

**Forest Acres Zoning Board of Appeals**  
**Monday, September 9, 2024**  
**5205 N. Trenholm Road**  
**6:00 PM**

**Agenda**

- I. Call to order** - Robin O’Neill, Chair, called the meeting to order at 6:00 PM.
- 1. Determination of a Quorum** – There was a quorum with the presence of Shirley Fawley, Robin O’Neil, Kate Usry, and Pete Balthazor. Derek Pace, Will Owens, and Jesse Smith were absent. Shaun Greenwood, City Administrator, and Keith Lindler, City Building Official, were present.
- II. Approval of Minutes**
- 1. July 8, 2024**
- Mr. Balthazor made a motion to approve the July 8, 2024 minutes; Ms. Fawley seconded. The minutes were approved.
- III. New Business**
- 1. Appeal an action of a Zoning Official**  
*4708 Forest Drive, Suite B; TMS 14013-03-10. Appeal of an action of a zoning official denying onsite consumption of alcohol under Section 21.112 (13) in a C-3 (General Commercial District).*
- Mr. Nathan Hartlaub, owner of Pro Swing, is planning to establish a location in Forest Acres. He noted that the majority of revenue is related to golf simulation and that they are not primarily a bar, but that alcohol sales (only beer and wine) are an important ancillary part of their business. He noted that it helps their business model.
- Ms. Usry asked if they sell food. Mr. Hartlaub noted that they sell snacks (e.g., sandwiches, chips, etc.) but that they don’t have a full-service kitchen. Ms. Usry asked and Mr. Hartlaub noted that they sell the same things at their other location in Chapin.
- Mr. Balthazor asked about the process that led to tonight’s hearing. Mr. Greenwood noted that Pro Swing applied for a building permit proposing the golf simulator and their drawings included a bar area for alcoholic beverage sales. Mr. Greenwood’s interpretation of the zoning ordinance is that these alcohol sales (lounge, tavern, beer/wine garden) are prohibited unless part of a full-service restaurant. Mr. Balthazor noted that those uses (lounge, tavern, beer/wine garden) are not defined in the ordinance and Mr. Greenwood confirmed that we’ve

historically interpreted the ordinance to mean that all alcohol sales are consistent with a “bar” which is prohibited unless part of a full-service restaurant. Mr. Greenwood noted that the PDD for the Cardinal Crossing site specifically incorporated allowance for these types of uses without being associated with a full-service restaurant, further Lowes Foods has these uses but also includes full meal preparation thereby allowing alcohol sales.

Mr. Greenwood noted that tonight’s action is not a variance request but an appeal of the zoning official. In effect the ZBA is deciding if the city’s interpretation is correct.

Ms. Fawley noted that there are no definitions of uses such as “bar” in the zoning ordinance, so she consulted Websters dictionary and provided that to the board. Mr. Hartlaub noted that their establishment would require someone to be a paying client of the golf simulator in order to buy alcohol and alcohol would not be available to someone walking off of the street. He also noted that they will not advertise alcohol sales (i.e., there’s no “happy hour”, etc.) and they don’t employ bartenders. He noted that the employee facilitating the simulation would also handle the alcohol sales. Mr. Balthazor noted that it’s difficult for an organization to not be considered a bar if they actually have a physical bar and barstools.

Mr. Hartlaub noted that they would be willing to put in a condition that you have to be a member to be served alcohol. He also noted that they’d be willing to take out the countertop bar and barstools, while keeping alcohol sales, if that would better fit the zoning ordinance.

There was some discussion about ways to address this issue (alcohol sales as ancillary services) in the zoning ordinance re-write.

**Mr. Balthazor made a motion to grant the appeal such that the zoning official’s decision is reversed with the following conditions: beer and wine only for alcohol sales, no advertising (print, physical onsite, digital/social media), no alcohol sales without an active reservation for the primary business purpose of the establishment, and no barstools at the bar). Ms. Usry seconded.**

Mr. Greenwood clarified that the motion defines what is and isn’t a bar and that the city could use these criteria for decision-making going forward. There was no further discussion. The motion passed 3-1 (with Ms. O’Neill, Ms. Usry, and Mr. Balthazor voting yes and Ms. Fawley voting no).

#### **IV. Adjourn**

Ms. Usry made a motion to adjourn. Mr. Balthazor seconded. The motion passed unanimously. Meeting adjourned at 6:35 PM.