

MINUTES
CITY OF BEAUFORT
ZONING BOARD OF APPEALS
July 8, 2013, 5:30 P.M.
City Hall Planning Room, First Floor – 1911 Boundary Street
Beaufort, South Carolina

STATEMENT OF MEDIA NOTIFICATION: “In accordance with south Carolina Code of Laws, 1976, Section 30-4-80(d), as amended, all local media were duly notified of the time, date, place, and agenda of this meeting.”

Members Present

Eric Powell
Don Starkey
Tim Wood

Members Absent

Brad Hill, Chairman
Rod Mattingly

Staff Present

Libby Anderson, Planning Director

FREEDOM OF INFORMATION ACT COMPLIANCE

Public Notification of the Zoning Board of Appeals meeting has been published in compliance with the *Freedom of Information Act* requirements.

Acting Chairperson Starkey called the meeting to order at 5:30 p.m. He read the Freedom of Information Act.

MINUTES

Mr. Powell made a motion, second by Mr. Wood, to accept the minutes of the May 21, 2013 meeting as submitted. The motion passed unanimously.

REVIEW OF PROJECTS

2212 Spanish Court, Lot #46, identified as District 122, Tax Map 29, Parcel 343

Variance from Requirements for Garage Design

Applicant: Randy Kinnunen of Hutter Construction (ZB13-09)

The applicant is requesting a variance in order to build a single-family dwelling with an attached garage.

Ms. Anderson reminded the public and the Board that three affirming votes are required to approve any of the cases that will be heard tonight. She said that the subdivision is zoned

Neighborhood Commercial which allows single-family development. The applicant plans to build a single-family dwelling with an attached garage. The ordinance requires that garages be behind the front line of the dwelling except on the marsh or water or when the front façade is 100' from the front property line. This application must comply with the ordinance because it doesn't meet those criteria. They want the garage to go 15' beyond the front façade of the dwelling. The Live Oaks Architectural Review Committee has approved the design of the structure.

Ms. Anderson offered staff comments on the photos that the applicant provided of two dwellings in the area; one isn't in the Live Oaks at Battery Creek subdivision but is in a neighboring subdivision, the Riverpoint Neighborhood. That developer received a variance to allow garages to project in that development, Ms. Anderson said.

The other photo provided was of a home in the Live Oaks neighborhood and is of a garage with a room over it that is elevated and projects out, so is therefore okay, zoning-wise, Ms. Anderson said. The majority of homes in the Live Oaks neighborhood have detached garages located behind the house. None have attached garages that are in the front of the dwelling. Public notice has been made, Ms. Anderson said. They have received one public comment which the Board has copies of.

Ms. Anderson enumerated the variance findings:

1. **Extraordinary and exceptional conditions:** Staff feels there are no extraordinary conditions. Proximity to the marsh, the applicant feels, could be an extraordinary condition, but Ms. Anderson said water proximity shouldn't affect the location of an attached garage.
2. **Conditions as applied to other properties in the vicinity:** No extraordinary conditions
3. **Conditions are not the result of the applicant's own actions:** No extraordinary conditions
4. **Granting the variance would not conflict with comprehensive plan:** It is the decision of city staff and council that garages should not project from the front of the dwelling except in unusual circumstances, Ms. Anderson said.
5. **Unreasonable restriction on utilization of the property:** Staff feels this doesn't unreasonably restrict use of the property. The requirement is that the garage cannot be located in the front of the building. "It's a design issue, not a use issue," Ms. Anderson said.
6. **Not a detriment to adjacent property and the public good:** It could be a detriment to adjacent properties, Ms. Anderson said; none of the other houses in this development has a front garage. The neighborhood is not built-out, but there are currently no projecting garages in this neighborhood.

Staff recommends denial because the applicant meet none of these criteria, Ms. Anderson said. Mr. Wood clarified that the neighborhood association had approved the design. Ms. Anderson said yes. The neighborhood's design standards on this issue may be silent, Ms. Anderson said,

but the city zoning ordinance is not. Acting Chairman Starkey said the zoning of the city of Beaufort overrides an architectural review board.

Mr. Wood asked what the difference is between this application and the Riverpoint development. Ms. Anderson said Riverpoint is a self-contained development being developed by DR Horton – a single developer – so it’s developer-owned. Live Oaks has a number of developers in there now, Ms. Anderson said. The lots are individually owned and developed. Live Oaks is about 100 lots, and Riverpoint is far smaller (22).

Paul Cole, Cole Design Studios, represented the applicant. He said while the property is not technically marshfront, the critical line of the marsh does encroach on the property. They have a view of the marsh from the back of the house, which is why they would like to have the garage on the front. The city has a precedent in the acceptance of the DR Horton development, Mr. Cole said. He showed a photo of a house which isn’t exactly the same, but has a recessed façade / porch on the second floor and garages that project forward.

Mr. Powell asked if they were aware of the ordinance before he designed the house. Mr. Cole said he saw the DR Horton homes and was not aware of the ordinance but “saw that there was a situation like the one (he wants) to build.” The house he showed in the photo is directly across the street from the lot in question.

Mr. Wood asked if there were houses that will be built next door that could have an obstructed view because of the garage. Mr. Cole showed where the marsh is and said the view would not be obstructed if the garage were in front. Acting Chairman Starkey asked if it were a tidal marsh or wetlands. Mr. Cole said it’s tidal. Acting Chairman Starkey said, on the drawings submitted, it appears the drawing has changed to make the porch come out to the front of the house, and he asked if that’s what Mr. Cole is proposing. Mr. Cole said it was discussed as an option. It’s feasible to pull the porch out and make it larger. Aesthetically, he doesn’t know if it does anything for the house.

Randy Kinnunen with Hutter Construction said they own lot 46, and lot 45, if they were to build on lot 46, it would meet the requirements to have the garage in front. The owner didn’t want to switch to lot 46 which meets the city requirements for a front garage because it’s on the marsh, but lot 45 “is not considered to be marshfront because it just has part of the buffer.”

Aubrey Swofford, whose house is in the photo that was shown, has lived there six years, recently acquired the lot next door, and has a son who owns the lot behind it. He showed the 98 lots in Live Oaks of Battery Creek. This lot is the only one of all of them that’s not technically on the marsh. Lot 46 appears to be on the marsh but isn’t, according to the OCRM. They feel because it has an OCRM setback, and is the only one of its kind in the neighborhood, that it should receive the variance.

Acting Chairman Starkey said he drove through the neighborhood and said that in most of the neighborhood, except for the front part, “you see a sign saying that you are entering the Live Oaks development.” Most of the 20-30 houses he saw had garages on the side, a corner, or in the back of the lot. The house in the photo, he said, has the garage at the front of the house. The UDO should be read before people design and build houses in this community, but Acting Chairman Starkey sees houses in the county that do not have garages, and “they are a mess looking at how cars park out in front.” “This house fits on the lot like a glove,” Acting Chairman Starkey said, and to get a garage setback, it would have to be a different design.

Mr. Wood said he doesn’t see a big difference between the proposed house and the one that’s already been built (the one in the photo). Even though the UDO overrides the Architectural Review Board, the Architectural Review Board has approved it. Mr. Wood said his only problem is that they “could potentially have 80 other applicants coming in and saying the same thing, setting a precedent.”

Mr. Powell said he hears that, but he agrees that the critical line could be an extraordinary condition, as if it were the lot next to it. Mr. Wood said the little view they do have would be maintained if nothing else blocked it, so to him that’s a viable reason: to preserve as much of the view as they can get. Mr. Powell said they did have a letter from someone who said they prefer not to have it, and he’s also concerned about people coming in for a variance and using this case as precedent.

Rick Lindsey owns a nearby house, and he contended that, if they do allow this, the floodgates will be opened for this variance or another kind of variance. Mr. Cole said he doesn’t feel there will be precedent set because this is a unique situation. Acting Chairman Starkey said if they set a precedent, he’s sat on design review boards where people bring in this type of precedent with their requests. This is not within the boundary of the property; the critical line is only at a corner of the property.

Jeremy Mason, with the Property Owners Housing Association for Live Oaks, said his home was the second one built in the neighborhood. The houses in that part of the neighborhood look generally the same except the one in the photo, which sits in front of a pond, so that is the reason that it made sense to put the garage in front. From what he’s seen for two years, “this neighborhood is becoming the neighborhood of broken rules. You come in, make your plans, and then ask the neighborhood to accept the change,” Mr. Mason said. They are not in the style that was initially planned for in this community. He said he feels personally that this neighborhood has a specific design feel that was planned for, and he feels they should continue to follow those rules.

Acting Chairman Starkey asked Mr. Mason if the Architectural Review Board of the community was comprised of all residents. Mr. Mason said all of them are owners; one is a lot owner and two are homeowners in the neighborhood.

Mr. Powell asked “if the blue sketch would be acceptable with the porch.” Ms. Anderson said that wasn’t meant to be in the staff package. She had talked to **Lauren Kelly**, the city architect, and Ms. Kelly recommended against that as mitigation. Acting Chairman Starkey asked the definition of the front line. Ms. Anderson said in the photo, the front line is the projected room over the garage. This dwelling complies because of that projected room because it’s clearly part of the dwelling.

Ms. Anderson showed the critical area setback. She said the UDO would require redesign of the building, and the garage can be attached, but it has to be *behind* the dwelling.

Mr. Wood asked if they had considered a redesign to come into compliance. Mr. Cole said they had, but it eliminates a view for the rooms in the back of the house. Mr. Wood asked if they had considered going bigger; Mr. Cole said if he had no budget or client, that could work, but their budget is stretched as it is.

Mr. Swofford said the lots out there are not wide, and they all have garages in the back that are attached or are completely separate. There are trees on either side of the lot that the developers have agreed to save. The land out there is 9.5’ above sea level. His house is jacked up because he has to go at least 5’ up, so he went up even more and got the garages by having one under the bonus room.

Mr. Swofford said these houses are better-looking than the DR Horton homes, and he feels sure that the applicant’s house “will open no floodgates ... Mother Nature has made it a marsh lot.” He said the Architectural Review Board originally approved this, but he doesn’t know about it now, because they didn’t know the city’s requirement for marsh waterfront lots. They will have to cut down the trees to do the garage on the back, he added.

Mr. Wood said he’s “leaning toward approval with great reservation.” **Mr. Wood made a motion to grant the variance with the notation of the reservations of other property owners coming before the Board. Mr. Powell seconded the motion.** Ms. Anderson reminded them to discuss the variance criteria.

Mr. Wood said he feels that the fact that they would preserve their view of the marsh makes it an extraordinary and exceptional condition. In regard to the situation being a result of the applicant’s own actions, Mr. Wood said he feels the garage in the back would be a detriment to the lot, and they are trying to do what they can to preserve the view.

In regard to the comprehensive plan, Mr. Powell said redesigning of the house would cause them to lose various trees that they would not lose with the current plan. In regard to unreasonable restriction, Mr. Powell said changing the design would mean a much smaller house if they have to redesign with the garage in the back. Mr. Wood said “they have to make the house smaller or they have to make it bigger and each one is a detriment.” His reservation about granting the variance is that he can’t defend all six of the criteria, i.e., #6: it might be a

detriment to the neighborhood. **On a vote of 2-1, Acting Chairman Starkey opposed, the variance was denied.**

32 Meridian Road, identified as District 123, Tax Map 14, Parcel 145

Appeal to construct a fence

Applicant: Steven M. Ruberti, Owner (ZB13-08)

The applicant is requesting an appeal of the decision of the Zoning Administrator to require removal or relocation of fences that has been located within platted easements.

Ms. Anderson said this pertains to an appeal of the decision of the Zoning Administrator to require removal or relocation of fences located within platted easements. The property is on Lady's Island. It's currently undeveloped. Fences were erected without a permit, and after the fact, the owner applied, but staff denied the application because two portions of the fence were located in easements on the recorded plat. She showed the two easements on the property in question.

Ms. Anderson said the access easement on the north property line is to provide access to Tract 3. When Tracts 1, 2, and 3 were subdivided, the DOT said that they had to share the driveway originally on Tract 2. They applied for access for Tract 1 and that was permitted, but Tract 2 and 3 still share a driveway. One portion of the fence is within the access easement, Ms. Anderson said. There's an opening in the fence to enter Tract 2. Tract 3's owner has informed staff that he doesn't feel the opening in the fence is sufficient for him to access his undeveloped property. Staff's opinion is that the applicant can access all 50' of the original access easement.

The applicant has provided excerpts from the DOTs manual in regard to how to get encroachments, Ms. Anderson said. He said he has provided access to meet the DOT standard. Whether that's true or not, Ms. Anderson said, the fence has been erected, and the owner of the adjacent property doesn't agree with the access that's been given. The fence is in the access easement, she clarified.

Ms. Anderson said in regard to the 12' future pathway easement, the previous subdividing owner put this easement on the property, probably for the Meridian Road Greenway. That is why the access easement was placed. The city attorney supports staff's position on this issue, Ms. Anderson said. The applicant has submitted "a termination of future pathway document" that shows it has been recorded at the county. The city attorney said the city can't cease enforcement of building restrictions on the property when only 2 of the 3 owners agree to extinguishing this easement. Also, Ms. Anderson said, she contacted the original owner of the property who placed the easements to see his position, and he said "I do not wish to remove this easement."

Public notice was made, Ms. Anderson said, and the owner of Tract 3 was notified of the meeting but couldn't attend. She said staff would like ZBOA to require the applicant to move or remove the fences out of the easements within the next 7 days. The issue is fences in these

easements, she said, referring to other issues raised by the owner of Tract 3. DOT will not allow a driveway for Tract 3; when it was subdivided into three lots, DOT required that they *all* use Tract 2 for access. Tract 1 has gotten its own driveway permit with a lot line adjustment. DOT has a threshold, apparently, Ms. Anderson said. "If you don't have enough lot width, you have to share," she said, and that was a condition of this subdivision. Ms. Anderson indicated where they *could* have fences on the drawing.

Steven Ruberti said that he bought the land in March 2012, and when he bought it, he didn't know about the common driveway access easement as it was not in any paperwork. He found out about it when he put the fence up after buying the property. The Tract 1 owner, **Charlie Calvert**, told Mr. Ruberti about the access easement when he bought the property. There needs to be 80' for individual driveways, Mr. Ruberti said. He put up the fence "to neaten it up" because he didn't want it to look like a vacant lot, and then he went back to New England. When Mr. Ruberti gave Mr. Calvert 10' for his driveway, he said **Gordon Robotham** "changed his mind," and now Mr. Ruberti said Dr. Robotham has "caused a grievance" for Mr. Ruberti after Dr. Robotham said he was fine with the fences and driving through them as they've been there more than a year. Mr. Ruberti said he has worked well with Ms. Anderson, but they are unable to work with Dr. Robotham. The fence has been relocated 3 times "to frame the driveway, not to limit anyone's access to any property at any time." The 50' line got there, Mr. Ruberti said, because of the DOT's spec sheet. DOT required the shared driveway to make the subdivision. When it was made, Mr. Ruberti said, "the ball was dropped." Dr. Robotham was the only one who knew about the easement; Mr. Ruberti said that Dr. Robotham could have written the deed for everyone but never corrected the situation for everyone's entrance. Had Mr. Ruberti known about the access issue, he said he "would have seen that everyone's access was equal." DOT approved the subdivision and has the specs, as do the ZBOA members, Mr. Ruberti said.

DC Gilley, Mr. Ruberti's attorney, sent a letter to the city in which he said that the fence going parallel down Meridian Road on Mr. Ruberti's property line, is not an obstruction to the use of the planned pathway. Ms. Anderson suggested that Mr. Calvert have the pathway eliminated as a burden. They have legally removed it on Tract 1 and Tract 2 as of June 23rd. Dr. Robotham doesn't have to join in. **Matt Trumps** is no longer the owner, Mr. Ruberti said, so his opinion is not valid.

Mr. Ruberti reviewed some points in Mr. Gilley's letter. The fences are also recognized with exceptions to vegetation requirements in the access easement areas. Mr. Ruberti said he didn't cut down 10 trees and fill in marsh as Dr. Robotham has accused him of doing. He has permission to remove a single tree in the marsh.

Mr. Ruberti showed an overlay on a topographical map. 50' deep, he said, is so that on the access road there's 30' of length so as to have no restriction to other cars. At 30', there's a 26" live oak and a 35" pine. The grade is also restrictive, Mr. Ruberti said. No driveway can have an approach of more than 70 degrees to prevent accidents from crossing two lanes. In regard to

the 50' mandate, the additional 20' to make it 50' are because the DOT wants a 10' turning radius on either side of the 30'. The fence stops at the 26" Live Oak, and it is within the 30'. The fence in place still allows the 70 degree angle, Mr. Ruberti said.

Mr. Ruberti explained what the driveway throat is and said that the 30' is "key." SCDOT requires a sufficient throat length to permit an adequate queue for vehicles. If the pine is taken down, Mr. Ruberti said, he's down to 15' from where the property ends. There will still be a Live Oak to deal with, but it can be saved and the entranceway of sufficient size.

The specs should have been on this easement from the beginning, Mr. Ruberti said. The existing access is mandated and can't be moved, so they have to work with what they have been given, which are the minimum requirements of DOT, Mr. Ruberti said.

Mr. Ruberti said this is a "property grab." Dr. Robotham agreed to the reduction of the easement in the past. He showed Dr. Robotham's signature on a document on 13 November 2012. The three property owners all agreed that it would be okay. He complimented Ms. Anderson again.

Acting Chairman Starkey asked where the fence presently is on the plat. Mr. Ruberti highlighted it on the drawing and put it on the overhead. Mr. Ruberti said he placed the fence on "natural contours" and it meets all DOT specs for 30' and the 10'. Acting Chairman Starkey asked if the gravel is 10' from the property line in a sketch that Mr. Ruberti drew. Mr. Ruberti said that was "from a topo survey given to him by the previous owners." He gave Mr. Calvert 10' so he's fine, and if he had it, he would give it to Dr. Robotham, but he doesn't, and he doesn't know why Dr. Robotham "has become disgruntled."

Acting Chairman Starkey asked if he could take a moving van on the driveway, as would be the biggest truck likely to come into a property. Mr. Ruberti said that even when the spec was created at 50', it couldn't have been done then. Acting Chairman Starkey said "you could have done it with a bigger loop and coming around." He wants to know if the 10' radius is enough from where that driveway is. Mr. Ruberti said the easement ends at 50' and the trees, including the Live Oak, create obstruction, so there could never be a tractor trailer truck in there; they would have to walk in. Mr. Ruberti said he has a 4-Runner and a Sebring and a boat that equal 40', and he can pull in and make a full u-turn in Dr. Robotham's driveway with ease to pull out.

Acting Chairman Starkey asked if there was a way to show that a moving van could get in. Mr. Ruberti said with a 70' lot, that would never be possible. Mr. Wood said he thought the discussion was moving "way off track"; the Board was not meant to be discussing DOT issues. They need to discuss the fence being built on an easement, but they have listened to Mr. Ruberti's design plans that will have to go through DOT anyway. Mr. Wood said the ZBOA is there just to discuss the fence on an easement. Acting Chairman Starkey said his objection is that he doesn't feel that Mr. Ruberti could get in with a van. The easement isn't being blocked from the front, Acting Chairman Starkey clarified, and Mr. Ruberti said no.

Mr. Wood said they are here to discuss a fence inside a legal easement. What Mr. Ruberti is doing now needs to be done with the DOT, not with the ZBOA. He can take his specs and math to DOT, and Mr. Ruberti said he's willing to go to DOT and to reach out to Dr. Robotham again before they make the decision about the fence. He would like to clean this up about the easement access and where the roadway will go. Mr. Ruberti said he could get someone from DOT to appear or send a letter. Acting Chairman Starkey said if they got an agreement to change the easement, then that part of the fence would be on Mr. Ruberti's easement.

Mr. Wood said the fence was put up without permission; Mr. Ruberti said there's no longer an easement, and he has "paid a triple fine for (his) mistake." Ms. Anderson said the city attorney said the document may be legal but only 2 of the 3 owners agreed to the easement. Acting Chairman Starkey said they can move it back or get an agreement to remove the 12' easement. Mr. Calvert, who owns Tract 1, said there is no longer a 12' easement, and his attorney, **David Tedder**, had asked what it was. It's since been removed and is no longer in the subdivision requirements. Mr. Wood said he's talking about the 30' by 50' easement. Mr. Calvert reiterated that he believes "the pathway's been extinguished." Mr. Wood said the fence is still in the 30 x 50' easement. Mr. Calvert said "the problem is that you can't just drive anywhere you want," and DOT required only one entry originally. Either DOT controls it, or the city does for what the property owners want it can. Mr. Calvert has concerns because if the driveway can't be there, then there may be restrictions on anything else going in there. He reiterated that the 12' easement was "a path to nowhere" and has been removed.

Acting Chairman Starkey said the Board "is moving to unanswered questions." They need proof that the 12' easement is or is not an easement. It appears to be missing on two properties, and they need to find out about that. The driveway issue is an easement issue. Acting Chairman Starkey said he sees what Mr. Ruberti has done, and he would like to see Mr. Ruberti get with Dr. Robotham and show that they have an agreement about where the fence goes. Mr. Ruberti said he knows that he and Dr. Robotham will not come to an agreement, and said again that Dr. Robotham is "trying for a land grab." Mr. Ruberti said he will give up the 50' section of fence now, but wants to keep the one along the parallel to Meridian Road, the path on which he said no longer exists.

Mr. Wood said the issue is the fence on the easement that the Tract 3 property owner feels is encroaching on his access. Mr. Ruberti said it's not. Mr. Ruberti said that as long as there's no finding against a fence tonight, he will put in a fence there later if it's found to be okay, and if he can keep the fence along Meridian Road. The conflict is the access to Tract 3, Mr. Wood said again.

Acting Chairman Starkey said the fence along Meridian Road is fine. Acting Chairman Starkey said they could get a variance for the Meridian Road fence. Mr. Ruberti said he will take out the 20' section of fence on the property line immediately. If the pathway ever opens up, he will pull that section out. Acting Chairman Starkey summarized Mr. Ruberti's offer.

Mr. Wood said he's confused about whether the 30' x 50' easement exists. Mr. Ruberti said that it does and is recorded in the registry of deeds. He showed the Board on a drawing what he wants to retain and what he would eliminate. Mr. Ruberti said the driveway is on a slope and no one has driven on that slope for years. Ms. Anderson said if there's no fence in the 30' x 50' easement, that's reasonable. Acting Chairman Starkey said there's 6' of the fence that comes into the 30' x 50' easement. Mr. Ruberti showed on a photo of the fences what he will keep and what he will remove.

Ms. Anderson said she would recommend upholding the removal of the fence in the access easement in the driveway. Mr. Ruberti said he'll remove that. They could deny staff's decision to remove it from the pathway easement with the condition that if a path is ever built, he would remove the fence. Ms. Anderson said any agreement that they come to she will support if the other owner agrees.

Mr. Powell made a motion to support the Zoning Administrator's decision to deny "without prejudice" the fence in the property easement on the north property line; that fence will be removed in the 30 x 50' access driveway easement. The Board accepts the variance to allow the fence in the pathway easement along Meridian Road to remain as-is (the portion outside of the 30 x 50 easement), with the understanding that if a pathway is ever developed, the owner will provide a 4' opening for access. Mr. Wood seconded the motion. The motion passed unanimously.

1105 Middleton Street, identified as District 120, Tax Map 3, Parcel 714

Special Exception for Indoor Entertainment Use - Fitness Gym.

Applicant: Cesar Clavijo (ZB13-10)

The applicant is requesting a special exception in order to open a fitness gym.

Ms. Anderson said this is a Special Exception application in the Depot Road area. A two-story building is located on the property. The lot is zoned Limited Industrial and the applicant wants to open a holistic fitness gym for classes for groups of 4 – 15 people. A gym is considered to be an entertainment facility and is permitted in Limited Industrial with a Special Exception.

Ms. Anderson said staff has the following questions for the applicant: Total square feet of the tenant space; hours of operation; number of employees; the most people expected on the premises at any one time; and though class sizes sound small to begin with, is growth anticipated.

They looked at the parking situation, Ms. Anderson said. She said they need designated parking with wheel stops around the building. A fitness center at Baggett and Hamar Streets was approved in a Limited Industrial district, and they have had no complaints.

They received one public comment when public notice was made, Ms. Anderson said.

Ms. Anderson reviewed the Special Exception criteria:

1. **Proposed use is compatible with existing uses in the surrounding area:** Staff feels a gym is compatible. An office is proposed for the first floor in this building. Ms. Anderson described what else is in the area.
2. **Planned changes are harmonious with the area:** No exterior changes are planned, but staff would like formalized parking with wheel stops.
3. **Impact on infrastructure such as roads, water, and sewer and on public services:** This will be in an existing building and is unlikely to have significant impact on public services.
4. **In conformity with the Comprehensive Plan:** Staff feels it's in conformity with the desire for more mixed land uses in the Depot Road area.
5. **Impact on public health and safety:** Ms. Anderson said this may *increase* safety by the added eyes on the street with after-hours activity.
6. **Potential creation of nuisances:** Ms. Anderson said staff feels there is little potential to create these sorts of nuisances.

Ms. Anderson said the staff recommendation is that the application be approved with the provision that wheel stops be placed in the parking lot, and employees and clients must park on the site, not on the street or in formalized Rail Trail parking. Ms. Anderson said she recommends that they put in as many wheel stops as they can fit in.

Cesar Clavijo, the applicant, said his tenant space is approximately 2000 square feet; business will be open 6 days a week with an optional free class for public safety personnel and service members on Saturdays. Mr. Clavijo is the only employee. In regard to the number of people on the premises, he said, during the day, the smaller, holistic training classes will be semi-private, and he intends to keep it that way during the day. At night, when parking is more available, he thinks class size "won't be an issue." There might be between 20-30 people at any given time. If things eventually were so successful that they had too many people, Mr. Clavijo said he would have to move the business because this building can only sustain a certain number.

In regard to parking, **Judith Warrington**, the building owner, described where the parking spaces are and where potential spaces are and said it would be easy and inexpensive to make additional parking possible.

The upstairs is 2000 square feet, Mr. Wood said and Ms. Warrington said yes. Acting Chairman Starkey said they would need 15 spaces for 4000 square feet, and Ms. Warrington said they can do that easily by cleaning out a back parking space. Ms. Warrington said the two other spaces in the building are not rented at this time. Mr. Wood said the upstairs is a big loft and the downstairs is divided into 3 spaces. The owner said they could go up to 30 spaces, even though that's more than necessary if they bush hogged a lot of vegetation. When it's cleaned out, they can have parking along the back fence, plus side and front parking. Mr. Wood said the property has more parking than anyone down in that area and people in other businesses park in those spaces.

Mr. Wood said some fitness clubs have loud music, and he asked if Mr. Clavijo planned to do that. Mr. Clavijo said any conflicts with the surrounding neighbors might be because of perceived issues with music or fitness equipment. He had “cranked up the music over the weekend,” and it could barely be heard out at the parking spaces, and that sound level “is far beyond anything I want to do with my classes.” Ms. Warrington said she has seen Mr. Clavijo’s videos and “the music is very nice for the Brazilian jujitsu.” Acting Chairman Starkey asked if there would be secure lighting at night and Ms. Warrington said yes. Ms. Anderson recommended 18 designated parking spaces with wheel stops.

Mr. Powell made a motion to approve the Special Exception as proposed with the 20 designated parking spaces with wheel stops. Mr. Wood seconded the motion. The motion passed unanimously.

ADJOURNMENT

There being no further business to come before the Board, **Mr. Wood made a motion to adjourn; Mr. Powell seconded the motion. The motion passed unanimously,** and Acting Chairman Starkey adjourned the meeting at 8:09 p.m.