

TOWN OF JAMES ISLAND  
BOARD OF ZONING APPEALS  
SUMMARY OF NOVEMBER 17, 2015

Members Present: Vice Chairman, Jim Fralix, Mrs. Brook Lyon, Mr. Roy Smith, and Chairman, Sim Parrish, who presided. Absent: Mr. Jason Gregorie (gave notice of absence). Also Present: Kristen Crane, Planning Director, Ashley Kellahan, Town Administrator, Leonard Blank, Town Councilmember, Bo Wilson, Town Attorney, and Frances Simmons, Town Clerk and Secretary to the BZA.

Call to Order: Chairman Parrish called the Board of Zoning Appeals meeting to order at 7:00 p.m.

Prayer and Pledge: Chairman Parrish led the prayer, which was followed by the Pledge of Allegiance.

Compliance with the Freedom of Information Act: Chairman Parrish announced that this meeting has been noticed in compliance with the South Carolina Freedom of Information Act.

Introductions: Chairman Parrish introduced the members of the Board of Zoning Appeals, BZA Attorney, Town Councilmembers, and staff.

Review Summary and Rulings from the April 21, 2015 BZA Meeting: Mr. Fralix moved to approve the minutes of the April 21, 2015 meeting, Mr. Smith seconded. Motion passed unanimously.

**BZAV-3-15-006**

428-08-00-035

Highland Avenue, Lot M

Variance request for the removal of two (2) grand trees at Lot M Highland Avenue for possible subdivision and single family home.

**Approved with Conditions**

Approval of September 15, 2015 Minutes: Mr. Fralix moved to approve the minutes of the September 15, 2015 meeting, Mrs. Lyon seconded. Motion passed unanimously.

Public Comments: No one signed in to speak.

Executive Session: Chairman Parrish asked for a motion for the Board of Zoning Appeals to enter into an executive session to receive legal advice regarding vested rights, zoning law and nonconformities as it may apply to the extension request of Application BZAS-10-13-17166. Mr. Fralix moved and Mrs. Lyon seconded. Motion passed unanimously and the Board entered into executive session at 7:04 p.m.

Return to regular session: The Board of Zoning Appeals returned to regular session at 7:15 p.m. Chairman Parrish announced that no votes were taken during the executive session.

Review of the Following Application:  
New Business:

**BZAS-10-13-17166 (Extension)**

425-09-00-002

1130 Folly Road

Special Exception Extension request for the sale of alcoholic beverages in a restaurant café in the OR District

Staff Review:

Mrs. Crane, Planning Director, provided an update of Application BZAS-10-13-17166. She said the Site Review has been completed for the Black Magic Café; and the owner's Site Improvements has been approved and forwarded to Charleston County to process the building permit.

Mrs. Lyon asked the length of time it would take for Charleston County to issue the permit, as she heard they are pretty backed up, and when they applied for the permit. Mrs. Crane answered that she heard it would take about 3-4 weeks; that it was about two weeks ago when the Plans were submitted to us. The Site Plan Review was submitted to the Town about a month ago. Mrs. Crane said the applicant could talk about other site improvements he has made that do not require a building permit. She noted that a fence has been put up and the parking lot was graveled, which were conditions.

Applicant:

Eran Maron, Owner, Black Magic Café  
309 Bounty Lane  
Charleston, SC 29412

Brook Wills, Attorney, representing the Black Magic Café  
Post Office Box 822  
Folly Beach, SC 29439

Mr. Wills said he represents Mr. Maron on various matters and is present tonight regarding the application for an extension of the Special Exception. He said both he and Mr. Maron are at the Board's disposal to answer questions.

Mr. Fralix asked why the request had extended to this length of time. Mr. Maron explained that he purchased the property in January 2014 before the busy season at Folly Beach and thought he would get through that season before planning here (on James Island). Mr. Maron said he received another extension for the Folly Beach business and decided to keep that location. He said originally his plan was to relocate to James Island. He has applied for more funding that has been approved. He informed the Board about issues he faced in getting his Green Card renewed; that it had expired and it took him 10 ½ months before it was renewed; he added that he had to contact Senator Lindsay Graham who helped to expedite the process. Mr. Maron said as soon as he received his 10 year Green Card his loan closed within two to three days then everything started moving.

Mr. Maron gave an update of the improvements he made at the 1130 Folly Road property. He said the property has been graveled; the fence is almost completed; the demo has been done, and he is ready to build. He is now waiting for the building permit from the County which takes 4-6 weeks, then he said -- Christmas is coming. Mr. Fralix asked Mr. Maron if he planned to keep the Café on Folly Beach, and he answered yes; that he will have both locations.

Mr. Wills also gave reasons why they are requesting an extension. He said Mr. Maron is an Israeli national, married to an American citizen. Mr. Wills gave an overview of the process to obtain a Green Card. He said a provisional Green Card is issued when authorized to work in the US. This is also called a temporary Green Card, which is valid for two years. He said that type of Green Card is issued if everything looks good on the surface and an extensive background investigation is done before a permanent Green Card is issued which lasts for 10 years. He noted that Immigration is backed up and they have been issuing Green Cards for two years and renewing them every two years. He also explained that Mr. Maron's loan was approved to help him finance the completion of the renovations at the new Black Magic Café at 1130 Folly Road. He said the loan officers would not issue the loan without the 10 year Green Card and a hold was placed on his loan because they did not want to approve a 10 year loan if he were only here for two years. Mr. Wills stated that Mr. Maron's permanent Green Card was finally approved and the Small Business Administration (SBA) has released the funds to his bank; and Mr. Maron is ready to finalize his plans. Mr. Maron also informed the Board that his newborn baby was born the Saturday of the flood.

Mr. Wills said the request before the Board is to grant a short extension for the Special Exception and there is some confusion about what they are asking the Extension on. Originally, he said the 1130 Folly Road property (South Village area of the Folly Road corridor) was zoned Office Residential (OR), which allowed Restaurants as a permissible use with conditions. He said in December of 2014, Restaurants were removed from the OR zoning category. He said Mr. Maron had approval to use his property as a Restaurant and had a Special Exception, which became a vested right to serve alcohol at the Restaurant. He said there is confusion about whether they are asking for his use as a Restaurant within the Special Exception (since it has been removed); or whether that is a use that was permitted at the time Mr. Maron made the application, and the Special Exception for only the alcohol. He said they are asking for a Special Exception for both; the Restaurant and the alcohol because they go together. The extension for the alcohol would be no good if the restaurant did not go forward. Mr. Wills said he mentions this to clear-up any confusion. He also said that substantial and significant progress has been made on the structure; and that Mr. Maron purchased the property and relied on its use as a restaurant. He also said Mr. Maron has not reached the expiration of any of these vested rights; which will be either for the Special Exception or for the use as it may be. He said that expiration is December 17<sup>th</sup>. Mr. Wills said they would like to request a short extension of that date to be able to complete the renovations that are necessary to open the business. Mr. Maron has the funds and the contractors are ready to do the work once the permit is issued. Mr. Fralix asked what is considered a short extension; to which Mr. Maron said six months to be safe as he is waiting for the permit. Mrs. Lyon asked when they found out about the change in the zoning. Mr. Wills said it was a year ago when the change was made, so it could not have been more than that. Ms. Lyon asked Mr. Maron when he received his Green Card, to which Mr. Wills answered it was October 2.

After discussion, Chairman Parrish asked for a motion from the Board. Mrs. Lyon moved to approve the Special Exception Extension for the Black Magic Café, seconded by Mr. Fralix. Mrs. Lyon stated for the record her reason for making the motion to approve the extension. She said at the time the Board approved the applicant's request that rule was in effect and it made the Special Exception for alcohol. She does not believe that the applicant would have purchased the property if he could not put a restaurant there and the applicant has put effort and money to get the restaurant ready to open. Mrs. Lyon said because of the extenuating circumstances he had with getting his Green Card issued and obtaining his loan, that seems reasonable to her personally.

Mr. Smith stated for the record that some physical changes has been done on the property, including the gravel in the parking area, they worked on the fence, and have probably done some renovations to the interior. He thinks that counts towards doing some substantial improvements to the property towards it being a restaurant.

Chairman Parrish called for the vote. The roll was called and votes were recorded as follows to grant the extension.

Mr. Fralix	yes
Mrs. Lyon	yes
Mr. Smith	yes
Chairman Parrish	yes

The motion passed unanimously. Chairman Parrish announced that the final decision of the Board would be mailed to the applicant within ten (10) days and the applicants should contact the Planning and Zoning staff if they have questions.

Per, the BZA Attorney, the request is an annual extension.

Additional Business:

Next Meeting: The next meeting of the Board of Zoning Appeals will be held on Tuesday, December 15, 2015 at 7:00 p.m.

Adjourn:

There being no further business to come before the body, the meeting adjourned at 7:30 p.m.

Respectfully submitted,  
Frances Simmons  
Town Clerk and Secretary to the BZA