

TOWN OF JAMES ISLAND

BOARD OF ZONING APPEALS

SUMMARY OF NOVEMBER 21, 2023

The Board of Zoning Appeals held its regularly scheduled meeting on Tuesday, November 21, 2023 at 5:00 p.m. at the James Island Town Hall, 1122 Dills Bluff Road, James Island.

Comm'rs present: David Savage, Vice Chair (Acting as Chair), Amy Fabri, Roy Smith, Massey Yannitelli, and Joshua Hayes. Also, Kristen Crane, Planning Director, Flannery Wood, Planner II (substituted for BZA Secretary Frances Simmons), and Niki Grimball, Town Administrator.

Call to Order: The Board of Zoning Appeals Hearing was called to order at 5:00 p.m. by Vice Chair David Savage who acted as Chair.

Compliance with the Freedom of Information Act: Chair Savage stated the criteria that this hearing was held in compliance with the SC Freedom of Information Act. The applicant, property owners within 300 feet of the application, and parties of interest were duly informed of the hearing which was also live streamed on the Town's website.

Introduction: Mr. Savage introduced himself, members of the BZA, newly appointed member, Joshua Hayes, (who attended but did not participate) Town staff, and Mayor Brook Lyon.

Review Summary (Minutes) from the May 16, 2023 BZA Meeting: A motion to approve the minutes of May 16, 2023, was made by Comm'r Fabri, seconded by Comm'r Smith and passed unanimously. Chair Savage announced that all case rulings and minutes from BZA hearings are available for public review and inspection during normal business hours at the Town Hall.

Brief the Public on the Procedures of the BZA: Chair Savage explained that the BZA is a quasi-judicial board that is empowered to approve, approve with conditions, or to deny requests. The BZA is also authorized to defer a case should there be a need to obtain additional information. Chair Savage informed the Board that two (2) public comments were received in reference to tonight's case. Neither opposed but asked that certain conditions to the request be met. Comments attached.

Administer the Oath to those Presenting Testimony: In the absence of BZA Attorney Wilson, Chair Savage asked those wishing to speak to stand and be sworn in for testimony. He announced the case to be heard is a Special Exception request and that it must meet all of the criteria in the Ordinance.

Staff Review: Planning Director, Kristen Crane reviewed the staff's review. Applicant, Benjamin Levitt of Folly Road Property LLC, is seeking a Special Exception for the placement of a coffee shop in the Residential Office (OR) Zoning District and the South Village Area of the Folly Road Corridor Overlay (FRC-O) Zoning District at 1406 Folly Road. 1406 Folly Road (TMS #425-02-00-195) is 0.51 acres in size and currently hosts a vacant single-family residence that was constructed in 1953 according to Charleston County tax records. Adjacent property to the north (Folly Road Auto Repair), east, and south are in the Town of James Island and are zoned RSL. The properties to the north and south have a future land use of Residential Office. The adjacent parcel to the west is zoned General Business and is in the City of Charleston (Publix, Ace Hardware, California Tortilla, AT&T, Pink Polish, Pluff Mud Pottery, Fire Grill.) Additional uses within 300' include a bank (South Carolina Federal), restaurants (The Great Greek) vehicle

service (Fins Car Wash), Fast Food (Jersey Mikes), medical office (Folly Road Dental Care), liquor sales (Synergy) and parcels in the Town of James Island zoned RSL.

Nonalcoholic beverage bars including coffee shops and smoothie bars, shall comply with the special exception procedures on a parcel zoned OR, according to Use Table 153.110.

The applicant is seeking to utilize the property for the operation of a coffee shop and states that they are “eagerly looking forward to the opportunity to work with the Town of James Island to contribute positively to the community.”

Findings of Fact:

According to §153.045 E, Special Exceptions Approval Criteria of the Town of James Island Zoning and Land Development Regulations Ordinance (ZLDR), Special Exceptions may be approved only if the Board of Zoning Appeals finds that the proposed use:

E. (a): *Is consistent with the recommendations contained in the Town of James Island Comprehensive Plan and the character of the underlying zoning district “Purpose and Intent”;*

Response: **The Town of James Island Comprehensive Plan states that a strategy for the Town is “to preserve the many desirable characteristics of the Town, while allowing for positive growth patterns” as well as to “encourage commercial structures that are in character with and maintain the suburban nature of the area”. An Economic Development Strategy is to “encourage a variety of diverse commercial uses that will benefit the Town as a whole”, while an Economic Development need is to assist with “planning techniques to assist redevelopment efforts to improve Town aesthetics”. In addition, the applicant intends to rehabilitate the existing residential structure for the new use, therefore this application is consistent with the recommendations contained in the Town of James Island Comprehensive Plan.**

E (b): *Is compatible with existing uses in the vicinity and will not adversely affect the general welfare or character of the immediate community;*

Response: **Nearby properties have a wide range of existing uses including vehicle service, restaurant general, fast food, banks, retail services, liquor sales, nail care services, and medical offices. In addition, the applicant’s letter of intent states, “It is easily accessible, has ample parking, so as not to adversely affect the immediate community. Adjacent to an auto repair shop and only two houses – neighbors have no objection to the new use.” Therefore, the use may be compatible with most of the existing uses in the vicinity and should not adversely affect the general welfare or character of the immediate community.**

E (c): *Adequate provision is made for such items as: setbacks, buffering (including fences and/or landscaping) to protect adjacent properties from the possible adverse influence of the proposed use, such as noise, vibration, dust, glare, odor, traffic congestion and similar factors;*

Response: A comprehensive landscaping and site plan is required during the Site Plan Review process to address supplemental buffering, fencing requirements, parking, lighting, and setbacks. The applicant has presented a site plan showing the required landscape buffering, fencing, and parking. In their letter of intent, the applicant states that “setbacks and buffering including both fencing and landscaping will protect the residential areas” and that “there will be an abundance of parking for both cars and bicycles”. Furthermore, all applicants are required to meet Town ordinances concerning any factors mentioned in Criteria C.

E (d): *Where applicable, will be developed in a way that will preserve and incorporate any important natural features;*

Response: The site plan submitted by the applicant shows the preservation and incorporation of multiple important natural features including three live oaks that are 47”, 42” and 39” DBH. In his letter of intent, the applicant states that “a professional arborist developed a plan to protect 3 large grand live oak trees and natural features. The plan helped adjust pathways and provided a multi-year service plan to ensure the health of said trees”. Additionally, the vegetated buffer at the rear of the parcel will be maintained and supplemented.

E (e): *Complies with all applicable rules, regulations, laws and standards of this Ordinance, including but not limited to any use conditions, zoning district standards, or Site Plan Review requirements of this Ordinance; and*

Response: The applicant is in the process of ensuring compliance with the applicable regulations.

E (f): *Vehicular traffic and pedestrian movement on adjacent roads shall not be hindered or endangered.*

Response: The applicant’s letter of intent states: “To ensure traffic of people and vehicles will not be hindered there will be an abundance of parking for both cars and bicycles in addition to the development of a multi-use path on Folly Road”. The site plan submitted by the applicant shows vehicle parking and bike parking over the required amounts, as well as the required 12’ separated multi-use path. Therefore, vehicle traffic and pedestrian movement on adjacent roads should not be hindered or endangered.

In granting a Special Exception, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare (§153.045 E 2).

Action:

The Board of Zoning Appeals may approve, approve with conditions, or deny Case # BZAS-10-23-028 (Special Exception Request for placement of a coffee shop in the Residential Office (OR) Zoning District and the South Village Area of the Folly Road Corridor Overlay (FRC-O) Zoning District) based on the

“Findings of Fact” listed above, unless additional information is deemed necessary to make an informed decision.

Questions from the Board:

Ms. Crane answered questions from the Board. Comm’r Fabri asked if a special exception were granted and the applicant didn’t go into this space, could it be any non-alcoholic coffee bar? Ms. Crane replied that if something met all the same conditions would be allowed to come in, but the applicant would only have a certain amount of time as allotted under vested rights. Ms. Crane stated that a place such as Starbucks is considered fast food not coffee and would not be allowed in the South Village of the Overlay. Comm’r Fabri asked to be reminded of the characteristics of the South Village. Ms. Crane explained that on the west side of the road residential areas are further away and there are more intense commercial uses. On the east side of the road where the applicant is there are to be less intense uses and the area has more prohibited uses. In the OR zoning district restaurants/bars are not allowed and things such as self-storage and vehicle sales are prohibited. This area is supposed to be residences or offices that are moving in where people no longer want to live on Folly Road.

Comm’r Smith asked why this was not considered fast food. Ms. Crane explained that fast food usually had a drive-through and the food was already made and served on disposable packaging.

Chair Savage asked if approved the applicant would be allowed to serve coffee with a shot of Kailua and if that would be considered the sale of alcohol. Chair Savage expressed concern that this business would evolve over 4 years and become a different type of business that served alcohol. Ms. Crane explained that to sell alcohol the applicant would have to return to the BZA. He asked if this business would be allowed to serve things like croissants. Ms. Crane explained that it could but would not be a full-service restaurant.

Chair Savage asked Ms. Crane if it was correct that the staff’s recommendation did not ask them to consider any other conditions to add to the request. Ms. Crane replied that was correct.

Chair Savage asked about the large backyard at the rear of the property and that he did not see a use for it on the applicant’s site plan. He asked Ms. Crane if she knew the anticipated use of the backyard which was deferred to the applicant.

Applicant’s Presentation:

Ben Levitt
214 West Hudson
Folly Beach, SC

Mr. Levitt stated he has lived here since 2009 and feel that James Island is an extension of where he lives. He has owned the property for some time and always had a vision of being on James Island. He said the Town has evolved to where he feels a coffee shop would be a good use here. Mr. Levitt said there have been other opportunities for the use of the property, such as for rental, but he always thought that a coffee shop would be a cool place to have here. He lives here and wants these types of things here for his own use and doesn’t see that happening with Starbucks, which is fine for a quick to go beverage. The intension of the coffee shop is for local people to have a place to come and hang out and be able to ride their bikes there.

Regarding the backyard, Mr. Levitt said he wanted to get the barebones of what needed to be done to display the requirements in terms of parking and wanted to show that he wanted to build something in the front in terms of a little pergola to help offset the quirkiness of the house. He said the backyard is a good place for

picnic tables, and ideal to sit around, take care of business, or make calls and not feel that you are disturbing someone since the coffee shop is relatively small. It is 1,000 sq. ft. so a number of things could be done outside. Mr. Levitt said he is excited about the opportunity and by having the Board's approval he could have something nice for the benefit of everyone. He said the building is very nice. There have been opportunities to tear it down, but he likes the quirkiness it lends to being something interesting. He gave a description of the downstairs area and its features. He noted with the addition of the pergola, it would look very nice. He again commented that the building is small and there will be no drive-thru. His friend on Folly Beach has a coffee shop and he plans to use his plans as a model here where simple coffee drinks and pastries would be sold.

Mr. Levitt gave a brief overview of the site plan and said that he is focusing on the landscaping and permit the surfaces. He will make sure that the water runs nicely and shade the areas. He doesn't want it to stand out, but blend into the environment. He said a 12 ft. multi use path is included with a tree there but he will work with Ms. Crane on that.

Questions from the Board:

Comm'r Fabri asked if letters of support were received from the residents. Mr. Levitt said he did not get letters of support from the residents. He received a support letter from Joseph Fipps, the owner of Folly Road Auto Repair. He also knocked on doors and spoke with two individuals who lives behind where the coffee shop will be and they were fine with it.

Comm'r Smith said he was curious about the tree and understands that it will be saved. He noted that the tree is within the 12ft buffer and path and asked what would happen with it? Mr. Levitt said the arborist will do an analysis of the trees. He wants to keep it as minimum as possible and not impact them. He said he is trying to decide how to get around it with the multi-use path. He does not have a solution but this is a concern they've already begun to talk about with the multi-use path; and not hurt the tree.

Chair Savage asked the hours of operation. Mr. Levitt said perhaps 6 a.m. to 6 p.m. Chair Savage asked if there were plans for piping outside music. Mr. Levitt said he does not have plans for that now, but probably close to the building there will probably be something. Chair Savage asked if he anticipated live or speaker music outside. Mr. Levitt said speakers for ambient music would be nice because now you hear noise from the auto shop and the street, so anything to create a nice ambient noise would be nice. This is why they are building a massive pergola in the front with plants to create a buffer. He said the front would not be the primary sitting area it would be more for the look and the back would be more of a nest and a protection from the front.

Chair Savage asked if he owns the adjacent property and what are the plans for that. Mr. Levitt said he owns the adjacent property and it is a rental. He said it works well for that and he plans to keep it as a rental.

In Support: No one spoke.

In Opposition: No one spoke.

Rebuttal: Not required.

Chair Savage closed the hearing to the public and asked for a motion. Comm'r Smith moved to approve the application, seconded by Comm'r Fabri. Commissioners Fabri, Smith, Yannitelli, and Chair Savage agreed that the application met all the criteria in the Ordinance.

Chair Savage asked if there were other supplemental requirements that the Board need to consider for the application. Comm'r Smith spoke of the likelihood of having music and understands that the applicant

would like to have ambient music. After discussion, **Comm'r Fabri moved to amend the motion to add a condition that no live music outdoor be allowed from 7 p.m. to 7 a.m.; Comm'r Smith seconded. Amendment passed unanimously.**

Main Motion with Amended Condition: Chair Savage stated the legal reasons for the approval of Case# BZAS-10-23-028: Special Exception request for placement of a coffee shop in the Residential Office (OR) Zoning District and the South Village Area of the Folly Road Corridor Overlay (FRC-O) Zoning District, Town of James Island (TMS# 427-01-00-059); that it met all criteria of the Ordinance with an added condition that no live music outdoor be allowed from 7 p.m. to 7 a.m.

Vote

Comm'r Fabri	Aye
Comm'r Smith	Aye
Comm'r Yannitelli	Aye
Chair Savage	Aye

Passed unanimously

Additional Business:

Next Meeting Date: The next meeting of the Board of Zoning Appeals will be held on Tuesday, December 19, 2023.

Adjournment: There being no further business to come before the body, the meeting adjourned at 5:37.

Respectfully submitted/Transcribed by:



Frances Simmons
Town Clerk and Secretary to the BZA