

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

SNSA, INC., d/b/a FAST EDDIE'S BILLIARD CAFÉ, SPA 95-V-031-04 Appl. under Sect(s). 3-403 of the Zoning Ordinance to amend SP 95-V-031 previously approved for a billiard hall, eating establishment and dance hall to permit increase in seats, size of dance hall and hours of operation. **(THE BZA APPROVED THE EATING ESTABLISHMENT AND BILLIARD HALL ONLY. THE BZA DENIED THE DANCE HALL.)** Located at 6220 Richmond Hwy. on approximately 2.84 ac. of land zoned C-8, CRD and HC. Mt. Vernon District. Tax Map 83-3 ((1)) 22C and 22D. (Admin. moved from 8/11/10, 9/22/10, 11/17/10, 12/15/10, and 1/26/11 at appl. req.) (Decision deferred from 3/23/11) Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 6, 2011; and

WHEREAS, the Board has made the following findings of fact:

1. The applicant is the lessee of the land.
2. This has been a very difficult case.
3. The motion to approve the dance hall on an interim basis was made a couple of years ago, and it was unclear at that time how it would work out.
4. This is a very popular establishment in a shopping center with somewhat constrained access and parking.
5. The past two years have shown that there are consequences for approving multiple uses that are using the same space and the same limited parking area.
6. To some extent, the itemization of all the incidents at the property was somewhat exaggerated and somewhat unrelated to the dance floor itself.
7. It is apparent that there is not quite enough parking.
8. The premises seem to attract a bigger crowd than the facility can hold.
9. It has not worked very well to this point with the security or whatever limitations there have been, that there are too many people.
10. There have also been significant impacts on the adjacent residential neighborhood incident to the number of cars and number of people that are there at a late hour on a regular basis.
11. They have had noise and music playing and trash and people getting in their cars and generally disrupting the neighborhood because they are parking in the neighborhood because there is not enough parking at this location for this facility.
12. The parking tabulations were never really understood clearly, but it was apparent that even on the special permit plat for the most recent amendment, they were one space over the minimum, and the parking reduction was being calculated in a way different than staff wanted it.
13. It is a complicated formula, but it seemed that there was not quite enough parking for what they were proposing to do.
14. The parking also seemed to include the entire shopping center, and maybe that is correct, but parking was a concern.

15. The public hearing was held March 23, 2011, and it was appropriate to consider whether doing what staff was requesting, which basically was forcing the applicant into a by-right scenario whereby they would have a restaurant that did not have a special permit and go for the 1/8th dance floor with no development conditions, was worse than extending the dance floor in some way and keeping the development conditions.
16. It was not necessary to reach that issue. It sounds like the applicant is going to pursue that avenue after today. It sounds like also today, based on the memo from Ms. McLane, that whatever happened Saturday night/Sunday morning seems to be going to court with some kind of violation from the Fire Marshal and sounds like there will be a public hearing on a Revocation.
17. Those issues need not be reached today, whatever that is.
18. The applicant has other avenues to pursue a dance floor even if it is not part of the special permit.
19. It does not appear that an expansion of the dance floor would work because although it would allow more room for dancing inside the establishment, it would aggravate the parking situation and the impacts on the neighbors.
20. There were changes to staff's development conditions suggested by Mr. Byers at the March 23rd meeting, and staff has prepared two more sets of development conditions incorporating some of those suggestions.
21. The conclusion at this point is that the balancing between whether the special permit is worse than the by-right is not really the exercise the Board should be going through today.
22. The question for the Board is does the special permit meet the required standards in the Ordinance, and it does in-part.
23. What staff is proposing now with some modifications is the appropriate thing to do today.
24. Under Sect. 8-006, General Standard No. 3, "The proposed use shall be such that it will harmonious with and will not adversely affect the use or development of neighboring properties," et cetera. An expansion or continuation of the dance floor in this package, the dance hall use, does not satisfy Sub. Sect. 3 because of the impact on the neighborhood.
25. Sub. Sect. 4 about "pedestrian and vehicular traffic associated with such use will not be hazardess or conflict with the existing and anticipated traffic in the neighborhood," the Board has heard plenty of testimony about the conflicts.
26. There is a problem with the confusing gate at Jamaica Drive and whether that is in or out and how is that going to work and does that work with the rest of the shopping center, can the fire department get in there in an emergency. That really is not working under Sub. Sect. 7, "adequate utility, drainage, parking, loading, and other necessary facilities to serve the proposed use shall be provided."
27. There is not quite enough parking for these late night weekend crowds in this particular shopping center.
28. The parking situation to the side and rear of the building is a problem based on the photographs, with people parking along the building or in the fire lanes.
29. Whether they are fire lanes or not, that parking situation to the side and rear of the building and in the vicinity of the Jamaica Drive entrance is not working.
30. There may be other standards which are not met, and the rationale in the staff report is generally adopted. Those three standards are called out for the conclusion as to why the dance floor and the dance hall use, either a continuation or expansion, is not working.
31. Some of this may be revisited later, but for the purposes of today, the dance hall cannot be expanded. It is not working the way it is now, even at the size that it is.

32. There could be some refinements to the use, and it is hoped that the applicant would continue the dialogue with staff and the Supervisors in Mount Vernon and Lee District that have begun.
33. Whether the dance hall at this location stays open or not, there is still going to be a lot of people late at night in that area that are going somewhere, and if they are not going to Fast Eddie's, they will be around, and we will be dealing with this in some other way.
34. It may also be possible to work out something better for the parking or this use or some other combination of uses that satisfies the conditions in a little better way.
35. It is appropriate to continue the billiard hall use. We have had the billiard hall use before. We have had billiard halls in coordination with a restaurant. We have had that in plenty of locations, and it does not seem to be creating the same type of crowds or late night activity. That was working at this site before, and the Board has not been shown anything necessarily that the billiard hall makes noise as opposed to the dance hall making noise. There can only be so many people playing at any one time. It has not been shown that there are hundreds of people at 2:00 in the morning trying to play billiards. That is not what is drawing the crowds.
36. To that extent, they have met the required standards, and it is perfectly okay to have an eating establishment/billiard hall in this location and that continue.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has not presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED IN-PART** with the following limitations:

1. This approval is granted to the applicant only, SNSA, Inc., D/B/A Fast Eddie's Billiard Café, and is not transferable without further action of this Board, and is for the location indicated on the application, and is not transferable to other land. Other by-right, special exception and special permit uses may be permitted on the lot without a special permit amendment, if such uses do not affect this special permit use.
2. This special permit is granted only for the purposes, structures and/or uses indicated on the special permit plat prepared by R.C. Fields, Jr. and Associates, dated January 9, 2009, revised through February 12, 2010, approved with this application, as qualified by these development conditions.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This special permit amendment is subject to the provisions of Article 17, Site Plans. Any plan submitted to the Department of Public Works and Environmental Services (DPWES) pursuant to this special permit shall be in substantial conformance with these conditions. Minor modifications to the approved special permit may be permitted pursuant to Par. 4 of Sect. 8-004 of the Zoning Ordinance.

5. There shall be a maximum of 26 billiard tables and 84 seats in the facility, located at 6220 Richmond Highway.
6. The hours of operation of the billiard hall and eating establishment shall not exceed 10:00 a.m. to 2:00 a.m. daily.
7. A new Non-RUP shall be obtained for this special permit use. Prior to the issuance of the Non-RUP, a parking tabulation revision shall be prepared for the review and approval of DPWES and the Zoning Permit Review Branch, DPZ reflecting all current uses to verify that adequate parking exists to serve all uses on the application site. If it is determined that adequate on-site parking does not exist to accommodate all uses, the maximum number of seats for the eating establishment and/or number of pool tables shall be reduced to meet the parking requirements as determined necessary by DPWES and DPZ. All parking for these uses shall be on-site.
8. A six foot high board on board fence shall be provided within ten (10) feet of the northern property line as shown on the special permit plat. The barrier requirement shall be waived along all other property lines. Ten (10) feet of planting along the northern property line shall be placed along the outside of the board on board fence and the plant materials shall be approved by the Urban Forestry Branch, DPWES.
9. Transitional screening shall be waived along all other property lines.
10. Interior parking lot landscaping shall be provided as shown on the special permit plat and as approved by the County Urban Forestry Branch, DPWES.
11. Interparcel access shall be provided to Lot 22B to the south and necessary public access easements provided shall be recorded among the land records of Fairfax County.
12. The entrance on Jamaica Drive shall be limited to "Entrance Only" and shall be gated at 9:30 p.m. Signs shall be posted on the right and left sides of the gate to indicate "No Exit." In coordination with the Fire Marshal's Office, the applicant shall provide bollard style gates to prohibit parking at the rear of the building.
13. The applicant shall provide an appropriate number of security guard(s) to police the area from the hours of 10:00 p.m. until closing.
14. The applicant shall police the premises and at a minimum Jamaica Drive, for trash and debris on a daily basis.
15. The applicant shall comply with the applicable Alcoholic Beverage Control laws.
16. The applicant shall keep the kitchen doors closed at all times, except for ingress/egress, to minimize the impact of noise on the adjacent community.
17. Fire lanes shall be clearly delineated and be painted and signed.
18. A copy of site inspections conducted by staff, if any, shall be provided to the BZA for review as an information item.

These development conditions incorporate and supersede all previous development conditions.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining the required Non-Residential Use Permit through established procedures, and this special permit shall not be valid until this has been accomplished.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, three (3) months after the date of decision unless the use has been established by obtaining a new Non-Residential Use Permit (Non-RUP). The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested, and an explanation of why additional time is required.

Ms. Gibb seconded the motion, which carried by a vote of 6-0-1. Mr. Hammack recused himself.