

TOWN OF JAMES ISLAND  
BOARD OF ZONING APPEALS  
SUMMARY OF JANUARY 16, 2018

Members present: Mr. Jim Fralix, Mr. Jason Gregorie, Vice Chairman, Mr. Roy Smith, and Chairwoman Brook Lyon. Absent: Mr. Sim Parrish (gave notice). A quorum was present to conduct business. Also present: Planning Director, Kristen Crane, BZA Attorney, Bo Wilson, Town Administrator, Ashley Kellahan, Councilmember/Mayor Pro-tem, Leonard Blank, and Town Clerk and Secretary to the BZA, Frances Simmons.

Call to Order: Chairwoman Lyon called the Board of Zoning Appeals meeting to order at 7:03 p.m.

Prayer and Pledge: Chairwoman Lyon asked BZA members and others who care to, to join in 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 Board of Zoning Appeals (BZA), BZA Attorney, staff, and Councilmember/Mayor Pro-tem Blank. BZA member Sim Parrish was absent due to having surgery and was wished a speedy recovery.

Review Summary and Rulings from the December 21 2017 BZA Meeting: Chairwoman Lyon asked if there were corrections to the minutes. There were no corrections. A motion to approve was made by Mr. Fralix, seconded by Mr. Gregorie and passed.

BZAS-11-17-011

TMS#428-05-00-046

944 W. Oceanview Road

Variance request for the removal of two grand trees for the construction of a new single-family home in the Low-Density Suburban Residential (RSL) Zoning District.

APPROVED WITH CONDITIONS

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

Administer Oath to those Presenting Testimony: Mr. Wilson swore in the persons who wished to speak on tonight's case.

Chairwoman Lyon introduced tonight's cases: 1) Special Exception request for the placement of an outpatient/mobile veterinary service in the Low-Density Suburban Residential (RSL) District on property located at 936 Stiles Drive, and 2) Special Exception request to amend an existing Special Exception (*BZAS-2-14-002- sale of alcoholic beverages in the Community Commercial District*) for the extension of hours of operation on property located at 792 Folly Road, F1.

Review of the following Applications:

**NEW BUSINESS:**

BZAS-12-17-012

TMS#454-13-00-068

Special Exception request for the placement of an outpatient/mobile veterinary service in the Low-Density Suburban Residential (RSL) District on property located at 936 Stiles Drive.

**Staff Review:** Planning Director, Kristen Crane stated that the applicant has requested to postpone her hearing to the next available meeting (February 20, 2018). Chairwoman Lyon stated for the record that Case BZAS-12-17-012 would not be heard tonight.

BZAS-12-17-013

TMS#425-13-00-068

Special Exception request to amend existing Special Exception (*BZAS-2-14-002 – sale of alcoholic beverages in the Community Commercial District*) for the extension of hours of operation on property located at 792 Folly Road, F1.

**Staff Review:** Planning Director, Kristen Crane stated that the applicant, Mr. Perry Freeman, of Charleston Sports Pub, is requesting a Special Exception to amend the existing Special Exception (*BZAS-2-14-002 – sale of alcoholic beverages in the Community Commercial District*) for the extension of hours of operation on property located at 792 Folly Road, Suite F1. Adjacent properties to the east are in the Low-Density Suburban Residential (RSL) District and are undeveloped. The Folly Road Corridor (FRC-O) Overlay's land use recommendation for the subject property is Commercial, which matches the current Zoning District. Uses within 300' of the subject property include general restaurants, bar/lounge, pet/grooming salon, repair service, retail sales, retail or personal services, and parking and residential lots. Several of these parcels are located in the City of Charleston's jurisdiction.

On August 19, 2014, the Board of Zoning Appeals (BZA) approved a reconsideration of conditions for Case #BZAS-2-14-002. The original request was a Special Exception request for the sale of alcoholic beverages at 792 Folly Road and was approved with the following conditions:

- 1. The Special Exception is for a Restaurant**
- 2. Adhere to the requirements of the State of South Carolina alcohol law**
- 3. Hours of operation: 11:00 a.m. – 10:00 p.m. Monday – Saturday and 12:00 p.m. -8:00 p.m. on Sundays**
- 4. No outside music**

The applicant, Mr. Perry Freeman, is requesting an extension of hours of operation to 2 a.m. Monday – Sunday for a proposed restaurant/bar, Charleston Sports Pub.

The applicant's letter of intent states, "*We serve a niche of people who are looking for tasty food after 9 p.m., which can be tough to find. Our request of serving alcohol until 2 a.m. allows us to stay consistent with neighboring businesses and our already established Tri-County locations.*" Mrs. Crane reviewed the six (6) criteria under §153.045 E, of the Town of James Island Zoning and Land Development Regulations Ordinance (ZLDR). She stated that the Board may approve,

approve with conditions or deny Case #BZAS 12-17-013 based upon the findings of facts unless additional information is deemed necessary. In the event the Board approves the application, the Board should consider amending the existing conditions listed below: (proposed additions are indicated by **bold**, underlined and *italicized* font. The proposed redactions are indicated by ~~strikethrough~~.

1. The Special Exception is for a Restaurant/Bar
2. Adhere to the requirements of the State of South Carolina alcohol laws
3. ~~Hours of operation are 11:00 a.m. 10:00 p.m. Monday Saturday and 12:00 p.m. 8:00 p.m. on Sundays~~
4. No outside music

Questions for Staff: None

Applicant Presentation:

Perry Freeman  
1523 Sutton Street  
Charleston, SC 29412

Mr. Freeman stated that he moved to James Island over a decade ago and has lived here for 10 years. He has businesses in three other locations but at some point he wanted a business on James Island because this is where he lives. He waited for the right opportunity and it finally came. Mr. Freeman said his main goal is to have something that the Town is proud of and for the Board to know, that when they go to sleep they granted the exception because it is a great part of the community. He assured the Board that it would be a positive force in the community. Mr. Freeman said his other locations supports dozens of youth sports teams, recreation leagues, high school sports, individual ballfields, and local charities. He knows they would not be here without the community's support and want to bring that same spirit to James Island.

Mr. Freeman requested an exception for his business from the current 10 p.m. to 2:00 a.m. He said the request is not to cause trouble or to allow people to drink much later. It is to be able to keep up with neighboring restaurants and bars and for consistency with his other locations. Mr. Freeman added, as stated by Mrs. Crane, that they serve an interesting niche of people that want good food. The kitchen stays open until midnight and people come in after 10 p.m. for good food but may also want a beer or a cocktail. Additionally, the business is a sports-themed restaurant and often many sports events do not end before 10 p.m. He said it is imperative to be able to serve alcohol until 2 a.m. and it would be detrimental if they were unable to. Mr. Freeman stressed that the business is not a bar. It is a food first, family-restaurant that serves alcohol but alcohol is not their primary focus. Mr. Freeman said there will be no loud music and every precaution will be made to make sure the neighbors are not impacted in a negative way. He reiterated the seriousness of serving alcohol stating that his business has never had to call the police at any location and has not had an alcohol incident reported on their insurance. His staff is required to complete a Serve Safe Alcohol Class. He noted this is not a requirement for businesses and they pay for this training because they want their staff to serve alcohol correctly and safely. Mr. Freeman said the ability to serve alcohol to 2 a.m. is taken very seriously; it is not a right, it is a privilege. He wants to make sure they are allowed this privilege and will do all they can to protect it. Mr. Freeman said they

meet the requirements for the special exception and if granted, the Board will not regret it. Letters of support submitted.

Questions for the Applicant:

Mr. Fralix asked if the other locations serve alcohol until 2 a.m., Mr. Freeman answered yes.

Mr. Gregorie asked where the other locations are. Mr. Freeman answered in West Ashley (Sam Rittenberg/ Orange Grove), Summerville (off Dorchester Rd.) and Mt. Pleasant (behind Towne Centre).

Mr. Fralix asked if the other locations abide by the same rules. Mr. Freeman said yes, the hours of operation and menus are the same.

Chairwoman Lyon stated that the deck area backs up to residential property and the current exception restricts that use to 10 p.m. She said there was outdoor seating but no music. She asked what are the plans for the deck. Will there be outside drinking or a TV? And, that could be loud. These, she said, might be some things for the Board to consider. Mr. Freeman said he agreed and he is working on plans. He said they could stop deck seating at a certain time if that affected the neighbors. This was done at the Mt. Pleasant location. Although there are no neighbors around them in Mt. Pleasant, they did not want to draw attention in that way and people are not allowed to sit on the deck after 10 p.m. This is something that they would not oppose for James Island. They want to be good neighbors and do not want anyone to be negatively impacted by what they do.

Mr. Gregorie referenced the letter of support from the Smoak family (West Ashley location) and asked what activities were provided at that location. Mr. Freeman said they have some connections with athletes and brought in different athletes for autograph signings. Usually they are local athletes, i.e., Tajh Boyd and Ben Boulware from Clemson. Wrestler Rick Flair came here several months ago. Mr. Freeman said kids and adults enjoy getting autographs from them. These events are typically done in West Ashley.

Mr. Fralix asked what sets this business apart from other bars. Mr. Freeman said it is a restaurant, not a bar, and they serve food and made to order. They also bring in athletes and to his knowledge, they are the only ones that do this. Mr. Fralix asked how drinking would be controlled. Mr. Freeman said all staff is trained in Serve Safe Alcohol Classes. They have had no incidents in three years by having to call the police or to report alcohol related incidents on their insurance.

In Favor

Joe Walters  
928 W. Oceanview Road  
Charleston, SC 29412

Mr. Walters said he and his brother are the landlords at 792 Folly Road. The Charleston Sports Pub will be an asset to James Island. He made the distinction between a pub and a bar; that he and his brother would not want a business that would not be conducive to the community and to the Town. Mr. Walters showed on the site plan properties he and his brother owns, and the multi-

family properties in relation to the proposed business. He asked the Board to approve the special exception without conditions.

In Opposition: No one spoke

Chairwoman Lyon closed the hearing at 7:39 p.m. and asked for a motion from the Board in order to have discussion to approve, approve with conditions or to deny the request

Mr. Gregorie moved to approve Case BZAS-12-17-013 based on the following conditions:

1. The Special Exception is for a Restaurant and/or Bar
2. Adherence to the requirements of the State of South Carolina alcohol laws
3. No outside music

Mr. Smith seconded the motion. Mr. Smith made comment regarding the hours of operation, that if there is no limit, the business could go to 2:30, 3, etc. He asked Attorney Wilson, if the special exception were approved with the conditions Mr. Gregorie proposed, would those conditions run with the property if it were replaced with another business. Mr. Wilson answered yes. Mrs. Crane responded that 2:00 a.m. is the cutoff in Charleston County for restaurants and bars serving alcohol.

Chairwoman Lyon expressed concerns about the outdoor seating area. She liked what is done for outdoor seating at the Mt. Pleasant location. Chairwoman Lyon noted that while the Walters own the property now, there is another residential property on the other side and if the Walters sell their property and someone builds a house there, it could be problematic. She is thinking long-term since the conditions run with the property. With outside seating after 9:00 p.m. or 10:00 p.m., if there are 100 people on the deck, even if they are eating and talking, or with a huge wide screen TV, that could possibly affect the residents in the back. These are her thoughts since this is a residential area.

Mr. Fralix surfaced his earlier question (to Mr. Walters that was not addressed) about someone coming to the restaurant for drinks without purchasing food. He asked how this would be controlled. Mr. Smith commented that the restaurant focuses on serving food, but it does not prohibit someone from having a drink without ordering food. He said this would be difficult for Mr. Walters to control as the property owner.

Mr. Smith questioned outdoor seating until 2:00 a.m. as it is close to residential. He understands that the ownership is now familial; but it may not always be. He likes that Mt. Pleasant closes their exterior seating at 10 p.m.

Mr. Smith **Motioned to Amend** Mr. Gregorie's motion to include a fourth condition that outdoor seating be suspended beginning at 10:00 p.m., Mr. Fralix seconded. Mr. Gregorie said what Mr. Smith described is a hypothetical situation that is speculative and is not based on the facts that were presented. The facts are that the owners and their family owns the two immediate adjacent properties and we do not know what will happen in the future. That was not presented as a fact and for that reason he will vote against the amendment. Mr. Smith said his amendment is not based on that, it was simply prolog. He said the amendment is that seating be suspended at 10 p.m. Mr.

