

TOWN OF JAMES ISLAND
BOARD OF ZONING APPEALS
SUMMARY OF MAY 17, 2022

The Board of Zoning Appeals met on Tuesday, May 17, 2022 in person at the Town Hall, 1122 Dills Bluff Road, James Island, and by virtual platform on Zoom.

Commissioners present: Amy Fabri, Corie Hipp, David Savage, Vice Chair, Roy Smith, and Brook Lyon, Chairwoman, who presided. Also, Kristen Crane, Planning Director, Flannery Wood, Planner II, Bonum S. Wilson, BZA Attorney, Niki Grimball, Town Administrator, and Frances Simmons, Town Clerk and Secretary to the BZA. A quorum was present to conduct business.

Call to Order: Chairwoman Lyon called to order the May 17, 2020 BZA meeting to order at 7:00 p.m.

Compliance with the Freedom of Information Act: This meeting was held in compliance with the SC Freedom of Information Act. The public was duly informed and notification was given that the meeting would also be live-streamed on the Town's YouTube Channel.

Introductions: Chairwoman Lyon introduced herself, members of the BZA, BZA Attorney, and Staff.

Chairwoman Lyon announced that this meeting is a continuation of the April 19 meeting. There was a motion on the floor made by her as Chair and seconded by Commissioner Smith to approve the variance request for Case #BZAV-3-22-029: TMS #425-02-00-172: Variance Request for construction of a double-drive thru at an existing Chick-Fil-A restaurant in the Community Commercial (CC) District at 849 Folly Road. She announced that Case # BZAS-3-22-028, TMS #425-02-00-172: Variance Request for the removal of a grand tree for site improvements at an existing Chick-Fil-A restaurant in the Community Commercial (CC) District at 849 Folly Road has been withdrawn.

Chairwoman Lyon moved to reopen Case # BZAV-3-22-029: Variance Request for construction of a double-drive thru at an existing Chick-Fil-A restaurant in the Community Commercial (CC) District at 849 Folly Road, seconded by Commissioner Hipp. Chairwoman Lyon stated that the Board had voted to continue this case and has new evidence. No further discussion.

Vote to Reopen Case # BZAV-3-22-029

Commissioner Fabri	Aye
Commissioner Hipp	Aye
Vice Chair Savage	Aye
Commissioner Smith	Aye
Chairwoman Lyon	Aye
Passed unanimously	

Chairwoman Lyon moved to amend the agenda to have Mr. Wilson administer the oath to those presenting testimony and anyone speaking at tonight's meeting before public comment; seconded by Commissioner Hipp. Chairwoman Lyon said she think it is important that everyone be sworn in, whether they are giving testimony or just speaking. No further discussion.

Vote to Amend Agenda

Commissioner Fabri	Aye
Commissioner Hipp	Aye

Vice Chair Savage Aye
Commissioner Smith Aye
Chairwoman Lyon Aye
Passed unanimously

Executive Session: Chairwoman Lyon announced that an executive session is on the agenda and asked the Board if they needed to have one for receipt of legal advice from Mr. Wilson. The executive session was not needed.

Administer the Oath to those Presenting Testimony: Chairwoman Lyon stated that anyone addressing the Board tonight either at Town Hall or by Zoom/Call-in would be sworn in as a group to expedite time. Mr. Wilson administered the oath and swore in persons who wished to speak.

Public Comment: Chairwoman Lyon asked for those present at Town Hall wanting to make a comment to speak. She asked that they state their name and address for the record and limit comments to two minutes. No one present to speak. There was no one on Zoom or called in to speak.

Review of the Following Application (Resumed): Case #BZAS-3-22-029, TMS#425-02-00-172: Variance Request for construction of a double-drive thru at an existing Chick-Fil-A restaurant in the Community Commercial (CC) District at 849 Folly Road. Chairwoman Lyon introduced the case as the continuation from the April 19th meeting and the Board would hear an edited staff review and see an updated site plan.

Mrs. Crane addressed the Board stating that since this meeting is a continuation from April, they may not want to hear the things that hasn't changed; but she would if the Board wanted. She said the edited portion was the Findings of Fact (below) and the adjusted site plan.

Findings of Fact:

According to §153.049 F, Zoning Variance Approval Criteria of the Town of James Island Zoning and Land Development Regulations Ordinance (ZLDR), The Board of Zoning Appeals has the authority to hear and decide appeals for a Zoning Variance when strict application of the provisions of this Ordinance would result in unnecessary hardship. A Zoning Variance may be granted in an individual case of unnecessary hardship if the Board of Appeals makes and explains in writing the following findings:

F. (a): *There are extraordinary and exceptional conditions pertaining to the particular piece of property;*

Response: There may be extraordinary and exceptional conditions pertaining to this piece of property due to the existing layout and configuration of the site including preservation of all healthy grand trees, corner setbacks, landscaping buffers, dimensions, and stormwater detention areas. As the letter of intent states, the current configuration makes it "exceptionally difficult to provide adequate capacity for vehicle stacking for the drive thru without designing double lanes to increase the capacity." Additionally, the enforcement of the current zoning regulation of only single-lane drive thrus (except for banks and utilities) creates an exceptional condition for the specific property. Other notable extraordinary and exceptional conditions are the extreme popularity of the restaurant with

high demand, coupled with the unusually close proximity to Folly Road creating the potential to cause traffic stoppages and snarls.

F (b): *These conditions do not generally apply to other property in the vicinity;*

Response: These conditions may not generally apply to other properties in the vicinity as commercial properties nearby do not have the existing configuration and layout of the subject property. Additionally, any restaurants in the vicinity that have drive-thrus are single lane drive-thrus. Within 300' of the subject parcel, there are no properties with the conditions listed above (no corner properties that have existing stormwater detention areas, grand trees, large landscape buffers, or existing configuration.) Furthermore, there are no properties in the vicinity that have a need for a double-drive thru, that spatially have the ability to create one, yet the enforcement of the zoning code would not allow it without a variance.

F (c): *Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;*

Response: The application of this Ordinance, specifically section §153.336, Architectural and Landscape Design Guidelines, may not restrict the utilization of the property when it is being used in single-drive thru mode; however, it will effectively prohibit and unreasonably restrict the implementation of the site improvements aimed to increase the stacking capacity of the drive-thru operation and improve traffic flow by preventing stoppages and snarls on adjacent roads, due to the previously mentioned existing conditions.

F (d): *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance;*

Response: The authorization of this variance may not be a detriment to adjacent property or to the public good, since there has been no enforcement of, and more remarkably, no complaint, of the current use of a double-drive thru. As the applicant's letter of intent states, "granting of the variance will improve traffic circulation, reduce overflow onto surrounding streets, and lessen the impact to surrounding properties." The character of the zoning district will not be harmed by the granting of the variance.

F (e): *The Board of Zoning Appeals shall not grant a variance the effect of which would*

be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a non-conforming use of land or to change the zoning district boundaries shown on the Official Zoning Map;

Response: The variance does not allow a use that is not permitted in this zoning district, nor does it extend physically a nonconforming use of land or change the zoning district boundaries.

F (f): *The need for the variance is not the result of the applicant's own actions; and*

Response: The need for the variance may not be the result of the applicant's own actions because the size and configuration of the lot are existing site conditions. Existing site conditions also include the location and number of grand trees on the site. Additionally, the need for the variance, as the letter of intent explains, is to improve traffic flow due to an increase in patronage, which was a need that did not exist when the current layout was configured, at no fault of the applicant.

F (g): *Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.*

Response: The variance may not conflict with the *Comprehensive Plan*, specifically the *Transportation Element* needs of "Mitigating the Impacts of a changing population on the existing transportation system". Additionally, the proposed site plan shows a new multi-use path, which satisfies another *Transportation Element* need of "Providing safe, convenient, pedestrian and bicycle systems in appropriate locations" while an *Economic Development* strategy is to "Continue to encourage positive redevelopment/development by offering incentives such as nonconforming signage reimbursements and buffer reductions for multi-use path placement, transit facilities, etc."

Questions from the Board:

Vice Chair Savage said he is mindful of some of the questions in the last meeting and he thinks Ms. Fabri picked up on something that he may not have been very knowledgeable about. He said she was interested in surface water absorption and thinks she had a concern about flooding which he may have missed. He asked if there are county, state, or federal regulations that would dictate the materials that the applicant would have to comply with. Mrs. Crane said yes, and she should've mentioned at the last meeting, that the applicants would go through an extensive stormwater planning, permits and approval process. In addition, the Town has supplemental stormwater standards that it adopted that are on top of what the County already requires. These regulations are more stringent than what the County requires. It is something that would be regulated after their plan is approved by a number of different entities. Vice Chair Savage said that was his concern.

Commissioner Hipp asked for clarification that what the Board is voting on tonight is to allow the double drive-thru, period. Not to allow the applicants to do building because they don't need to have a permit to do all of the excess building since the grand tree was taken away. Ms. Crane said this is the only variance that is required and everything else would be permitted administratively. Commissioner Hipp commented that none of the permitting has to come before the Board and the information is a courtesy. Ms. Crane answered yes.

Application Presentation

Michael White, G. Robert George Associates: stated that Ms. Crane covered the request pretty thoroughly. They have endeavored to go back and look at concerns about tree preservation; particularly the removal of the grand tree and thinks everyone can see by the site plan that they tried to maximize the offset and has gotten the arborist involved again. He said a letter of recommendation was provided and they will include the subject matter of tree preservation on the plans to make sure that they are taken seriously by the contractors and subcontractors. He stated that they always endeavor to try to limit the amount of impervious surface area to address the stormwater issues and knows they have very significant stormwater regulations to abide by and have tried to factor that into their site planning. He told the Board that it is probably hard to see on the plan, but it is the shadow ghosted underground detention location that they tried to coordinate with trees so they know the route zones for any of the grand trees they are trying to preserve. He said there will be two separate detention areas that they plan on, one in the front of the Chick Fil-A where the extra parking bay is added and one over to serve the expansion parcel where the circulatory areas are for the dumpster. Mr. White said they went so far as to do a preliminary landscape plan and will continue to work on that with the staff to make sure that it meets the ordinance requirements and any planting criteria, screening, and things of that nature. He stated that they have endeavored to address the concerns of the community and the Board and is subject to any questions they have. They feel this is necessary because Chick Fil-A is a successful business and has had good patronage but obviously they cannot control how many people come to the restaurant, so they are dealing with an exceptional situation and if they don't do something it is not going to improve. If the Town decides to make it go back to a single lane drive though, like it was designed 15-16 years ago, they will have some serious traffic problems. He informed the Board that he is happy to answer any questions that they have as well as Chad Ross, Chick Fil-A rep. and Jason Williams, Operator at the James Island, Folly Rd. location.

Jason Williams, said he has lived on James Island for over 16 years and know there is a lot of concern about development on James Island, and feels it himself. He has been with Chick-Fil-A for 16 years and they want to continue to get better and for Chick-Fil-A to be something that everyone is proud of. He said asking for the opportunity to build a double drive-through would help his team to be safe and right now they are operating in a quasi-double drive through because it is what they had to do. He said the plan is meant to enhance safety for staff and guests. As new Chick-Fil-A's are built, they're all basically built with a double drive-thru. The James Island restaurant is 16 years old and double drive-thrus did not exist when it was built. Every time a Chick-Fil-A goes through a big remodel like this they do a double drive-thru because it is so much better for the team members and guests. He asked that the request be approved to provide the good level of service that is expected from Chick-Fil-A.

Chad Ross, thanked the Board again for allowing them to present and for hearing their request. He reiterated that he runs the project from Atlanta and wanted to say that when they do these remodels a lot of time they are reacting to a known need. They know there is a traffic problem here, and the way that the drive-thru is functioning now they know is unsafe. He said there is a lot of things with the weather, just as with traffic and the way it flows they know it is very inefficient. He said the heart of Chick-Fil-A is to solve the problem and that is why they are here and why they want to do it. As he said the last time, their model isn't only this

site, they try to do it holistically and try to include everything it can to make a better customer experience, but especially the team members and operators as well. He thanked the Board for allowing him to share.

Vice Chair Savage spoke about making sure that we all know what we're relying on. He asked Ms. Crane to do a screen share with the landscape plan because it is not as cluttered. He said in looking at the side of the building to the bottom, (left pointing to where the first car is). He asked from that car going to the center of the building, is it the plan that there is not going to be a double lane; but a single lane until it gets to that point and branches out? Mr. White answered yes. The plan is that it will be a single lane adjacent to the main entry point in the building where there's currently an existing canopy. He said it's more like a fabric type canopy. It will provide a circulatory lane and a backing lane for customers who will park and walk in, unlike right now. He said some may use the mobile app. But the intent is that it will be open all the time for traffic circulation. Vice Chair Savage said it appears that one lane shown on the plan is a little less than what is being used in practice now. If he is not mistaken because sometimes there is another lane parallel to the lane shown on the plan. Mr. Williams answered that currently they are doing a double Q (where the cursor was shown on the plan). He said there have two lanes that are queuing before the order taker and that is because they don't have a way to wrap around the building because there isn't enough space in the parking so a double que had to be done up to the order taker. He said the idea with the new plan, if approved, the order takers will be basically at the horseshoe and won't have to double que; it will double que after the order is take and this is for safety. He knows that the parking lot is congested because of the double cars queuing, but that is what they've had to do with the old plan. Vice Chair Savage asked as a Board can they rely on this schematic (master plan?) and Mr. White replied, that is correct.

Commissioner Hipp said that she drove by Chick-Fil-A today and paid close attention to the existing parking spots. She believes in the last meeting Mr. White was speaking about the type of material that would be used to absorb water (impervious pavers) and asked if that is not there now and is regular asphalt parking spots being proposed there. Mr. White stated currently pavers are on the backside and he thought there are also some on this plan. He said those do not show the existing conditions but they plan on putting pavers in to meet the stormwater quality and quantity requirements, as necessary. On this plan, they plan to put in pavers where the parallel spaces are to the west of the site and also adjacent to the tanning salon business to the north of the site. If it turns out the stormwater requirements dictate that they have more impervious surface that will go to other parking space if necessary. They are trying to address the surface water requirements and then the underground detention. He said the arch system will also address that which are open on the bottom. They will try to take advantage of the fact that you can get water quality treatment through the infiltration into the soil but can only take so much credit as there are limits in the ordinance that do not allow that. They will try to cross every "t" and dot every "i" regarding storm drainage. Commissioner Hipp asked if the drawings that are shaped like honeycombs are the impervious pavers and Mr. White said that was correct.

Commissioner Fabri stated that when the Board met last time, she thought when they left they asked that the applicants to go back and look at trying to save the grand tree, which they did, and for more information about stormwater retention. She asked Mr. White if that was his recollection. Mr. White replied knowing that they had that discussion, and they have done a lot of preliminary work on sizing the stormwater and detention that is seen on the plan. He noted that it was hard for him to see it on the screen he is looking at but believes it should be shown on the plan he has provided showing the detention. They have done preliminary sizing calculations and has not submitted them to the Town yet, but they can. They will abide in full compliance with the ordinance. Mr. White said it is his understanding that they are going to have to reduce the amount of runoff that is currently coming from the combined site at least 20% of what's coming off there now. That is his understanding of the ordinance so it has some fairly significant teeth in it and they

are going to have to reduce it. He stated there is not a whole lot of runoff. There is a very large amount of impervious surface on the site as it exists and as it will be built if they are approved to do so. He said there is not a whole lot of runoff coming out right now and they are going to reduce that even more because the ordinance requires them to do so.

Commissioner Fabri thanked Mr. White for his explanation. She stated that her question was very simple, what they received in their packet today was basically a pavement plan, pretty much an outline. It didn't have anything for the stormwater plan, which Mr. White says is still a work in progress. She asked if the black dots in the parking spaces and in the pervious parking spaces on the new lot they will be taking over are catch basins? Mr. White said those are boring locations where Terra who is doing GEO technical investigation to do the borings will measure the groundwater level and determine the infiltration rates and that is where they plan to place the two separate underground detention. Mr. White injected that they have had to do some subsurface utility investigation work that the Board may have been. He explained the process where they vacuum excavate holes in the ground and locate stormwater tie-in points. In the hopes that the variance is approved, they have engaged a company to start doing that to complete the stormwater connections and meet the requirements that the BZA is requesting. Commissioner Fabri thanked Mr. White for the explanation. She commented knowing they are not requesting a variance for stormwater but she thinks it goes to criteria "d" for consideration of adjacent property and the public good and if they are going to impact stormwater. That definitely has to do with the surrounding neighborhoods so she appreciates his explanation.

Vice Chair Savage said he had questions based on hearing Commissioner Fabri's series of questions. He asked for clarification. He understands now with the new regulations if the variance is approved that their stormwater plan will have to result in a 20% decrease in the present stormwater runoff of the two lots they will be developing. Mr. White responded that is his understanding, though he has not read the regulations in extreme detail, but he has reviewed it, talked with Chris Wannamaker at the County, and to the Town's Public Works Director so they will abide by it and they have already done some preliminary calculations to make sure that they can do so. He said they won't know for sure the configuration of the underground detention until they get the geotechnical work done because they need to know where the groundwater table is because the ordinance also restricts how the positioning or level of underground detention has to be set above the ground water and they need that information before they can go further with the design. He understands that the Board may want to see more design information and they can provide some preliminary information but they need a lot more information to go into the details of designing the underground detention with infiltration.

There were no further questions for the applicants. Chairwoman Lyon thanked Mr. White, Mr. Williams, and Mr. Ross for their presentation. Chairwoman Lyon commented as she stated at the beginning of this meeting that at the April 19 meeting a motion was made and seconded to approve the application and opened the floor for further discussion. Chairwoman Lyon stated that we received 11 new letters/emails in support which included names and addresses, and one new email against. She recalled at the April meeting there were 23 against, six were specific to the tree case that was withdrawn, so that was 17 against the double drive-thru and six in support. In total, there were 17 for and 18 against which makes it neck and pretty close. Chairwoman Lyon announced that this information is available to the public should anyone wish to review them.

Commissioner Hipp asked for the motion to be restated:

Motion: Chairwoman Lyon moved to approve the variance for discussion, seconded by Commission Smith. She said the motion on the floor is to approve the variance. She said the motion can be amended with

conditions. However, what the Board is discussing now is potentially voting to approve as is. Commissioner Hipp wanted to clarify that the motion/vote is for the double drive-thru and Chairwoman Lyon answered yes.

Commissioner Smith said to him this case is whether or not the double drive-thru meets each and every criteria. He has some heartburn about some of it in some ways but he does think that there would be a real traffic problem if something isn't done one way or another. He tends to think that for the matter of the public good, and also it is something on which they did not plan. He thinks it is beyond their control. He does not think the potential traffic problem was intentional. This is an unusual case and perhaps unique right now for the Board so it meet a lot of their criteria.

Commissioner Hipp asked if we have confirmed that they would have to resort back to a single lane drive thru if the variance was not granted. There was discussion among Commissioners Hipp and Smith regarding this and Commissioner Hipp mentioned the opinion from Mr. Wilson that it is either a single or the Board grants the variance. She has looked at all of the criteria and based on them, they are met because there is no way on God's green earth, that they can go back to a single lane drive-thru because people would be backed up to the Harris Teeter and Folly traffic. Commissioner Smith mentioned that could make it difficult for emergency vehicles to get up/down the road. Commission Hipp also mentioned that she found it appealing that they would dress up the sidewalk for mobility on Folly Road.

Vice Chair Savage said his analysis always starts with what is being requested... is it a special exception or it is a variance. In this case, he said, it is not a special exception. It is a variance and the variance is sought by an existing property owner not someone trying to jam in a non-conforming use into a property that they seek to buy or use. He said last meeting, Commissioner Smith made a very sound request of the applicant asking if they could go back and redraw something that would preserve the grand tree. He doesn't profess to speak for Commissioner Smith but he may have noticed like he did that a lot of the earlier opposition was focused on the grand tree removal and the applicant did what we requested and they have come back and have presented a plan. He is mindful from previous decisions of the Board, where they have granted variances under promises of people that they wanted to develop family homes and they turn around and sell the property right after we granted a variance that turned Seaside Lane into an area where you can have manufactured homes. He looked at the efforts that the applicants took with regard to concerns for the Board and likewise with regard to Commissioner Fabri's questions. He commented feeling a little inadequate at the last hearing because he didn't pick up on those that she was talking about such as stormwater and drainage but he knew, as a novice, that this was not his area of expertise so he wanted to assure himself that those requirements were going to be looked at and enforced by someone else. Based upon what Ms. Crane relayed to him, the Town has more stringent regulations than anyone. If this application is to proceed, the Town will ensure that the stormwater plan is followed. He said that Chick-Fil-A was built 16 years ago and the stormwater plan is a lot less intensive than the one that is going to be approved today. He said the Board's decisions have to be reasonably related to the objective evidence that we receive and he appreciates the valid concerns of Commissioner Fabri. He feels that he can rely on Ms. Crane's statements, likewise he can rely on the testimony under oath by the applicants representatives that it is his believe that the eventual stormwater runoff of now these two lots is going to be 20% less than what previously existed and that is what we all seek so that doesn't concern him. He noted as Commissioners Smith and Hipp indicated the applicant is simply seeking a variance to formalize what is presently in existence. He said his question in bringing up the site plan is this... are you telling me that from the corner of that store to the horseshoe, there is only going to be one lane and he answered yes, and he asked can we rely on this and the answer was yes. He said that is actually less of a stacking of vehicles than what presently exists. He said he has to look at what are the facts on the ground, and what are we asking to be done. He believes Commissioner

Hipp said if you look back 16 years, what worked 16 years ago isn't going to work on Eugene Gibbs or Folly Road anymore so when he looks at the criteria, especially "a" are there extraordinary conditions? He thought the staff's opinion got it right. They are, because of the layout of the site and our desire that they preserve all healthy grand trees and because of the corner setbacks and the landscape buffers. He thinks the criteria is met. Likewise criteria "b," that the conditions do not generally apply to other properties, again the staff did a good job in letting us know that within 300 feet of this area, there are no properties with the conditions listed above, that would be the corner, buffers, stormwater requirements, grass, and trees. That brings us to criteria "c." The property is effectively prohibited or unreasonably restricted in the utilization. He agrees that without the variance the ordinance would restrict the site improvements. The improvements are designed to increase the efficiency and improve traffic flow which prevent stoppages. He loved the word used by the staff "snarls" on Folly Road, stating he finds that compelling from personal experience and from the information provided. Criteria "d" is will the variance be a substantial detriment to the adjacent property owners and he thinks Commissioner Fabri was focusing on stormwater and he thought that has been addressed to this satisfaction. He said going back for the last two years, this has not been occurring and there has been no complaints so obviously there would not be a substantial detriment to the adjacent property owners. Criteria "e" is not applicable as per the staff's opinion and Criteria "f" the variance is not the result of the applicants action. He said early in the first discussion they had chuckled when Commissioner Smith said "maybe it is the result of the applicants own action because they are so "dadgum" successful. The staff pointed out that the variance sought is to improve the traffic flow due to an increase in patronage and you can't blame that on a business because businesses that we approve, we want to be successful. He said he think it meets criteria "f." Criteria "g": does it substantially conflict with the Comprehensive Plan and the staff pointed out that it meets the impacts of a changing population on the existing transportation system plan. Vice Chair Savage said he hasn't read that and would defer to the staff that this variance does comply with that, but also it gives the Town a new multi-use path which satisfies another transportation element needed to provide safe pedestrian and bicycle access. To him, he thinks the applicant has come to us in a situation where there are certain facts on the ground that exists. They have taken the concerns of not only the BZA but the letters in opposition and they have come back with a plan and he thinks the plan meets all of the criteria. He said at this point, he hasn't heard from Chairwoman Lyon or Commissioner Fabri but he would be inclined to approve the variance request.

Chairwoman Lyon thanked Vice Chair Savage for his succinct synopsis and for going through all of the criteria. She tends to agree with him on those and think the applicant has done a really good job and listened to the community and the Board's questions and concerns and has come back with a plan that is much more acceptable plan in addressing the stormwater runoff and it sounds most importantly that they would meet the criteria that is set forth for us in order to approve.

Commissioner Fabri spoke in response to Vice Chair Savage. She said this is not before the Board but would just say overall that these chains like Starbucks and Chick-fil-A have sometime become, while successful, nuisance businesses in their communities because their corporate plan is to build on certain sized lots and plan for "x" number of cars coming through daily. Because of the growth in our community and other communities and the popularity of the business, they have outgrown what their corporate build plan is. She doesn't think we should hold it against the applicant because that is for Chick-Fil-A corporate and Starbucks corporate. That is something that she think needs to be the purview of the Planning Commission and Council to change ordinances and our code to address situations like businesses such as Chick-Fil-A that are going to have a high traffic volume that are on main arteries, and the fact that they could impact traffic emergency vehicles and the quality of life of the neighborhood behind them. She stated she is going to say her piece. She doesn't think they meet criteria "b" because directly across the street we have Starbucks that basically blocks that entire intersection during the day. She said it's the same thing with

Chick-Fil-A, they are stacking up in the neighborhood and on Folly Rd. causing a nuisance for the neighborhood and people traversing Folly Rd. She said Mr. Wilson's opinion that they are in violation of the code without a double drive-thru leaves them no choice because to deny this is to further exacerbate the issues that they are already trying to solve. She agrees with Vice Chair Savage that their stormwater plan today hopefully is a lot better than it was many years ago and they will have to bring it into compliance, which to her is a positive. Commissioner Fabri said she is going to have to hold her nose and vote for this one. She would love to see them move across the street to the BI-LO parking lot where there is lots of space to run their drive-thru and build a giant Chick-Fil-A and everybody going to the beach and those who live on Johns Island would take advantage of it but that's a burden that we can't put on the applicant by asking them to do that. But, if they would like to think about it, she would suggest that would be a great use of that space because you would have a lot of business. She went on to clarify her reluctance to vote for this because she does not think they meet all of the criteria but thinks by not granting this we are going to cause a bigger problem than what already exists. Chairwoman Lyon thanked her and said that she raised some great points.

Commissioner Smith stated for the record that he agreed with Vice Chair Savage. Although he understands Commissioner Fabri's comment about generally applying, he wants to say that the conditions don't generally apply to everyone. Maybe they apply to some, but he thinks that there is some discretion in that, but he thinks they meet all the criteria

Chairwoman Lyon stated that the opinion was received from Mr. Wilson about how Chick-Fil-A had been operating. She said according to Mr. Wilson's opinion the way they had been operating as a double drive-through was not permitted by code without a variance. The opinion is available to anyone who wishes to see it for the record. Frances Simmons, BZA Secretary, will provide a copy of the opinion with these minutes.

Vote: (Variance Request, Double Drive-thru)

Commissioner Fabri	Aye
Commissioner Hipp	Aye
Vice Chair Savage	Aye
Commissioner Smith	Aye
Chairwoman Lyon	Aye

Motion passed unanimously

Chairwoman Lyon announced that the motion carried unanimously and the final decision would be mailed to the applicants within ten working days. The applicants should contact the Planning and Zoning staff with questions about the approval.

Chairwoman Lyon stated for the record the legal reason for the decision is that Board Members felt the variance request met all the criteria with the exception of Commissioner Fabri who had some concerns, but she felt she would vote for it in lieu of the other issues that it might cause. The other four (4) members felt the variance met all of the criteria.

Additional Business

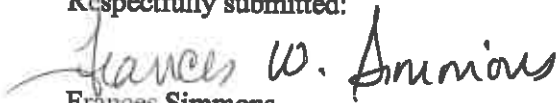
Next Meeting Date: June 21, 2022: Chairwoman Lyon announced that the Board would have a meeting in June.

Chairwoman Lyon said a special thank you to the staff. This has been a very important case to our community, as all cases are, but the staff has had to do a lot of extra work by having two meetings and

appreciates their hard work. She thanked the applicants for listening to the community and it sounds like they are working hard to make their business a better place by responding to the increased growth that our island has seen explode. Chairwoman Lyon said in thinking, 16 years ago, she didn't think we had a Town so everything that was permitted back then was haphazard and now we are very blessed to have our Town and some control of our destiny and such a great staff. She thanked everyone and the Board for serving, asking great questions and for their working hard.

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

Respectfully submitted:

A handwritten signature in cursive script that reads "Frances W. Simmons". The signature is written in dark ink and is positioned above the printed name.

Frances Simmons

Town Clerk and Secretary to the BZA