

Board of Zoning Appeals
Minutes
July 5, 2016

I. Call to order

The regular meeting of the Board of Zoning Appeals was called to order on July 5, 2016 at 5:30 p.m. in the City Hall Conference Room, 1207 Palm Boulevard. Members present were Carolyn Holscher, Arnold Karig, Glen Thornburg and Jay Leigh; also Secretary Douglas Kerr was present. Pete Doherty was absent.

Mr. Kerr acknowledged that the meeting had been advertised in compliance with State law and the properties had been posted.

II. Approval of minutes

The next item on the agenda was the review of the minutes of the June 7, 2016 meeting. Ms. Holscher made a motion to approve the minutes and Mr. Thornburg seconded the motion. The vote was unanimous in favor of the motion.

III. Home Occupancies

Mr. Karig explained that the Board acted as a quasi-judicial body and all comments made were treated in the same manner as court testimony; therefore, any person who would like to speak to the Board should be sworn in. He then swore in all members of the audience that would be speaking.

2 Forest Trail Court 1

Mr. Kerr explained that the applicant was requesting a special exception to allow the establishment of an office for a construction business in the applicant's home and that the home would be used for office work only with no business related traffic coming to the home and no employees working from the home.

Mr. Karig asked the applicant if there was anything he would like to add. The applicant, Mr. Dennis Harris, answered no.

Ms. Holscher asked if there would be any signs displayed in connection with the business and Mr. Harris answered no.

Mr. Thornburg stated that generally construction businesses handle payroll on Friday and asked if checks would be distributed from the house. Mr. Harris answered no, that checks would be distributed at the jobsites.

Mr. Leigh made a motion to approve the request and Ms. Holscher seconded the motion. The vote was unanimous in favor of the motion.

IV. Special Exceptions

101 Palm Boulevard, The Boathouse

Mr. Kerr explained that the next request was for a special exception to allow additional area to be used for the outdoor sales of food and drink at The Boathouse restaurant. He explained that The Boathouse has served food outdoor since it opened, but the request is to allow an additional area, an Airstream camper, to be approved for the service of food and drink. The property is in the GC1 zoning district and Section 5-4-36(5)(b) of the City's zoning code specifies that:

Outdoor sale or rental of tangible personal property, in whole or in part, in the LC or GC-1 district is permitted only by special exception pursuant to section 5-4-5; provided, however, that outdoor sale or rental of any tangible personal property, including food and beverage, in whole or in part in the LC or GC-1 district within one hundred sixty feet (160') of the OCRM baseline established along the beach of the Atlantic Ocean is strictly prohibited.

Mr. Kerr explained that the criteria for a special exception are different from those of a variance and he read Section 5-4-5 (c) of the zoning code, which specifies the standards that the Board must apply in deciding special exception applications. He added that in granting a special exception, the Board may attach to it such conditions regarding the location, size, character, or other features of the proposed use as the Board may consider advisable in order to promote public health, safety, or general welfare.

Mr. Kerr stated that the applicant claimed in his application that the standards in the ordinance will be met by satisfying all setback, screening, loading and parking requirements and that the applicant has stated that the proposed use will not adversely affect adjacent properties, as the property has been used for twenty years by the Boathouse at Breach Inlet and they have been serving outdoor food and beverage since it opened without incident or known complaint.

Mr. Sid Boone explained that he would be representing Mr. Richard Stoney and The Boathouse. He explained the site was bound by a commercial use on one side, Breach Inlet on one side and a bridge on the other side. He stated that the Airstream camper would only take up one parking space on the site. He explained that all food would be prepared in the main restaurant's kitchen. He stated that in the 20 years of operation, the owner is not aware of one noise complaint. Therefore, he explained, that he believed that the request met the criteria in the zoning code for a special exception.

Ms. Holscher asked if the camper would be moved in January. Mr. Kerr explained that one concern with this request was the flood regulations. He stated that a camper is exempt from the flood regulations, because it is temporary and mobile, but the concern is that this camper

will become a permanent structure and unable to move, which would violate the flood regulations. He stated that he expressed this concern to the owner and the owner has agreed to move the camper off the site for one month per year, each year it remains in place.

Ms. Holscher asked if this was the same camper that was at the restaurant on Ellis Creek in James Island. Mr. Stoney answered yes it is the same camper.

Mr. Leigh explained that The Boathouse has always allowed outdoor service of food and drink and you could always take a drink to the seawall, so he did not see the request as much of a change from what has always been on the site.

Mr. Thornburg asked the applicant how far away his establishment was from the ocean. Mr. Stoney answered a fairly long walk to the Atlantic Ocean. Mr. Kerr stated that the exact location of where Breach Inlet ends and the Atlantic Ocean begins may shift slightly through the years as the inlet changes, but he discussed this point with the Police Chief, as they enforce laws regarding Breach Inlet, and the Chief stated that Breach Inlet extends up to about 120 Ocean Boulevard and then the Atlantic Ocean begins, which is over 1,000 feet from The Boathouse.

Mr. Thornburg asked if the camper has a kitchen, would this not be considered a second restaurant on the same site. Mr. Stoney answered that there is no kitchen in the camper and there never will be. It will only be used for service and not food preparation.

Ms. Holscher asked how the applicant anticipated dealing with the additional parking. Mr. Stoney responded that he did not anticipate any additional patrons because of the camper; he expected this to be an amenity for the existing patrons on the site. He stated that the parking would be handled the same way it currently is with valet parking on site and adjacent to the site.

Mr. Thornburg stated that in looking at the installation of the camper he did not believe it was movable anymore. Mr. Stoney explained that he installed a deck board around the tire to close up a gap that he believed was a trip hazard, but that the board was held by a few screws and it could be removed and the trailer pulled out within about 20 minutes of disconnecting the camper.

Mr. Karig asked if there would be any additional signage on the camper or on the site to promote the camper. Mr. Stoney answered no.

Ms. Holscher asked if the camper would return to James Island in May. Mr. Stoney answered no, it was his intention to leave the camper onsite year-round except the month it is pulled off to satisfy the flood regulations.

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Mr. Karig stated that other temporary trailers and structures on commercial sites are pulled off the island in the event of a storm and he asked if the applicant was prepared to do this. Mr. Stoney answered yes; he would want to remove the camper in the event of a storm to protect his investment. Mr. Leigh stated that this point could be included in the conditions of approval, if the Board chose to approve the request.

Mr. Thornburg stated that his office is in the Carroll building and the restaurant already creates a tremendous amount of congestion on and around the site. He stated that parking extends all the way down to the Exchange Club building, as well as being throughout the neighborhoods. He stated that he believes that this camper will bring additional people and add to the congestion problems that already exist.

Mr. Stoney stated that he rents out the parking spaces at the Carroll building and that by 10 p.m. all of the cars are gone. He stated that the need for parking is only at night and only during the summer season and each year business has declined, so he does not believe there is an issue with parking. He stated that he does not believe his customers are parking back in the neighborhoods and he suspects these people are going to the beach.

Mr. Kerr stated that the code has clearly established rules regarding what the appropriate number of parking spaces for this site should be. He explained that prior to this hearing he did not believe that the camper was impacting the parking on the site, but it was stated earlier that the camper is taking up a parking space. He suggested, if the Board chooses to approve the request, to add a condition that proof that the site complies with the requirements included in the City's code regarding parking be provided. He stated that when the restaurant opened, proof of compliance with the parking code was provided, but he did not believe that it had been verified to be in compliance since, so it would be a good time to review.

Mr. Thornburg stated that he felt like the request did not meet the criteria in the code required for a special exception because it would add to congestion and the appearance of the only camper on the island placed up by the road negatively impacted the area.

Mr. Leigh stated that the criteria for a special exception are not as strenuous as a variance and he did not see the request as a major change from what has always occurred on the site.

Mr. Boone explained that the discussion by the Board had generated five provisions that the Board may want to consider as conditions for approval and those are: (1) that the camper must be removed for 30 consecutive days each year; (2) that the camper have no signage on it or promoting it; (3) that the camper be kept roadworthy and in good condition; (4) that the camper be removed in the event of a storm; and (5) that the entire site be verified to be in compliance with the City's zoning code as it pertains to parking.

Mr. Leigh made a motion to approve the request with the five conditions listed by Mr. Boone plus a sixth condition that the trailer never have a kitchen installed.

Mr. Thornburg reiterated that he did not believe that the request met the criteria in the code required for a special exception.

The vote was three to one in favor of the motion, with Mr. Thornburg voting against the motion.

V. Adjournment

With no other business, the meeting was adjourned at 6:45 PM.