

The Board of Adjustments met Monday, August 16, 2021, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Anil Vira, Chairman; Cathy Slagle; Donna Cook; Michael Baugh; Frank Lamia; Hunter Simmons, Planning and Zoning Manager; Samara Walley, City Planner; and Allie Knutson, Secretary.

Absent: David Martin, Alternate I; Ryan Baker, Alternate II.

Chairman Vira called the meeting to order at 5:01 PM.

Minutes

- **July 19, 2021**

Motion:

Cathy Slagle made a motion to approve the minutes with no changes.

Donna Cook seconded the motion and the motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Donna Cook, Frank Lamia, and Michael Baugh.

Nay: None.

BOA 21.08 – Public hearing to consider the request of Walcott Adams Verneuille Architects, Inc. for a Special exception to allow Restaurant Use for property located at 805 S. Mobile Street. PPIN # 61363

Samara Walley, City Planner, presented the case summary:

The property is zoned B-1, Local Shopping District. According to the Zoning Ordinance, “Restaurants in the B-1 zoning district may be permitted only on appeal to the Board of Adjustments and may be subject to special conditions”. A new approval may be required if the ownership and/or scope of operations change.

Special Exception requests are for the use, the proposed site plan is subject to change. However, the previous use was a restaurant at this location and the proposed restaurant will be similar in style. The applicant intends to keep the existing building footprint but intends to renovate the interior and exterior of the existing building.

Staff recommends approval of BOA 21.08 subject to the following conditions:

- 1. Submission of a revised site plan illustrating compliant parking and tree protection prior to the issuance of a business license.**

Hunter Simmons, Planning and Zoning Manager, stated that the Planning Department received one letter, one phone call, and one email with citizen concerns being rodents and noise/live music. The Board could make restriction of loud music a condition of approval. He also mentioned preserving the live oaks around the property that provide a buffer between the restaurant and the neighbors. Lights in the parking lot should be shielded from adjacent neighbors.

Frank Lamia confirmed that a drive-thru would not be allowed in the B-1 Zoning District and that the applicant would need to come back to the Board if he decided to expand the restaurant past the existing building footprint.

Cathy Slagle brought up the citizen comments about noise concerns. Hunter Simmons, Planning and Zoning Manager, stated that the City of Fairhope has a Noise Ordinance of 10:00 PM. After that, the police would have to get involved if there was a noise complaint. The Noise Ordinance is complaint driven and the police would have to get a decibel meter. An agreement with the applicant regarding live music and noise may help alleviate some concerns.

Tyler Hood, Applicant, stated that they are not planning to have live music, but that he wants to be a good neighbor and would agree to adding a condition to cease live music by a certain time, if needed.

Chairman Vira asked what times they will be open, Tyler Hood responded that they will most likely be open for lunch and dinner and will stay open till around 10:00 PM. The food will be Louisiana Cajun cuisine.

Donna Cook asked what type of lighting will be in the parking lot. Tyler Hood, Applicant, was not sure, they are still working on lighting as they want the parking lot to be lit enough so that customers do not trip, but he also does not want light pollution for the neighbors. Hunter Simmons, Planning and Zoning Manager, added that the applicant has an engineer and there are shields that can be put on parking lot lights as well as a height limit for light poles.

Chairman Vira opened the public hearing.

Amanda Green Mitchell, 32 Bay Point Court: Ms. Mitchell stated that her backyard faces the restaurant and that she never had a problem with any of the previous restaurant owners, they were very respectful about noise. She did have concerns with parking lot lights as well as rodents. She had dealt with rodent issues in the past, but overall, the people in her neighborhood are excited about a new restaurant coming in.

William Bruce, 163 Cypress Lane: Mr. Bruce spoke in favor of the applicant, he has known the applicant, Mr. Hood, for several years now. He stated that he has dined at his other establishments in South Louisiana and that they have good food with excellent service.

Chairman Vira closed the public hearing.

The Board had no further questions for staff or the applicant.

Motion:

Michael Baugh made a motion to approve BOA 21.08, subject to the following conditions:

- 1. Submission of a revised site plan illustrating compliant parking and tree protection prior to the issuance of a business license.**
- 2. Live music ceases at 9:00 PM.**

Cathy Slagle was concerned with over-limiting the applicant with the current Noise Ordinance already in place and wanted to know if the condition of approval is necessary.

Hunter Simmons, Planning and Zoning Manager stated that the enforcement with the Noise Ordinance is warnings leading up to fines and court. The condition of approval has more teeth because the use that was approved, would be on the line.

Donna Cook stated that she thought adding that condition would make things complicated when there is already a Noise Ordinance in place.

Mr. Baugh's motion was not seconded, the motion failed.

Motion:

Cathy Slagle made a motion to approve BOA 21.08, subject to the following conditions:

- 1. Submission of a revised site plan illustrating compliant parking and tree protection prior to the issuance of a business license.**

Donna Cook seconded the motion and the motion carried with the following vote:

Aye: Anil Vira, Cathy Slagle, Donna Cook, and Frank Lamia.

Nay: Michael Baugh

Old/New Business

Hunter Simmons, Planning and Zoning Manager, stated that there is one case for next month's agenda.

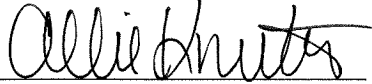
Adjournment

Cathy Slagle made a motion to adjourn, and the motion carried unanimously.

Adjourned at 5:30 PM.



Anil Vira, Chairman



Allie Knutson, Secretary