



AGENDA ITEM COVERSHEET

PREPARED BY: Gloria Abbotts, Sr Planner **DEPARTMENT:** Community Development

MEETING: Board of Adjustment – September 18, 2024

SUBJECT: Appeal of Chapter 34 – Streets, Sidewalks and Rights-of-Way, Article III.
Obstructions

Applicant: Ant Bates Motel, LLC

BACKGROUND:

The applicant, Ant Bates Motel, LLC (owner of Silver Dollar), has filed for an appeal of Chapter 34, Sections 61-71.

The town adopted regulations for sidewalk cafes in April of 2006. The town set up a permitting process for sidewalk cafes at the request of a local business owner. The existing allowable encroachment area has created a balance between business interests and pedestrian safety since the adoption of the ordinance.

In November 2023, the Town Council approved an amendment to the sidewalk café ordinances. The council had concerns related to the size and extent of encroachments, barriers, purpose, indemnification, and overall consistency of the encroachments across the boardwalk area. Staff met with the Pleasure Island Chamber of Commerce and the 13 boardwalk business owners to discuss changes prior to adoption of the new ordinance. (Attachment 2)

Upon the adoption of the new sidewalk café ordinance, Silver Dollar built a barrier without permits. The encroachment area extends onto the boardwalk 6'4". The Silver Dollar was sent a violation letter on December 20, 2023. The barrier that was installed for the business' sidewalk café was in violation of the following. (Attachment 3)

1. The base shall be flat footed and squared, no more than ½" in height.
2. The barrier shall be detached from the building.
3. There shall be a minimum of 2 but no more than 3 horizontal rigid connections on each barrier.
4. The bar tops attached to the windows shall be removable, not a permanent encroachment.
5. The sidewalk measures 20'. The barrier shall not extend more than 5' from the building.

In January 2024, the Silver Dollar applied for their annual sidewalk café application. The site plan submitted showed the sidewalk café area encroaching 6' on the boardwalk (Attachment 4)

On March 13, 2024, the applicant was sent a violation letter. They had fixed the base of the barrier but the additional items from December 2023 had not been fixed. (Attachment 5)

In March 2024, the applicant petitioned the Town to amend the sidewalk café encroachment allowances. The applicant proposed that sidewalk café encroachments should be allowed to encroach 1/3rd of the sidewalk width. The existing ordinance allows for 1/4th of the sidewalk width for encroachments. Staff did not recommend approval of the text amendment as proposed. Based on TRC comments, the larger encroachment would reduce the walkable area in an already congested area of the boardwalk during the peak season. The 1/3rd encroachment would prevent the town from providing the 2' buffer in between the pedestrian walkway for trash cans, benches, plantings, and other amenities on either side of the right-of-way. The text amendment was denied by the Town Council 4-1. Council members cited concerns regarding safety due to increased pedestrian foot traffic in the area during the summer season.

The applicant has appealed staff's interpretation of the ordinance in order to remedy the aforementioned violations.

ACTION REQUESTED:

The board of adjustment shall hear and decide appeals of decisions of administrative officials charged with enforcement of the zoning ordinance.

The board can agree or deny staff interpretation of the ordinance Chapter 34, Sections 61-71.

Attachments:

1. Appeal application
2. Sidewalk Café Ordinance
3. Violation letter, Dec 2023
4. Sidewalk Café Site Plan
5. Violation letter, March 2024
6. Photos