



MINUTES

PLANNING AND ZONING BOARD REGULAR MONTHLY MEETING

TUESDAY, MAY 16, 2023, 6:00 P.M.

CITY OF ST. AUGUSTINE BEACH, 2200 A1A SOUTH, ST. AUGUSTINE BEACH, FL 32080

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

BOARD MEMBERS PRESENT: Chairperson Kevin Kincaid, Hulsey Bray, Conner Dowling, Larry Einheuser, Junior Alternate Rhys Slaughter.

BOARD MEMBERS ABSENT: Vice-Chairperson Chris Pranis, Hester Longstreet, Victor Sarris, Senior Alternate Gary Smith.

STAFF PRESENT: Building Official Brian Law, City Attorney Charlie Douglas, Planner Jennifer Thompson, Recording Secretary Bonnie Miller.

IV. APPROVAL OF MINUTES OF REGULAR PLANNING AND ZONING BOARD MEETING OF APRIL 18, 2023

Motion: to approve the minutes of the April 18, 2023 meeting. **Moved** by Hulsey Bray, **seconded** by Conner Dowling, **passed 5-0** by unanimous voice-vote.

V. PUBLIC COMMENT

There was no public comment pertaining to anything not on the agenda.

VI. NEW BUSINESS

- A. Conditional Use File No. CU 2023-04, for renewal of a conditional use permit for food and/or beverage service and consumption outside of an enclosed building on the premises of a restaurant, The Kookaburra Coffee Shop, in a commercial land use district at 647 A1A Beach Boulevard, St. Augustine Beach, Florida, 32080, Megan Vidal and Spencer Hooker, Agents for CMBV LLC, Applicant

Jennifer Thompson: This first order of business is for a conditional use permit for outdoor seating and food and beverage service outside of an enclosed building at The Kookaburra, 647 A1A Beach Boulevard, which uses a portion of the City plaza for its outdoor seating.

The Kookaburra was previously granted a conditional use permit for outdoor seating for five years, and this has now expired, so the applicants are just asking that it be renewed.

Kevin Kincaid: Have there been any reports of issues, problems, or complaints regarding the outdoor seating at this business?

Jennifer Thompson: No, not regarding the outdoor seating. The last complaint I received about this business was about the dumpster enclosure, and this was fixed very quickly.

Kevin Kincaid: Are there any objections from the City about extending or renewing this?

Jennifer Thompson: We don't have any objections.

Brian Law: I recommend, since Kookaburra has been a long-standing business, that we seriously consider extending the conditional use permit for more than five years. This has been done before, some have been extended for 10 years or more, and some have been granted for the lifetime of the business ownership, which is my recommendation, as Director of Building and Zoning, for this conditional use permit for Kookaburra.

Kevin Kincaid: Do we have any comments from the public?

Judy Jucker, 106 3rd Street, St. Augustine Beach, Florida, 32080: I live three lots down from Kookaburra. They are great neighbors, we love them, and love their coffee, but I have two concerns. They have been clearing the lot adjacent to Kookaburra, and it is my understanding that the owners of Kookaburra also own this lot, maybe someone can clarify that. I'd like to know if they plan to expand their outdoor eating and drinking area. If they do, the parking and traffic will just get worse. It's mainly bad on the weekends, when it is very chaotic there. Parking is allowed on the side of the street I live on, and I don't mind people parking in front of my house, but they also park in front of the fire hydrant on the other side, and park all the way up and down the street, so you can't get in and out. I'm curious to know if Kookaburra plans to expand its parking, and if they are interested in helping with the situation there, as it is a safety issue more than anything.

Kevin Kincaid: Just to clarify, you are asking about the vacant lot directly behind Kookaburra?

Judy Jucker: Yes, it has been cleared. Is anybody here from Kookaburra?

Kevin Kincaid: We wouldn't know if they own this lot or not. Right now, they are just asking to extend the conditional use that already exists, they are not asking to expand the number of seats or tables.

Judy Jucker: And I'm fine with that, I love them as a neighbor, they're great. But if they're going to expand into the area behind them, I am just concerned about more congestion.

Conner Dowling: All we have in front of us today is about what is currently existing, and

the conditional use application to continue that. We don't know, and we don't have any information, about plans for further expansion.

Kevin Kincaid: Regarding illegal parking on the street, that would be a police matter. As a Board, we would not have any knowledge of future plans for Kookaburra to expand, unless they applied for a permit or a variance for expansion or whatever.

Brian Law: At this time, the City is not in receipt of any development plans for the existing Kookaburra. The matter under discussion by the Board now is limited solely to what they are asking for in the conditional use application. I would ask the Board to discontinue any future development conversations because we don't have any information to provide.

Kevin Kincaid: The only reason they are here tonight is because they had a five-year conditional use permit that has now expired.

Judy Jucker: And I'm all for extending that.

Sandy Eyerly, 107 3rd Street, St. Augustine Beach, Florida, 32080: I live directly across the street from the Juckers, and I love Kookaburra as well, it is a great business, but I'm glad they're only open until 10 p.m., as parking really is an issue. Cars park all the way up and down the street from the stop sign at A1A Beach Boulevard to the stop sign at 2nd Avenue. There is no visibility coming in and out. There was an accident last week, involving a motorbike or a scooter coming around the corner onto that section of the street where the congestion is really bad. I'm sure the number of parking spaces for the business must be in relation to its size, but if you add six picnic tables outside, that is another 36 people.

Kevin Kincaid: I do not believe that is what the application is for. It is not for additional seating, it is to continue something that is currently already in place at Kookaburra.

Brian Law: Yes, this is simply a continuation of an existing approved conditional use permit for outdoor consumption of food and beverages.

Sandy Eyerly: Right, but that is pretty broad. They have an outdoor deck that has about six tables that seat about 24 people. Over the past few years, they've added picnic tables, and as Judy said, they have been clearing the lot behind Kookaburra, so as far as seating goes, adding more tables means more people will be coming and looking for parking.

Kevin Kincaid: Does adding more seats go to Code Enforcement? Because it is not in this Board's purview.

Brian Law: It is not in the Board's purview at all. However, the current parking regulations do not address seating, but are based on square footage and gross floor area, defined as the area used for the serving and consumption of food and beverages. Some jurisdictions may require one parking space for every three occupants, but this City does not base its parking regulations on occupancy or the number of seats. If there are parking issues you feel are not in conformity with City standards, I would encourage you to call the Police

Department, which is the only department that has authority over that. Code Enforcement has no authority over illegally parked cars because technically, this is in the public sector. We have a resident self-service portal online, with a direct link to it from the City's webpage, and anyone can submit comments about anything going on in the City they have concerns about, and these comments will be forwarded to the appropriate staff members, whether it be the Public Works Department, Police Department, Building and Zoning Department, Planning and Zoning Division, or Code Enforcement. At this time, I am unaware of any Code Enforcement cases pertaining to Kookaburra, and we are simply here to consider extending the business's conditional use permit for outdoor dining.

Sandy Eyerly: Okay, well, I don't know if the agents from Kookaburra are here or not.

Brian Law: If I may remind the Board, order needs to be maintained. Residents are more than encouraged to speak, but they can't ask staff questions and they can't ask members of the public questions. Residents may only address public comments to the Board.

Kevin Kincaid: I wish I had a different answer for the residents who have spoken regarding the issues they are experiencing, but they are not issues the Board can remedy. I would advise these residents that there are other venues they can pursue regarding these issues.

Sandy Eyerly: One remedy to consider is something like the sign Saltwater Cowboy's used to have up saying something along the lines of, we care for our residents, please keep in mind that we are in a residential area. If Kookaburra could put up a nice sign saying, "Respect Our Neighbors," or something similar, perhaps people would think twice about turning around in residents' driveways all day long. My husband was nearly run over by someone who didn't even look before driving their vehicle straight onto our property.

Kevin Kincaid: Okay, thank-you very much. Does anyone have any questions for staff or for the applicants? Hearing none, do we have a motion?

Motion: to approve Conditional Use File No. CU 2023-04, for renewal of a conditional use permit for food and/or beverage service and consumption outside of an enclosed building on the premises of a restaurant, The Kookaburra Coffee Shop, in a commercial land use district at 647 A1A Beach Boulevard, St. Augustine Beach, Florida, 32080, for as long as the current applicants own the current business. **Moved** by Conner Dowling, **seconded** by Hulsey Bray, **passed 5-0** by the Board by unanimous voice-vote.

B. Land Use Variance File No. VAR 2023-06, for a reduction of the minimum parking requirements for proposed expansion of outdoor seating areas for food and/or beverage service and consumption outside of an enclosed building on the premises of a restaurant, Crabby's Beachside of St. Augustine, in a commercial land use district at 361 A1A Beach Boulevard, St. Augustine Beach, Florida, 32080, Greg Powers and Keith Diaz, Agents for 361 Beach Holdings LLC, Applicant

Jennifer Thompson: These next two items go hand in hand. The first is a variance application for Crabby's Beachside, formerly known as Panama Hattie's, at 361 A1A Beach

Boulevard, for a reduction of the required number of parking spaces for this restaurant. Currently, Crabby's has 46 parking spaces, including two handicap spaces. They'd like to increase the seating area on the first-floor outdoor patio by 360 square feet, and they also want to expand the seating area to include a 400-square-foot second-floor outdoor deck. For restaurants, the City's Land Development Regulations (LDRs) currently require one parking space for every 55 square feet of gross floor area, so this first item is a variance request for a reduction of the required number of parking spaces. The second item is a conditional use permit application to allow the consumption of food and beverages outside of an enclosed building on the first-floor patio on Crabby's east side.

Kevin Kincaid: I remember we brought this up a couple of months ago, when Crabby's was changing the whole front aspect of their business. I don't know how many parking spaces were lost at that time, but if I remember, when Panama Hattie's went through the whole renovation process after the hurricane and was closed for a couple of years, what sticks in my mind is that there were 57 parking spaces. Obviously, there are not 57 parking spaces now, there are only 46. Does this meet the current parking requirements?

Jennifer Thompson: No. One parking space per 55 square feet of gross floor area would require Crabby's to have over 140 parking spaces. At the time of the decision to approve the final development order for the rebuild of Panama Hattie's, the parking plan proposed in 2018 showed 50 parking spaces [EXHIBIT A], and this was approved as part of the development order. It is stated on this parking plan that the size of the standard parking spaces are 9-feet-by-18-feet. However, requirements per the LDRs are 9-feet-by-20 feet for standard parking spaces. That is essentially where the lost parking spaces occurred. To meet parking space size per the LDRs, the 50 parking spaces were reduced to 46. When Crabby's redid its parking lot earlier this year in January, they maintained the 46 parking spaces that were already there when the new owners purchased the business.

Kevin Kincaid: Okay. So, what you are saying is that at the current size of the building, 140 parking spaces would be required.

Jennifer Thompson: Over 140 parking spaces would be required, yes.

Kevin Kincaid: And they now want to increase the gross floor area by over 700 square feet and decrease parking?

Jennifer Thompson: They would maintain the same amount of parking spaces that they currently have. They are not asking to decrease what they currently have. They are asking, per the variance, to reduce the required number of parking spaces per code.

Kevin Kincaid: How many parking spaces were eliminated when the pavers were put in for the patio out front?

Jennifer Thompson: None. They had to reconfigure the parking lot to maintain the same number of parking spaces when the lot was redone in January, to still have the 46 parking spaces that Panama Hattie's had. The number of parking spaces didn't change, just the

configuration of the spaces, which they got a little creative with. There is one parking space no one can park in after 3 a.m. to allow the garbage truck to get to the dumpster.

Kevin Kincaid: Okay. So, if over 140 parking spaces are what would be required right now, what would be required with the additional 700 square feet of outdoor seating, if one parking space is required for every 55 square feet of gross floor area?

Brian Law: About 14 additional parking spaces would be required. When the original development application for the rebuild of Panama Hattie's was approved, there was a proposed parking plan based on the best they could do. It did not work, as there was not a way to safely put in the parking spaces they wanted, but they never lowered their parking below what they had, as it was the general consensus of both this Board and the City Commission that they not have less parking than what they started with. That is how we got to this point. The recent reconfiguration of the parking lot was checked out many times by the Planning and Zoning Division and I also went out there and looked at it.

Conner Dowling: Brian, when you say they started with 46 parking spaces, do you mean prior to the updates that Panama Hattie's made?

Brian Law: In the retrofit of the existing facility in 2018 for the newly renovated Panama Hattie's, there was an attempt from the designers to try to get a few more parking spaces in, but it just didn't work. The way that building is shaped and the way that lot is angled made the proposed new parking plan very unsafe, but they never decreased the number of parking spaces below what was there to start with prior to 2018. All along, even with this recent exterior renovation, the same number of parking spaces have been retained, but as Ms. Thompson said, some spaces have been relocated and reconfigured. There is some parallel parking and I believe they used a porous paving system on the western side, behind the building, which allowed some of the spaces to be moved around a tad for enhanced safety for vehicular traffic coming in and bending around the building corners.

Kevin Kincaid: If we entertain this variance for parking that is just basically nonconforming now, will this make it conforming, or will it remain nonconforming?

Brian Law: it would remain a nonconforming status, as it is nonconforming. You can't make something that is nonconforming conforming by granting a variance, but if the Board sees fit to grant this variance, you have to think outside the box a tad. Many people walk and ride bicycles, and I believe the applicants included in their submittal documents a log that has been kept of walk-up and bicycle customers. This is not an unheard of way to get real-time data. The City has been trying to shift to a walk-up or pedestrian-friendly community with the Vision Plan, so that is what the applicants are somewhat relying on.

Jennifer Thompson: I have one more thing to add. There was an email sent to Board member Conner Dowling from Karen Zander [EXHIBIT B]. You all were provided, next to your packets, a copy of this email, regarding a previous conversation Ms. Zander had with the previous Building Official, Gary Larson, about the Federal Emergency Management Agency (FEMA) substantial improvement 50% rule. I want to point out and clarify that

this substantial improvement rule pertains to flood plain management and FEMA rules versus the City's LDRs, and I just want to make sure you all got this information.

Kevin Kincaid: Okay, so this FEMA rule does not affect this.

Jennifer Thompson: It doesn't affect the parking specifically.

Brian Law: It is apples and oranges, sir, as one is a federal floodplain management rule, which Crabby's Beachside is in total compliance with, and as a commercial property, it opens the doors for us to have other avenues of compliance. Architects were brought in to design the flood-resistant construction, the compressors were elevated four feet off the ground, and it has a commercial flood-proofing system approved by FEMA.

Conner Dowling: Jennifer, one more question for you. I saw on the variance application that the applicant noted Salt Life's variance for parking, and I just wanted you to confirm this with what the applicant wrote on this variance application for Crabby's Beachside.

Jennifer Thompson: In the Planning and Zoning Board meeting minutes for the variance granted to Salt Life back in 2012, it was discussed that the requested reduction and size of parking spaces was found to be in conformance with the number and size of parking spaces provided by other restaurants and commercial establishments in this area of the City. Salt Life was granted a variance to reduce the number of parking spaces to 69.

Larry Einheuser: The owner of Salt Life also bought the business behind Salt Life, so it has the capability of valet service for parking in the adjacent business in back of Salt Life.

Brian Law: Salt Life recently purchased this property, but they had a lease on this property before that, and there was some competition to purchase it.

Jennifer Thompson: At the time the variance for Salt Life was granted, in 2012, I don't believe they had that valet service for that additional parking.

Brian Law: I can't speak to that, as I don't have that information. I do recall Salt Life having valet parking almost since it opened, but that would have been a private lease.

Kevin Kincaid: Thank-you. If we could now hear from the applicants, please.

Keith Diaz, 4703 North Rome Avenue, Tampa, Florida, 33603, Agent for Applicant: I represent Beachside Hospitality Group, Crabby's Beachside of St. Augustine, and I will be happy to answer any questions.

Rhys Slaughter: Is the request for the additional outdoor seating purely for beautification and to help the flow of the restaurant seating go more smoothly, or is it geared more toward stacking in as many tables as you can? Because I think that is the kicker as to whether the variance to reduce the parking is going to make a difference or not.

Keith Diaz: I think the goal here is to engage the community on all three sides of the building. Right now, coming from the north, you see the vacant deck on the second floor, because Crabby's does not have the parking to accommodate seating on this deck. There are a few tables outside for people to sit at while waiting for a table, but no dining service is provided from these tables, so from the ability to engage people at street level, that's what the conditional use application for the first-floor outdoor seating is for. The variance for the reduction of the required number of parking spaces is for the ability to open up all sides of the building, including the vacant second-story deck, to the community.

Hulsey Bray: How many additional people would you say Crabby's will be able to serve if this variance is granted?

Bruce McElhone, 79 Natureland Circle, St. Augustine, Florida, 32092: I'm the general manager for Crabby's. The additional outdoor seating is for approximately 48 more seats.

Kevin Kincaid: What would you consider to be the hardship here? One of the things the Board has to look at is whether the variance request demonstrates a hardship.

Keith Diaz: The hardship is not being able to add more seating without increasing parking for Crabby's. We do not have the ability to lease any land around us to stack parking on adjacent properties. I am assuming we share parking with the City's pier parking lot across the street, where people park to go and enjoy a day at the beach, and some of them then come over to the restaurant to eat before leaving to go home. The hardship is parking.

Kevin Kincaid: I understand that, and I don't want to argue with you, but that is almost a self-created hardship because the more seating you have, the harder it gets to meet the parking requirements. That's not a hardship for us, because a hardship is something that prevents you from using your property in a viable and economic way, basically. I struggled, when reading through the application information, to find what the hardship is. The last residents up here for the conditional use for outdoor seating for Kookaburra were here about parking issues, not about the business. They are okay with the business, but they are not okay with the parking issues up and down their street. As a beach community, parking is an issue for us all day, every day, especially during the busy times. I appreciate Crabby's being here, I eat there all the time, and I love it. But almost every night I go there, the parking lot is full, and if you add another 48 diners, even if they are not all going to drive to Crabby's, where is all that overflow parking going to go? The City will have to deal with all that overflow parking, and then the hardship, I think, is going to become ours for allowing a variance to a rule that exists to protect City residents and to protect the overall integrity of the City. That is why I am having a hard time getting to a hardship for your business not being able to provide parking for that many more people.

Keith Diaz: Crabby's has numerous restaurants in similar beachside communities that also have a lot of walk-ups and/or biking traffic. This is a big driver for Crabby's, as these different modes of transportation play a significant factor in their businesses.

Conner Dowling: On that, it seems like the lack of parking that already exists is accommo-

dating for that and working well, but I think it's a little bit hard, for us as a Board, to assume that the extra seats are all going to be walkers and bike-riders, necessarily. The way the parking code works is based on gross square-foot floor area, so I don't know if there may be a way to remove some of the seating inside Crabby's that may not be as popular and relocate this indoor seating to outside seating, perhaps on a one-to-one swap out, if that is feasible to talk about. I think a situation like that would personally make sense to me, because that's effectively a net zero gain or loss for the restaurant patrons.

Keith Diaz: So, would the City then be looking to restrict the number of occupants inside the building?

Conner Dowling: I am suggesting you restrict the number of seats to what you currently have, so that you have less indoor seating to accommodate what you are asking to add outside with the two new outdoor seating areas.

Brian Law: Only the Building Official can reduce occupancy and I have no interest in going against signed and sealed plans from an architect. We have no ability to tell the restaurant they have to remove 20 seats from inside to put 20 seats outside, this is totally unenforceable by any mechanism the City has. We'd essentially have to police the seating inside and this would potentially open up the restaurant to bogus complaints. In a perfect world, yes, I understand what you're saying, but unfortunately, we could never get there.

Conner Dowling: You would have to have an architectural solution, then, such as building an enclosed storage room or something like that, right?

Brian Law: I am not in the restaurant business, but I honestly do not see that as a viable option, even though I know where you are going, and I think it is a great idea. If you look at the variance order, which was really well-written, for Salt Life in 2012, Ms. Thompson highlighted condition number three of the order approving the variance, which states, "The requested reduction in the number and size of parking spaces granted herein is in conformance with the number and size of parking spaces provided by other restaurants in the City." Talking about hardships, that is a pretty good one, and this was something drawn to the Board's attention at the time Salt Life applied for the variance. The fact is, Crabby's is an existing restaurant on an existing lot, the building was rebuilt but did not get any bigger, as the square footage of the building footprint is still the same. Do we want to encourage outdoor dining? We all just suffered through multiple years of a pandemic, where outdoor dining was the only way for restaurants to generate revenue and keep residents employed and fed. This is a good time for the Board to think in conjunction with what we want the City to be in the future. Do we want strict parking codes that essentially prohibit all future development? All of you have lived here a long time, you know the lots are just flat out too small, and the commercial developments are too small. If a restaurant isn't of sufficient size, it can't generate revenue. Much like a hotel, if it doesn't have enough rooms, it can't generate profits. I think we will see more and more requests like this, so I would ask that you take a leisurely stroll down A1A Beach Boulevard and think of all the restaurants we have and all those parking lots. That is really all I can offer the Board at this time unless anyone has any technical questions.

Kevin Kincaid: Speaking for myself, I understand and completely appreciate what they are asking for and what they do as a business, I think it is awesome. My issue here is, if the City is going to have parking requirements that only create variances that try to get around them, maybe we shouldn't have these parking requirements, because I don't think our position here should be to determine whether or not the parking regulations are valid or reasonable each time somebody decides they want to have a business. I think the walk-up concept is great as well, my issue is the variance process, because we are looking at a variance right now, and we have been asked by the City Commission to provide some backup and reasoning if we decide to grant it. Again, I want to encourage the business and help it not only survive but thrive, to the extent that we can as a community, as I think it is a benefit to the whole community to have Crabby's here. But I'm worried about the next restaurant that wants to open up and says well, Crabby's had a variance because they didn't meet the parking requirements originally, and then they came back to make the variance even bigger because they wanted to serve more people with the same amount of parking. I think we are going to have a hard time as a Board defending that position because of the precedent it sets for the next variance applicant, as this is not a hardship created by the City or the property itself or by something that is outside of the property owner's control. That's what I am looking for with the hardship, because we require everybody who asks for a variance to provide a hardship the Board can evaluate.

Bruce McElhone: Just from an operational standpoint, we have a 45-minute to one-hour wait time sometimes, and it is because customers want to sit outside. It does not matter if there is seating inside or not, they are there for outdoor seating. So, they are waiting, and they are already parked. If we have the additional seats on the patio, we could actually feed them and get them out quicker. They are already there sitting on the couches out there and enjoying the live music outside on the paver patio, but we just can't provide any service to them, as we are not allowed to serve food and beverages to them because this would be additional outside dining. But those people are already there and already parked, so I don't think the conditional use for the additional outside seating is going to affect parking to any great extent. I think if you take into consideration the walk-up and bicycle customers along with the people that are already there, I don't know that much would change with this additional seating. If anything, I think it would let us open up some of the parking spaces quicker by getting people seated out on the patio, because they are already there, waiting on the patio, whether it is open for outdoor seating or not. They don't want to sit inside, they are coming to enjoy that outside area.

Kevin Kincaid: Do you have any idea where the overflow parking is going now?

Bruce McElhone: I think they are parking across the street, in the pier parking lot, but I think we also get a lot of walk-up customers coming from the beach. We did that study that logged in walk-up customers and found our business directly correlates with the weather conditions outside. When the weather is nice, we're busy at lunch and dinner times and when the weather is not nice, we are not busy. Aside from the pier parking lot across the street, and the public parking on 16th Street, which I've heard referenced quite a bit for parking, I don't know where else people are parking if they do not park in our lot.

Kevin Kincaid: The pier parking lot is a County-owned parking lot, so we do not care, that is the County's to regulate. They have been talking about putting in meters and whatever for years, and if they do that, this may affect your overflow parking. Have we had any complaints from nearby residents about parking in regard to Crabby's, that we know of?

Jennifer Thompson: No, not in regard to Crabby's, or any other business in that specific area.

Kevin Kincaid: This area is pretty much surrounded by fences and other businesses, so it is not like they can overflow parking to a neighborhood or to somebody else's business.

Keith Diaz: There are condominiums to the west of Crabby's, but that is about it.

Kevin Kincaid: There is a fence around these condominiums, so you can't get in there to park anywhere.

Jennifer Thompson: Also nearby is the public parking on the east side of Pope Road.

Larry Einheuser: The upstairs deck on the northeast corner was open before, when Panama Hattie's was there, correct?

Brian Law: No. That was the original roof over the drive-thru of the package store Panama Hattie's had a long time ago. To be used for outdoor seating, it will have to be evaluated by a state-licensed engineer and architect for new life safety plans, and occupant live load and dead load. Right now, this area is fenced off.

Hulsey Bray: Okay, so you want to add about 48 more seats, and I understand everybody wants to sit outside, but I also understand St. Augustine Beach. If you build it, they are going to come. How many more employees will you need for an additional 48 seats?

Bruce McElhone: We are actually probably over-employed, currently. We've got everybody on three days a week, as we have a significant staff on right now waiting to work their way up to five or six days a week and now that we are open for breakfast, everybody is jumping at the chance to work those extra hours.

Hulsey Bray: The study that logged in the number of customers who parked offsite showed this to be about 34%. It was mentioned that 16th Street and our neighborhoods are often used as parking for local businesses, and even though this parking is in the right-of-way and it is technically legal and is public parking, it is still in our neighborhoods, and a lot of folks live behind businesses, just like those ladies who were speaking earlier about Kookaburra customers parking all up and down their street. Crabby's is already 100 parking spaces under what it should have, and it is now asking for an additional 48 seats. This is a lot more people per hour during busy times, and a lot more traffic.

Keith Diaz: As Bruce already mentioned, these people may already be at Crabby's, waiting for a table outside to dine at during good weather. When the weather is bad, everybody

can park onsite for the most part, because it is not as busy. Also, 48 additional seats may not be 48 net new seats, as Crabby's may like to move some of their inside seating outside.

Conner Dowling: How many seats does Crabby's have right now?

Bruce McElhone: We have 240 seats.

Kevin Kincaid: Can we take one more stab at what the demonstrated hardship is?

Keith Diaz: I think the hardship is the customer service and Crabby's being able to pull people in that are waiting for 45 minutes to an hour for outdoor seating. If we can expand the outdoor seating and service patrons quicker, it's better customer service on our end, and this brings more people to the beach.

Kevin Kincaid: Okay, thank-you. Do we have any public comment on this?

Jeff Jabot, 712 Promenade Pointe Drive, St. Augustine, Florida, 32095: I own Salt Life Food Shack, at 321 A1A Beach Boulevard. My main reason for coming here tonight is that I know Salt Life is talked about a lot, and I just want to clarify that yes, it's true, I did get a variance for reduced parking for Salt Life, but I want you to understand that when I got that variance, I had a deal with the neighbor to the west of Salt Life to lease space for parking. Salt Life opened up on day one with 125 parking spaces, and that does not include the valet parking that has since been added. I don't think anybody really understands the parking problem we have down here, especially in the summer. I want Crabby's to know I really appreciate them coming here, and I'm sorry, because I feel bad, as I am a restaurant owner too and I know what it is like. I just want to explain the expense I've had over the past nine years doing what I said I would do, which was to keep Salt Life's customers and employees out of the pier parking lot. I've spent over \$866,000 in expenses in the past nine years, first structuring a deal with Don Craven, the owner of St. Augustine Beachfront Resort, on the property Embassy Suites now occupies, in addition to the parking lot to the west of Salt Life, which was Andy Gessell's warehouse/storage facility, to provide additional parking for employees and customers. I had the same deal with Key International after it bought the St. Augustine Beachfront Resort property, until construction of Embassy Suites began. When Key International expanded Embassy Suites, they came to me and I provided additional parking for them so they could keep their workers from using the pier parking lot. This lot is very important, and I did what I said I was going to do. If this variance is granted, I am afraid it will set a precedent and then everybody can do it. I could add another floor to Salt Life and go up to three stories or expand out. You have to think about all the other restaurants, like Mango Mango's, where Rick Worley bought additional property for parking on the side, and Sunset Grille, where Pete Darios and Mike Rosa leased the lot which they eventually bought across the street from Sunset Grille to provide more parking. It cost them a lot of money to buy this lot, and I overpaid for the lot to the west of me. I did that because I didn't want to lose the parking I promised the City I would make sure I had. We've had a problem down here with parking for a long time. It is true that a lot of Crabby's customers and employees park in the pier parking lot, as they have nowhere else to park. Crabby's should try to find

a solution as I and other restaurant owners have done, because if the Board grants this variance, this will open it up for a lot of other stuff to happen that I don't think will be good. I've spent \$866,000 to find a solution to the parking problem, as this is what I said I would do from day one, and I could actually currently provide 188 parking spaces, based on the property I own, and this doesn't include the valet parking, which could add another 40-50 parking spaces on top of that. Salt Life did its job in the community, and I just want to bring that to everyone's attention, because everyone keeps bringing up Salt Life.

Conner Dowling: Can you clarify the variance granted to Salt Life to allow the parking to be reduced to 69 spaces, versus the 125 spaces you said Salt Life has had from day one?

Jeff Jabot: I was granted a variance because I had 69 parking spaces at Salt Life when I started out developing the property. The reason I got the variance to reduce the required number of parking spaces was because the Planning and Zoning Board at that time found that the requested reduction in the number and size of parking spaces was in conformance with the number and size of parking spaces provided by other restaurants and commercial establishments in this area of the City. This was talking about Panama Hattie's, because Panama's at that time had 43 parking spaces and was a 10,000-square-foot building. So, the variance allowed a reduction in the required number of parking spaces because Panama's and other restaurants in the City also did not have the required number of parking spaces, and the Planning and Zoning Board felt it was not fair to hold Salt Life to a totally different standard. I promised to get additional parking for Salt Life, but I was granted the variance because the Board used Panama Hattie's, Sunset Grille and Mango Mango's as examples of other restaurants that also did not have enough parking. It was like the Board was saying that Salt Life should be on the same playing field as other restaurants. The difference, however, is that I spent a lot of money leasing and then buying that property to the west of Salt Life to provide additional parking for the past nine years. I have valet parking, I have golf carts, and from day one, I've never stopped improving the parking capacity for Salt Life. If I told you what these golf carts and the valet parking costs per year, it would amaze you. Why do I do it? Because I know how important that public parking lot at the pier is for the community and the residents to be able to park there and enjoy the beach, and yes, they occasionally walk over and come to enjoy our restaurant and they do come back. So, I got a variance for a reduction to 69 parking spaces. I think Salt Life needed 118 spaces, but from the day Salt Life opened, I had 125 parking spaces. I procured the additional parking spaces on my own, and this did not include what I could valet park on the lot next door. I was working on this lease before I even got the variance because I know how important parking is in the City.

Rhys Slaughter: I think it is hard to correlate exactly how many parking spaces are going to be needed for the efficiency of a restaurant, and I see both sides here. If Salt Life just magically went from 188 parking spaces down to 46, I think it would be hurt financially, business-wise, as the customer flow would not be there and potential customers are going to make a decision to go elsewhere. In addition to how great an operation Salt Life runs, I think a lot of people go there because it is easy to park there and you're in, you're served, and you're out, it's fast. If you don't have enough parking for customers, some people like me who are very impatient aren't going to stay. I don't know if the number

of parking spaces versus the number of tables a restaurant has necessarily correlates to how efficiently the place is run. Having more seating might alleviate the overflow of customers waiting for that precious outdoor seating. I get that, and I also get the argument from the owner of Salt Life about how much he's invested in parking. We appreciate that, and how much that has added to the City of St. Augustine Beach.

Conner Dowling: It is interesting to hear Salt Life's representation and the argument for setting a precedent. This does not worry me as much, because I feel that door is open already. Crabby's is operating with 46 parking spaces and is already at a huge deficit regardless of whether the additional square footage of outdoor seating is approved or not. That could be brought up to the City Commission by any number of business owners on the Boulevard right now, without anything the Board is looking at tonight really having a big impact one way or the other. Again, they are not talking about taking away any parking, which I appreciate, they are just adding outdoor seating. So, I'm still kind of torn, because I think it is an issue regardless of whether what they are asking for is approved or not. I think the email sent to me essentially has nothing to do with Crabby's, but was from someone who was curious as to how Panama Hattie's was allowed to rebuild and reopen in 2018 with the limited number of parking spaces it had to begin with. But that is where we are right now. Panama Hattie's was allowed to reopen in 2018 with the number of parking spaces Crabby's now has, and that is why they are here, I guess.

Kevin Kincaid: I was on the Board in 2018, and there was a lot of discussion and concern over parking, and the lack of parking, at the time. The Board obviously got by it and granted the variance to allow the owners of Panama's to continue the business. This is a difficult situation, as it's a large building which seats and takes care of a lot of people, and it is on a small lot. The configuration of the lot, because there is so much building on it, doesn't leave room for additional parking. So, I do think there is a hardship created with the small lot configuration, and Crabby's does not have the opportunity to lease a next-door lot for parking, as far as I know. I don't know that the opportunity exists to do what the owner of Salt Life was able to do to lease different things to create more parking. My bigger concern is the precedent. I do agree that the precedent has already been set, we've allowed a business to exist and overflow the parking. We know the parking overflows from Crabby's parking lot probably every night. It is a popular place, and I don't think they can reasonably park everybody onsite, that is just my opinion. But to extend the precedent, to recognize that we have already created a variance and we have already allowed this business with significantly less parking than it is supposed to have, and now to just say, well, we've already done that, why not just open the doors and let them have another 700 square feet, don't worry about the parking, that I do have a problem with. This sets another precedent and I think we need to reasonably look at their ability to run a business if they have to close up because they didn't get this variance and they can't serve enough people to make it financially feasible to run an operation here. I don't think this Board or the City Commission or anybody else has any desire to run businesses out of St. Augustine Beach. I'm torn about this, just personally, because I do want to support the local businesses. I don't know what Panama Hattie's story was, but I'm glad Crabby's came in and took over the business, they've obviously become pretty successful fairly quickly. I don't want to get in their way, they know how to run their business, but on the

other hand, I don't want to say the parking regulations are arbitrary and we don't need to support them just because they exist. I also want to recognize what other businesses have done for the City in honoring their obligations and keeping their word to provide parking, because they know what a problem parking is. Visitors benefit and the City benefits from having lots of visitors, but residents are the ones concerned about parking and the overflow running into the neighborhoods when businesses don't provide enough parking. I don't think there is a lot of impact on residences around Crabby's, because there are not a lot of residences around there, but again, my concern is just the precedent that is set by ignoring the parking regulations once and then doing so again. Was there a variance allowing the current 46 parking spaces before Panama Hattie's was rebuilt?

Brian Law: There actually wasn't a variance granted for parking reduction in 2018. This was handled through the concept review and final development order for the Panama Hattie's rebuild, because the building repair was in excess of 50%, meaning it tripped the threshold for substantial improvement in the zoning code. The FEMA code, which was addressed in the email copied to the Board, is not something any sitting board in this City has authority over, as authority over this resides in the Building Official. So, getting the zoning code and FEMA code mixed up in the email was very misleading. The bottom line is, the reduction of the required number of parking spaces was done with the final development order for the rebuild of Panama Hattie's, and not with a variance.

Kevin Kincaid: So that building has never had a variance for a lower parking threshold?

Brian Law: Not that I am aware of, but it may have, maybe back in the beginning of time.

Kevin Kincaid: The final development order, then, grandfathered the existing parking to the existing building, and this is the first variance application that has been submitted for a reduction to parking requirements. We are not being asked to expand a previously approved variance granting a reduction in the required number of parking spaces.

Brian Law: And you were right when said you remembered there was a room full of people here to discuss parking, building height, changes to the building with the rebuild, and landscaping plans, all of which were discussed at both the Planning and Zoning Board and City Commission hearings for the concept review and final development applications. For the last 10 years or so, final development orders for commercial development over 3000 square feet have ultimately been approved or denied by the City Commission.

Hulsey Bray: On summer days and holidays, I still have to go to work, and drive down A1A Beach Boulevard. There are tons of people, traffic, dogs, and electric bikes, and Crabby's has 100 parking spaces less than what it is supposed to have, today. Granting this variance to allow a further reduction in the parking requirements will not benefit the residents of our community. It will benefit Crabby's and the folks who have travelled from the northeast or Georgia or wherever, who will be able to be seated outside quicker and more easily. It is not going to benefit County residents who can only park at the pier parking lot or in someone's neighborhood to go the beach. It will not benefit any City or County residents, and with that being said, I make a motion to deny the variance request.

Kevin Kincaid: I am assuming that we cannot grant approval to one of these applications without granting approval to the other.

Brian Law: I would ask that the Board first vote on the variance application, and even if it not approved, you will still need to consider and vote on the conditional use application.

Kevin Kincaid: I guess my question is, if the variance is denied, does the conditional use permit application become moot, or could it still be granted?

Brian Law: The Board would still need to vote on it, as it is still a legal application appearing before this Board. The conditional use application could still be granted, as the Board has a wide latitude of power. Without officially telling the Board what to do, I would recommend the Board consider the variance first, and then use that decision in the consideration of the conditional use application. You may need to have additional discussion for the conditional use application before you make a motion and vote on it, but you do understand, I cannot tell you exactly what to do.

Kevin Kincaid: I'm getting that. Okay, we have a motion on the floor to deny the variance.

Rhys Slaughter: Sorry, one more question. There is already some existing seating outside, and this is just to expand the existing outside seating, correct?

Keith Diaz: Can I provide certification to that?

Kevin Kincaid: Yes, but first, we have a motion on the floor. Do we have a second to the motion?

Rhys Slaughter: I second the motion.

Kevin Kincaid: Okay. We have a motion and a second, and now we can have discussion on the motion. I would like to ask that we table the motion for a moment, so we can hear from the applicant again. Okay sir, you may now come back up and speak.

Keith Diaz: Regarding the question about the outdoor seating, there is currently outdoor seating up on the second-floor deck, but no outdoor seating on the first floor. So, that is part of the conditional use application, not the variance application. Going back to what was mentioned earlier about those being separate, the variance is for the second-floor expanded deck area, and the conditional use is just for the first-floor outdoor seating area.

Rhys Slaughter: Thank-you. Apologies for my ignorance again, but if the expansion of the outdoor seating is completely separate, then we could vote to allow Crabby's to use the downstairs area for outside seating as well as the existing outside seating on the second-floor deck, without allowing them to expand the outside seating on the second-floor deck.

Brian Law: If I may, I think we're getting a little off track here. To understand this, you have to understand the definition of gross floor area, and I promise you, it is not what you

think it is. The definition specifically applies to restaurants, and states gross floor area is "The sum of the gross horizontal areas of the several floors, decks, patios and areas used for serving of or consumption of food and beverages of a building measured from the exterior face of exterior walls and outer perimeters of decks, patios and areas used for serving of or consumption of food and beverages or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet." In this City, gross floor area is defined as an area where the serving and consumption of food and beverages takes place. So even an increase of outdoor seating for the serving and consumption of food would technically increase the gross floor area of the structure. Currently, Crabby's has musicians out there, I've witnessed this many times on my runs or walks at night, and there are some benches out there, which they can have. But Crabby's cannot provide food and beverage service out there because that would technically be an increase in gross floor area. The parking requirements for restaurants require one space for every 55 square feet of gross floor area, so as you can see, to increase the outside seating area by 300 square feet for the serving and consumption of food and beverages, even though people are sitting out there already listening to music, technically would require an increase in parking. Hence, the variance needs to be evaluated before the Board can evaluate the conditional use permit application.

Kevin Kincaid: Right. So, if I go back to the question I asked earlier, if the variance is denied, we couldn't grant the conditional use permit to allow Crabby's to expand their outdoor seating or serving area, as this would also expand their gross square footage area, and the Board could not grant this without allowing a reduction in the required number of parking spaces. We could grant the variance without granting the conditional use permit, but we could not grant the conditional use permit without granting the variance.

Brian Law: Your logic is sound.

Kevin Kincaid: Thank-you. Any other questions or comments?

Charlie Douglas: I wanted to ask Brian if, historically, motions have been presented as a negative, or denial, as applicants appearing before the Board are requesting approval. In your experience, have there been circumstances in the history of this Board where the motion comes in the form of a negative, which is to not approve?

Brian Law: There have been motions to deny, and there have also been motions to table applications pending additional information, as well as motions to approve. In any case, a decision to table, approve, or deny an application has to be made at some level.

Kevin Kincaid: Okay. We have a motion to deny and a second on the motion. Is there any further discussion on the motion? Hearing none, let's call for a vote on the motion.

Motion: to deny Land Use Variance File No. VAR 2023-06, for a reduction of the minimum parking requirements for proposed expansion of outdoor seating areas for food and/or beverage service and consumption outside of an enclosed building on the premises of a

restaurant, Crabby's Beachside of St. Augustine, in a commercial land use district at 361 A1A Beach Boulevard, St. Augustine Beach, Florida, 32080. **Moved** by Hulsey Bray, **seconded** by Rhys Slaughter, **passed 5-0** by the Board by unanimous roll-call vote.

C. Conditional Use File No. CU 2023-05, for a conditional use permit for expansion of food and/or beverage service and consumption outside of an enclosed building, consisting of an additional 360-square-foot first floor outside serving area, on the premises of a restaurant, Crabby's Beachside of St. Augustine, in a commercial land use district at 361 A1A Beach Boulevard, St. Augustine Beach, Florida, 32080, Greg Powers and Keith Diaz, Agents for 361 Beach Holdings LLC, Applicant

Kevin Kincaid: Okay, so now we will consider the conditional use permit. We can discuss this, but I do not think the conditional use permit can be approved without the variance, which was just denied. I will make a motion to deny the conditional use permit request.

Rhys Slaughter: I will second that motion.

Kevin Kincaid: Any discussion on the motion, any public comment, or would the applicants like to add any further remarks? Hearing none, let's call for a vote please.

Motion: to deny Conditional Use File No. CU 2023-05, for a conditional use permit for food and/or beverage service and consumption outside of an enclosed building on the premises of a restaurant, Crabby's Beachside of St. Augustine, in a commercial land use district at 361 A1A Beach Boulevard, St. Augustine Beach, Florida, 32080. **Moved** by Kevin Kincaid, **seconded** by Rhys Slaughter, **passed 5-0** by the Board by unanimous voice-vote.

Kevin Kincaid: I would like to make a comment if I could, even though the motions are gone. I want to say that for just me personally, not speaking for the Board, I sympathize completely with the business, and I believe I understand the benefit that Crabby's brings to St. Augustine Beach. I hope there is a way the applicants can appreciate the consideration that has to come from the Board about setting precedent and guidelines, and respecting the current statutes and parking regulations the City has, and I would encourage Crabby's to seek out additional opportunities for parking as the owner of Salt Life has done to alleviate the concerns of the community. If Crabby's can find additional ways to alleviate the already non-conforming parking, I would encourage the applicants to do this and I would like to see this come back to the Board with additional parking alternatives and opportunities to help increase the number of available parking spaces.

D. Review of draft Ordinance No. 23-___, for proposed code changes to the City of St. Augustine Beach Land Development Regulations, Section 8.00.10, pertaining to nonconforming signs

Jennifer Thompson: This next item is for proposed changes to the code for non-conforming signs. In February of this year, 25 local businesses received letters from the City's Code Enforcement Department informing them that their current signs were legal, non-conforming signs that would need to come into compliance as of August 1, 2023.

After receiving this letter, several business owners approached the City Commission to ask that the code be changed to allow their existing non-conforming signs to be grandfathered. So, the draft ordinance before the Board has the proposed code changes which were tweaked by myself, the City Attorney, and the City Commission, and essentially, these code changes remove the current language in the code that says these legal non-conforming signs must be removed as of August 1 of this year, and add that such legal non-conforming signs may be kept until the business wants to do a substantial improvement to the sign or if the sign gets damaged, at which time, the sign would have to come into conformance with the City's sign regulations. The maximum sign height per these regulations is 12 feet, and all of the 25 signs for which the letters were sent from the City's Code Enforcement Department were over that maximum height limit of 12 feet.

Kevin Kincaid: So, the proposed code changes would not allow any new signs to be non-compliant with the current sign regulations but would allow any existing non-compliant signs to be grandfathered.

Jennifer Thompson: Yes. Those 25 businesses that were contacted earlier this year would be allowed to keep their existing non-conforming signs as they are until they become substantially damaged or until a business owner wanted to make major changes to a non-conforming sign, at which time, the sign would have to come into compliance.

Kevin Kincaid: Were all these signs permitted before the current sign regulations went into effect?

Jennifer Thompson: Yes, I believe so, as these 25 signs are all fairly old. However, I haven't gone through the entire list of 25 to see if there were any variances granted to allow them to exceed the 12-foot height maximum for signs.

Brian Law: The sign code was changed as a result of the City's first Vision Plan, and basically, the effective date in the current code which limits sign height to a maximum of 12 feet was one of the big changes of the Vision Plan. These signs were probably legal at the time of construction, but when the City changes the code, we don't expect immediate compliance, as the changes are more for the future of the City. For example, what does the City want for future parking, signs, and architectural profiling down the road? All of this starts with a vision plan, which then rolls into ordinance formats that are reviewed and tweaked as the changes are brought into the code piece by piece.

Kevin Kincaid: So, is this just trying to be fair to the businesses that have existing non-conforming signs?

Jennifer Thompson: Yes. Signs are quite expensive, and can cost tens of thousands of dollars, if not more.

Brian Law: We're seeing signs coming in at a cost of about \$25,000--\$30,000 for new 12-foot metal signs rated to withstand hurricanes. As this is the first reading of the ordinance, procedurally, the preamble has to be read aloud by the City Attorney.

Charlie Douglas: "Ordinance No. 2023-___, an ordinance of the City of St. Augustine Beach, Florida, making findings of fact; amending the City's Land Development Regulations, Section 8.00.10, non-conforming signs; repealing all ordinances or parts of ordinances in conflict; providing for codification; and providing an immediate effective date."

Kevin Kincaid: Any questions, additions, changes, deletions, or recommendations? Any public comment? Hearing none, do we have a motion to recommend this to the City Commission?

Brian Law: If you recall, the City changed the procedure for ordinances, as this Board was seeing proposed ordinances first but just making a recommendation to the Commission as to whether or not they should be adopted. This procedure increased the number of meetings for the reading of ordinances from the minimum of three meetings to four meetings. As the Planning and Zoning Board is very capable of making decisions to approve or amend a proposed ordinance on first reading, the procedure was changed about a year ago to allow the Board to do this, and this is why the Board now needs to make a motion and vote to approve, amend or deny the draft ordinance on first reading.

Motion: to approve draft Ordinance No. 23-___ as written on first reading and forward it to the City Commission for second reading. **Moved** by Kevin Kincaid, **seconded** by Hulsey Bray, **passed 5-0** by the Board by unanimous voice-vote.

VI. OLD BUSINESS

Jennifer Thompson: Next to your packets, you were all given a copy of an email sent from Amber Halcrow of 1565 Woodworks (**EXHIBIT C**), thanking the Board for the variance she applied for on behalf of a customer, which the Board approved at last month's meeting.

VII. BOARD COMMENT

There was no further Board comment or discussion.

IX. ADJOURNMENT

The meeting was adjourned at 7:19 p.m.



Kevin Kincaid, Chairperson



Bonnie Miller, Recording Secretary

(THIS MEETING HAS BEEN RECORDED IN ITS ENTIRETY. THE RECORDING WILL BE KEPT ON FILE FOR THE REQUIRED RETENTION PERIOD. COMPLETE AUDIO/VIDEO CAN BE OBTAINED BY CONTACTING THE CITY MANAGER'S OFFICE AT 904-471-2122)

POC
~~SECRET~~
PARCEL TWO

CORNER FALLS
 & MASONRY
 WALL

1/2° I.R. (7)
SC444

EAST 207.21 DEEDY
589°460-1E 207.20

1/2" P (7)
NO 10

1 R (9)
LANDTECH
REF PT.
525°49'43"E
1.41'

[illegible]

PAGE TWO
SEP 62
FBI

TWO-STORY
MASONRY FRAME
BLDG. #361

NO. 57007 200.00 (FEED)
 01 200.00 571.57 1.05

STATE ROAD NO. A-1-A (AKA) BEACH BLVD.

RIGHT-OF-WAY NOT VERIFIED

SEASIDE AT ANASTASIA
CONDOMINIUM
STRAPE | 63052 | 000

PARCEL ONE
REFURB
PARKING LOT

TOTAL PARKING = 50
5X22 PARALLEL - (6)
12X18' HC - (2)
9X18' STANDARD - (42)

N88°07'13"W 105.64'
N88°03'00"W 106.00 (DEED)

NO 10

ARCHITECTURAL SITE PLAN
-20-

420.1

Current
Parking
46 spaces
2 handicap spaces

9x20 standard
Parallel 8x22

Proposed in 2018

EXHIBIT B

Jennifer Thompson

From: Conner Dowling
Sent: Monday, May 15, 2023 2:21 PM
To: Bonnie Miller; Jennifer Thompson
Subject: Fw: RE: FEMA 50% Rule

Bonnie and Jennifer,

Could you please take a look at this email that was sent to me regarding an item on the agenda this month and determine if it should be distributed to the full P&Z or added to the record.
I didn't want to forward it to everyone before understanding the proper protocol.

Thank you!
-Conner

From: Karen Zander <karen@97park.com>
Sent: Monday, May 15, 2023 2:10 PM
To: Conner Dowling <pzcdowling@cityofsab.org>; conner@opencityarchitecture.com
<conner@opencityarchitecture.com>
Subject: Fwd: RE: FEMA 50% Rule

CAUTION: This message originated from outside of your organization. Clicking on any link or opening any attachment may be harmful to your computer or the City. If you do not recognize the sender or expect the email, please verify the email address and any attachments before opening. If you have any questions or concerns about the content, please contact IT staff at IT@cityofsab.org.

Connor,

Here's the email chain between Gary Larson and I from back in 2017 when the former Panama Hattie's building (now Crabby's) underwent substantial improvements and therefore did not meet parking code for existing number of seats at that time.

Karen Zander GRI, CIPS
97Park Real Estate
Broker/Owner
Residential / Commercial Real Estate
[Learn Why Our Customers Love Us!](#)

Email [Karen@97Park.com](mailto:karen@97Park.com)
Mobile +1 904-673-4764
Office +1 904-297-3471
Web www.97Park.com

----- Forwarded message -----
From: Gary Larson <glarson@cityofsab.org>
Date: Nov 30, 2017, 7:52 AM -0500
To: Karen Zander <karen@97park.com>
Subject: RE: FEMA 50% Rule

Well aware of requirements. At this time, the plans for re-model have been denied by the City due to wanting to expand outside seating to the North upper wing without additional parking. Where this is at now, there is extreme structural issues with what was there. The South wing is built on railroad ties in the ground. The North wing has rotted timbers in the ceiling. Found in the interior after drywall was removed, openings cut everywhere, hollow concrete block columns holding ceiling and upper level members. When a total damage assessment is made, new plans will be required. The owners have been advised, consider placing the facility on pilings for additional parking underneath. The finished floor is also 1.3 feet below the require 10 foot elevation that needs to be addressed. Most likely, they will have to come before the P & Z for a concept review and final development order issued for the facility. They can also request a variance for parking. Will keep you advised as this issue unfolds.

From: Karen Zander [mailto:karen@97park.com]

Sent: Wednesday, November 29, 2017 12:56 PM

To: Gary Larson <glarson@cityofsab.org>

Cc: Comm O'Brien <comrobrien@cityofsab.org>; Comm George <comugeorge@cityofsab.org>; Comm Kostka <commkostka@cityofsab.org>; Comm England <commengland@cityofsab.org>

Subject: FEMA 50% Rule

Gary,

Below is the language directly from FEMA which would apply to the Substantial Improvement of Panama Hattie's. The 50% Rule, as I stated today, IS A FEMA RULE, not a City of St. Augustine Beach rule. It's my understanding that this substantial improvement language for FEMA supersedes City code.

<https://www.fema.gov/floodplain-management-old/substantial-improvement#0>

https://www.fema.gov/pdf/floodplain/nfip_sg_unit_8.pdf

As we discussed several years ago and you confirmed at that time, the City has always held that anyone doing "Substantial Improvement" on an existing building or a complete tear down and rebuild of that building would have to comply with all current applicable City code. FEMA doesn't give an exception to "staying within the building footprint". Please point me to the portion of City code which gives this exception. If the City of St. Augustine Beach does NOT force all property owners to bring entire building up to current City code, why then has the City applied this 50% Rule in the past? If the City does not hold everyone to this standard, what is the basis for the exception to ANY PART of current code, as that would be arbitrarily applying applicable code?

Please explain to me how Panama Hattie's almost total tear-down of their existing building does not force them to comply with ALL current City building codes, including parking code, as has always been the case and as you confirmed to me would be the case when I spoke to you about Panama Hattie's building several years ago. As I told you today, my clients passed on the purchase of Panama Hattie's when it was for sale because of the opinion you gave me that the entire building would need to comply with current City code if Substantial Improvements were done on the building, including parking code. In fact, I recall speaking with you after the current owners purchased that building, when I asked you how they could have possibly paid the price they paid knowing that the entire building would need to meet current code (including parking) on any substantial renovations. You told me then, "They never once consulted with me. They're screwed."

I am now left to explain to my folks how the current owners are not being held to that standard, and it's truly unexplainable.

Karen Zander GRI, CIPS

Broker/Owner

Residential / Commercial Real Estate

EXHIBIT C

From: [1565 Woodworks, LLC](#)
To: [Planning and Zoning](#)
Subject: 607 11th St - Variance
Date: Friday, April 21, 2023 2:42:50 PM

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Planning, Zoning and Board Members,

I just want to say, thank you, for your assistance and review of this variance. It took a lot of work and consideration. The customer is very thankful that he can expand his home and that the City of St. Augustine Beach is allowing him too.

We truly appreciate all of your help! Thanks again.

Amber



904-907-4250
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