception Reconsideration request for the placement of a manufactured housing unit on a vacant lot in the Low-Density Suburban Residential District (RSL) at 1108 Seaside Lane. The original Special Exception request was disapproved at the September 15, 2020 BZA meeting and will be reheard/reconsidered at this meeting. I would like to mention that issues regarding potential flooding, access and trespass are more appropriate for the Planning Director, Code Inspector and Building Inspector to address. The grant of a variance remains subject to code, real property laws and permitting. Please keep that in mind during our questioning staff and the applicant and in our discussion.

Planning Director, Kristen Crane presented the staff review of applicant Mr. Steven Lewis, who requested a Special Exception Reconsideration (per Section 10: Rehearing, of the BZA Rules and Procedures) for the placement of manufactured housing unit in the Low-Density Suburban Residential (RSL) District at 1108 Seaside Lane - Town of James Island (TMS #428-08-00-056). The original Special Exception request was

disapproved at the September 15, 2020 BZA meeting. The parcel is currently vacant. Mrs. Crane reviewed adjacent properties to the south, east, and west in the RSL District in the Town of James Island. Property to the south is owned by Charleston County School District and houses the athletic fields of James Island Charter High School. She described other uses within 300' of the subject property that included residential uses in the Town of James Island and several residential properties in the City of Charleston.

Mrs. Crane described in the letter of intent that the applicant explained, "I originally submitted a request for a Special Exception for an upscale, modern manufactured home with landscape around the home and pea gravel driveway at 1108 Seaside Lane, however, new information has changed the number of manufactured homes in the 300 ft radius. A manufactured home was approved for placement across the street by Charleston County at 1079 Seaside Lane (copy of approval attached). Thus, placement of such on 1108 Seaside Lane will meet the 25% required for administrative approval of placement of a manufactured home."

Mrs. Crane's presentation included a radius map, site plan of the proposed manufactured home and pictures of the subject and adjacent properties.

Mrs. Crane reviewed the Findings of Facts according to §153.049 F, Zoning Special Exception Approval Criteria of the Town of James Island Zoning and Land Development Regulations (ZLDR). She said the Board has authority to approve, approve with conditions, or to deny the case based upon the findings of facts unless additional information is required to make an informed decision. Mrs. Crane read the six (6) approval criteria and the three (3) conditions recommended by staff:

1. The manufactured housing unit shall comply with *Section 153.144 Manufactured Housing Units*, of the *Town of James Island Zoning and Land Development Regulations Ordinance*, including all skirting and ventilation requirements in the *Ordinance*, as well as any additional requirements mandated by the Federal Emergency Management Agency (FEMA).
2. Prior to obtaining a Zoning Permit for the proposed site improvements and placement of the manufactured home, the applicant/owner shall install tree barricades around the protected trees on the property, as described in §153.334 of the *Ordinance*, throughout the duration of construction.
3. Prior to obtaining a Zoning Permit for the proposed site improvements, the applicant/owner shall provide documentation that the protected trees on the subject parcel that may be affected due to construction, have been pruned and fertilized as recommended by a Certified Arborist, in order to mitigate potential damage to the trees caused by construction.

Questions from the Board

Commissioner Parrish asked if the manufactured home at 1089 Seaside Lane had been approved and permitted. Mrs. Crane explained that the manufactured home had been approved to go at that location but had not been permitted. Commissioner Parrish then asked if the special exception was required. Mrs. Crane confirmed that it was until the home was placed on the property.

Applicant Presentation: None. Mrs. Crane informed the Board that she had been contacted by the applicant who let her know they were experiencing issues due to weather and were unable get on the Zoom meeting.

In Support: Council Chambers: No one present

Zoom Chat: No one present

In Opposition: Council Chambers: Mr. Clarence Bell, 1084 Seaside Lane. Mr. Bell indicated that he wanted to voice his opinion once again. He stated that he did not think it was a good idea to place a home on the property. He did not think that any of his neighbors approved even though they were not able to attend in person or via Zoom. Mr. Bell said that that he did not think that it was a good idea to build this house because the applicant was not very clear of who was going to be living there. He stated that if someone were going to build on that property, he wanted it to be clear, who would be living there. Mr. Bell stated he thought it was the last thing Seaside Lane needed. He thought that the application was thrown together very quickly, and they were not sure who was going to be living there. Mr. Bell concluded that it was not a good idea to be building on that property.

Zoom Chat: No one present

Applicant Rebuttal: None. Chairwoman Lyon stated that since the applicant was not present, he could not speak in rebuttal to the opposition.

Chairwoman Lyon closed the Hearing to the public at 7:32 p.m. and made a motion to approve with the conditions set forth by staff with the addition of a condition that the applicant shall ensure that the quality, construction, and architectural style are similar, if not identical to the proposed home presented by the applicant to the BZA at the September 15, 2020 Hearing. Chairwoman Lyon asked for a second for the purpose of discussion. Mr. Smith seconded for discussion.

Commissioner Erdman asked if Mr. Lewis had provided any updates regarding the flooding issue on the property. She acknowledged that Chairwoman Lyon had requested that the Board not discuss the flooding and driveways at the beginning of the meeting, but indicated it was concerning because so many people spoke out about the flooding and driveway concerns when she looked back through her notes.

Chairwoman Lyon said the reason she stated about the flooding and driveway access is that those are matters that are dealt with by the Flood Plain Manager, Building Inspector, and approval by the Planning Director and what we need to look at as a Board is the criteria set forth and whether or not the criteria is met. She said Criteria A is looking at what the community feels whether it would have an adverse effect on the community. She believes that Mrs. Crane can add to this and the Board could jump out of the typical protocol to address Commissioner Erdman's concerns.

Mrs. Crane re-stated that the question was whether or not the applicant addressed the concerns of the residents regarding flooding and driveways. She agreed with Chairwoman Lyon and indicated that the flooding would be addressed down the road when the Building Official does their inspections. She indicated that any driveway issues would be worked out during site plan approval. Mrs. Crane referred Board members to the survey in the packet that was completed when the Seaside Lane sidewalks were put in and indicated that each property had their own driveway apron. Mrs. Crane stated that additional stormwater requirements would have to be met, additional impervious surfaces and roofed structures would be addressed during the building permit stage and the zoning permits stage when the applicant reached that point.

Chairwoman Lyon stated once again that it was her understanding, if there were not room for a driveway, then the Planning Director would not approve the site plan. If there was a problem with the flooding, then it is not approved, so those issues, typically become a moot point and are out of the jurisdiction of the Board.

Commissioner Smith stated that he saw the issues with Criteria B concerning keeping with the character of the neighborhood and if it would not adversely affect the general welfare. He stated that he thought the driveway issue fell into that but was not the Board's purview and that would be taken care of by other

bodies. Commissioner Smith said the testimony that was offered was mostly about the people who would live in the home and that whoever lives in the home was out of the Board's jurisdiction. He stated that he also heard something about a change of a property line, but that would have to do with the ability of the Town to deal with whatever came up or if it was done legally. Commissioner Smith indicated that he did not hear anything in the testimony, although he understood the gentleman who took the time to comment and say what he thought, and he appreciated that. He stated that the main concern was dealing with the people who lived there, but the Board can only deal with those certain issues that were in their jurisdiction. Commissioner Smith stated that he did not find that the application was incompatible with the area, that it would adversely affect the general area, or the welfare of the community. He agreed with Mrs. Crane that the Town needed high quality, affordable housing for people of all ages and incomes, all sorts of different people.

Commissioner Savage explained that originally when this request for a special exemption was made he thought that it failed to meet Criteria B- compatible with existing users in the vicinity and would adversely affect the general welfare based upon the people that appeared in opposition. He stated that even though those people were not present it was still part of the record, just like the admission of the initial submission by Mr. Lewis. The Request for Reconsideration was on the basis that the City of Charleston had taken some action to approve a manufactured home in the vicinity. Mr. Savage said that he thought that it was sufficient basis for the Board to reconsider and that evidence that a structure was in the process of being placed or had been placed would obviously be relevant. There would have been an opportunity if Mr. Lewis were inclined to explain his position to probably alleviate some of the neighbors' concerns. Commissioner Savage indicated that because testimony by the applicant was not presented, he was left with the fact that there was always a tension between a property owner right to develop their land and the Town's Comprehensive Plan and of course the community input. Commissioner Savage stated that the Board's job is to really to follow those criteria. Commissioner Savage explained that according to his interpretation Mr. Lewis was asking the Board reconsider because there had been an approval of something that might occur in the future. He stated that Mr. Lewis said because it might occur in the future 25% of the surrounding property is manufactured homes and he should be approved because the application would be approved administratively. Commissioner Savage indicated that when he examined the submissions presented by staff the homes had to be equivalent to 25% of the number of the existing principal residences and he felt that the approval of something that would happen in the future did not meet that criteria. Commissioner Savage explained that he felt the applicant was trying to use something that would happen in the future to go through the administrative process. The applicant wished for a special exception which in turn caused the Board's analysis. He stated that he originally felt Criteria B was not met and his position had not changed. Commissioner Savage stated that he felt that the special exception request was not compatible with existing uses in the area and believed it adversely affected the general welfare according to public input. He explained that he was left to conclude if the applicant were convinced that that manufactured housing unit would be placed then 25% of the surrounding area would be manufactured homes and he would be able to get approval administratively and would not need a special exception. Commissioner Savage concluded that he was confident that the applicant did not meet the criteria but that his decision, may be moot if shortly in the future, the applicant was able to get administrative approval. He indicated that he was inclined to vote against the motion to approve with conditions.

Chairwoman Lyon asked Mrs. Crane if approval for a manufactured home by the City would stay with the property. Mrs. Crane explained that yes, the special exception would be attached to the property not the applicant.

Chairwoman Lyon reflected on a case the Board heard years ago. She stated that that case was approved and gave control over the conditions attached to approval. She explained that the current case gave her pause. Chairwoman Lyon said that she had ridden down Seaside Lane and saw both nice homes, like Mr. Bell's, and very derelict properties. She described it as a very transitional neighborhood. She indicated that

she felt that the applicant would be able to meet the requirement administratively in the future and felt that it could be an advantage to the neighborhood. Chairwoman Lyon reiterated that the Board did not have the right to look at who would be living on the property but felt like the applicant did meet the criteria. She stated that in her opinion the new evidence that was heard changes everything in that the additional home is not placed yet, but the special exception would stay with the property.

Commissioner Smith asked Mrs. Crane if the current application were not approved and the other premanufactured home was constructed, would a much lesser quality premanufactured home, such as a house trailer on concrete blocks be allowed to be built. Mrs. Crane stated that it would be but would still have to meet all zoning requirements.

Chairwoman Lyon agreed and explained that was her goal in adding a fourth condition. She stated that if the board ended up approving, she felt that should try to have something nicer for the residents on Seaside Lane.

Commissioner Savage stated that his concern was once the special exception was granted, the 25% criteria would be met, and future manufactured homes could be administratively placed. He said that the Town said that the 25% was calculated by existing homes, not what may occur. He expressed hesitation in approving the application in that 25% threshold would be met and the remainder of development could be mobile homes. Commissioner Savage reiterated that Criteria B was not met, and the application was not compatible with existing uses because most of the existing homes were site built. He also felt that it would adversely affect the general welfare.

Commissioner Smith suggested that the board make a note that the discussion be presented to the planning commission and asked Mrs. Crane to investigate the problem should it erupt in the future.

Commissioner Parrish asked if the conditions presented by staff were required for all manufactured homes. Mrs. Crane explained that they were, except for the fourth condition added by Chairwoman Lyon. He then asked Mrs. Crane for the exact definition of a manufactured housing unit.

Commissioner Hipp-Erdman asked if the approval was attached to the actual structure or the property. As an example, she mentioned a manufactured home on cinder blocks being allowed on the property if a special exception was granted. Chairwoman Lyon confirmed that if the exception were granted administratively then anything that qualified as a manufactured home would be permitted.

Commissioner Smith agreed that it was important to consider that. He stated that a lot of homeowners on the street were taking care of their properties and that they had a lot of pride in their neighborhood. He thought that the Board needed to watch out for them. Commissioner Smith also stated that it would be this home or a different one as Mr. Savage pointed out, and there could be a domino effect.

Chairwoman Lyon agreed that Commissioner Smith made a good point. She also presented the option to postpone finishing the hearing or table it until the next meeting if the Board felt that it was important to hear more from the applicant. Commissioner Erdman agreed with Chairwoman Lyon. Chairwoman Lyon explained that she felt that the whole thing would be a moot point if the 25% requirement was going to be met. She stated that if it were likely the exception would be granted administratively, in her opinion, it would be better to help. Chairwoman Lyon explained that the Board could help protect the character of seaside by adding the condition to have a nice, upscale home like what was presented two months ago, instead of just approving it or having it approved administratively. Commissioner Smith agreed that it was important to consider the best thing for the neighborhood.

Mrs. Crane explained the definition of a manufactured housing unit: Any residential dwelling unit constructed to standards and codes set forth by the United States Department of Housing and Urban Development, including the Federal Manufactured Housing Construction and Safety Standards act of 1974. The term does not include recreational vehicles, travel trailers or motorized homes licensed for travel on highways. There are more manufactured housing units designed and built to meet applicable requirements of the South Carolina Modular Buildings Construction Act.

Commissioner Savage asked Mrs. Crane if a trailer fit the definition. She explained that Charleston County Building Services defined a manufactured housing unit as something that was constructed elsewhere and had been brought into the site and a modular home was different. She said she thought it constructed in pieces right and built on site and put together which meant a manufactured housing unit would not necessarily have wheels on it. Commissioner Savage asked if a mobile home and manufactured housing unit were the same. Mrs. Crane clarified that they were all the same. Commissioner Erdman asked if approved would the special exception open the area for mobile homes. Mrs. Crane explained that it would within that 300' radius.

Commissioner Savage commented on the number of empty lots as in the 300-foot radius and explained that his concern was that the circle was going to get bigger and bigger and bigger. He stated that he still had his original thought process that was not sure that the applicant had presented sufficient evidence to cause him to change his mind that the criteria had been met.

Chairwoman Lyon thanked Commissioner Savage and asked the Board members if there was any other discussion or if anyone felt the need to postpone or defer. Chairwoman Lyon reminded the Board that the motion was to approve with the three conditions set forth by staff, as well as her additional condition that the applicant shall ensure that the quality, construction, and architectural style are similar, if not identical to the proposed home presented by the applicant to the BZA at the September 15, 2020 She stated that the details were left to the planning department, but the applicant presented a certain upscale plan she would like to see if it was approved.

Vote

Commissioner Parrish	Aye
Commissioner Savage	Nay
Commissioner Smith	Aye
Commissioner Hipp Erdman	Nay
Chairwoman Lyon	Aye

Motion Passed.

Chairwoman Lyon announced that a final decision will be mailed within ten (10) business days and the applicant may contact the Planning and Zoning staff with questions regarding the denial of the application.

Additional Business: Mr. Wilson updated the Board that the previous carwash case had its appeal hearing on Friday the 11th and he was optimistic that the court would side with the Board.

Commissioner Parrish announced his resignation effective immediately as he and his wife would be moving to North Carolina to be closer to family.

Chairwoman Lyon thanked Commissioner Parrish for his dedicated service to the Board and wished the members a Merry Christmas and Happy New Year.

Next Meeting: The next meeting is scheduled for January 19th, 2021. Mrs. Crane announced that no applications were received by the deadline and no meeting would be held.

Adjournment: There being no further business to come before the Board, the meeting adjourned at 8:07 p.m.

Respectfully submitted:

Flannery Wood
Planner I