

**MINUTES OF THE ZONING BOARD OF APPEALS**  
**February 20, 2017**

The regular meeting of the Zoning Board of Appeals was called to order by Chairman William Cotey at 7:00 p.m. at the Village Hall.

Members present: Chairman William Cotey, Mark Moore, Walter Oakley, Kurt Schultz, and David Semmelman.

Members absent: Amy Flores, Matthew Krummick.

A quorum was established.

Village Staff present: John Spoden, Director of Community Development; David Smith, Senior Planner; and Fred Chung, Senior Project Engineer.

**OLD BUSINESS:**

**ZBA 16-22 N3 Property Advisors, LLC, Applicant**  
**175 W. Peterson Road**

**Request is for a variation to reduce the minimum required Perimeter Landscaped Open Space along the east property line from 10 feet to approximately 6 feet in order to construct a Burger King restaurant with drive-thru for property in a C-3, General Commercial District.**

**ZBA 16-23 N3 Property Advisors, LLC, Applicant**  
**175 W. Peterson Road**

**Request is for a variation to increase the maximum permitted number of wall signs from one (1) to two (2) in order to construct a Burger King restaurant with drive-thru for property in a C-3, General Commercial District.**

Mr. David Smith, Senior Planner, stated that the petitioner, N3 Property Advisors, LLC, was before them at their November 28, 2016 meeting and again at their January 23, 2017 meeting requesting approval for a Special Use Permit for a Drive-In Establishment accessory to a restaurant; a Site Plan Permit; variations for signage; and to reduce the minimum required Perimeter Landscaped Open Space in order to construct a Burger King restaurant with drive-thru for property located in a C-3, General Commercial District at 175 W. Peterson Road.

Mr. Smith stated that during the course of the last meeting the petitioner presented their plans, testimony was heard from the public, and the members of the Plan Commission asked questions and deliberated. Mr. Smith stated that at the conclusion, the Plan Commission made a motion to continue the matter to the February 20, 2017 meeting in order to provide the petitioner an opportunity to revise the plans and provide additional information and clarification in response to public, Staff, and Plan Commission comments relative to the impact of noise.

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Mr. Mark Huonder, petitioner, stated that they are still seeking the variation on the Perimeter Landscaped Open Space along the east property line from 10 ten feet in width to 6 feet in width. He stated that the biggest question mark taken from the last meeting was interpreting the noise study. He stated that they have brought their noise consultant and the Village has also brought their noise consultant in order to answer any questions regarding the impact of noise.

Dr. Tom Thunder, Acoustics and Associates, 867 Scottsdale Drive, Pingree Grove, IL., and Village sound consultant for this project, stated that he has a doctorate in audiology and hearing science and post graduate work at the Illinois Institute of Technology in engineering and acoustics. He stated that he has been practicing in the field of noise, noise assessment, and reduction for both occupational and environmental noise. He stated that he teaches acoustics and psycho-acoustics at Northern Illinois University and he is on staff at Rush Medical Center teaching similar subjects there as well.

Dr. Thunder stated that he reviewed the material provided by the petitioner's sound consultant and decided that it would be beneficial to re-do some of the noise evaluations to cover a longer consecutive time period. He stated that they looked at the environmental noise at the subject site that currently exists there. He stated that he recognizes that the petitioner's noise consultant took noise measurements along all four property lines, but the only one that is truly relevant is along the southern property line adjacent to the residents to the south. He stated that it will be from the resident's perspective as to whether or not there is an impact from the noise. He stated that an impact is assessed by identifying a distinction between ambient noise and the intruding noise. He stated that even if someone can hear a noise louder than the ambient noise it may or may not be an impact depending on how loud it is or the character of the sound or how long the sound lasts.

He stated that they set up an audio recorder to record sound from 3:00 p.m. to 11:00 a.m. the next day at the proposed Burger King site. He stated that they also visited an existing Burger King located in Huntley, Illinois and a Burger King site in Elgin, Illinois. He stated that the location in Elgin was a better site for comparison to the proposed Burger King for the Peterson Road location. He stated that both the Elgin site and the Libertyville site have ambient noise that are within four (4) decibels of each other. He stated that in most cases, fast food drive-thru restaurant speakers have been greatly improved. He stated that they are typically lower to the ground and are angled downwards which helps to reduce the sound from traveling any significant distances.

He stated that he recommends that in order for the proposed fence to function as a noise barrier it should be closer to the source of the sound and made of a solid wood composite material and composed of a tongue and groove assembly type at eight (8) feet in height.

Mr. Jim Lobus, 1718 Cedar Glen Court, asked if there would be only the one fence near the speakers. Mr. Mike Caldwell, engineer for the petitioner, stated that they will use two fences, one near the speakers and the other as previously proposed along the rear property line.

Mr. Lobus stated that there is a swale towards the rear of the property.

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Mr. Phil Cavicchia, 1716 Cedar Glen Court, stated that he is concerned as to how the snow removal will be accommodated.

Ms. Lori Cavicchia, 1716 Cedar Glen Court, stated that she is concerned about the noise that delivery trucks will make. She stated that she doesn't know why Burger King would need two drive-thru lanes.

Dr. Thunder stated that it is his understanding that time limitations can be placed on truck deliveries.

Mr. Caldwell stated that the Burger King corporation now requires two drive-thru lanes in their site plan layouts.

Ms. Nancy Ryan, 1709 Cedar Glen Drive, asked for clarification as to how the sound barrier will work. Dr. Thunder stated that if the sound barrier is moved closer to the speakers that would be better. He stated that the noise is not louder along the sides because that is not the direction of the sound.

Ms. Ryan asked about the hours of operation. Mr. Huonder stated that the Burger King hours of operation will be from 6:00 a.m. to 11:00 p.m., with deliveries before 6:00 a.m.

Mr. Cavicchia asked that deliveries be later in the morning. Mr. Huonder stated that they can move delivery times to 7:00 a.m.

Mr. Cavicchia stated that another noise study should be done on Friday and Saturday when there will be less ambient noise. He stated that the menu board speakers should be turned down if ever requested. He asked about the exterior lighting impact on adjacent properties. Mr. Huonder stated that timers can be installed in the light system so that they can be turned off at a certain hour.

Board Member Schultz asked for clarification as to what the decision is on the east side Perimeter Landscaped Open Space. Mr. Caldwell stated that they have no objection to reducing the Perimeter Landscaped Open Space from 10 feet to 6 feet in width.

Board Member Schultz requested that Village Staff work with the petitioner and the Village consultant as to how and exactly where the sound barrier be installed.

Board Member Semmelman stated that he agrees that the deliveries not take place prior to 7:00 a.m. He stated that the property is commercially zoned.

Chairman Cotey asked for clarification of the type of exhaust filters proposed for this restaurant. Mr. Caldwell stated there are a series of baffles incorporated into the filtering system that filters out particulates keeping out odors and protects the roofing of the building.

Chairman Cotey asked if the filters are routinely cleaned. Mr. Caldwell stated that they are cleaned routinely.

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Mr. Fred Chung, Senior Project Engineer, stated that Village inspections of the property can be scheduled anytime.

Board Member Moore stated that he agrees that the speakers could be pointed in a downward direction. He stated that he agrees that deliveries should not be earlier than 7:00 a.m. He stated that he agrees that the exterior lights should be set on a timer to go off between midnight and 5:00 a.m.

Board Member Moore stated that he agrees that the sound barrier should be installed on the island located south of the drive-thru lanes abutting the southernmost drive-thru lane. He asked the petitioner what they would like for the Plan Commission and Zoning Board of Appeals to do this evening.

Mr. Huonder stated that he would like for the Plan Commission and Zoning Board of Appeals to give their recommendation to the Village Board tonight.

*In the matter of ZBA 16-22, Board Member Moore moved, seconded by Board Member Semmelman, to recommend the Village Board of Trustees approve a variation to reduce the minimum required Perimeter Landscaped Open Space along the east property line from 10 feet to approximately 6 feet in order to construct a Burger King restaurant with drive-thru for property in a C-3, General Commercial District, in accordance with the plans submitted.*

*Motion carried 5 - 0.*

*Ayes: Cotey, Moore, Oakley, Schultz, Semmelman*  
*Nays: None*  
*Absent: Flores, Krummick*

*In the matter of ZBA 16-23, Board Member Oakley moved, seconded by Board Member Schultz, to recommend the Village Board of Trustees approve a variation to increase the maximum permitted number of wall signs from one (1) to two (2) in order to construct a Burger King restaurant with drive-thru for property in a C-3, General Commercial District, in accordance with the plans submitted.*

*Motion carried 5 - 0.*

*Ayes: Cotey, Moore, Oakley, Schultz, Semmelman*  
*Nays: None*  
*Absent: Flores, Krummick*

**NEW BUSINESS:**

**ZBA 17-06 Napleton Auto Group, Applicant**  
**1120 S. Milwaukee Avenue**

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**Request is for a variation for to increase the maximum permitted number of business wall signs from one (1) to two (2) for property located in a C-5, Vehicle Dealer Commercial District.**

Mr. David Smith, Senior Planner, introduced the petitioner's request. He stated that the petitioner, Napleton Auto Group, is requesting approval for a sign variation in order to install two (2) new wall signs on a vehicle dealership building for the Napleton Mazda dealer brand in a C-5, Vehicle Dealer Commercial District located at 1120 S. Milwaukee Avenue.

Mr. Manuel Govea, architect representing the petitioner, described the proposed sign plan to the Zoning Board of Appeals.

Mr. Anthony Perna, Napleton Mazda, stated that their dealership has a licensing agreement with the Mazda corporation that is requiring the sign package that they are seeking approval for. He stated that without these approvals they will be subject to certain fees causing a financial hardship.

Mr. John Sliozis, 1117 Furlong, asked about the dealership lighting and if they can be put on a timer. He asked if additional screening can be installed along the berm. Chairman Cotey stated that the petition tonight is regarding wall signage only.

Mr. Perna stated that the wall sign lettering will be back lit causing a halo effect.

Board Member Schultz asked for clarification as to why they need the Napleton name as an additional wall sign. Mr. Perna stated that this is part of the branding for this particular dealership.

Chairman Cotey asked the petitioner what they would like for the Zoning Board of Appeals to do this evening. Mr. Perna stated that he would like for the Zoning Board of Appeals to render their recommendation to the Village Board tonight.

*In the matter of ZBA 17-06, Board Member Oakley moved, seconded by Board Member Semmelman, to recommend the Village Board of Trustees approve a variation to increase the maximum permitted number of business wall signs from one (1) to two (2) for property located in a C-5, Vehicle Dealer Commercial District, in accordance with the plans submitted.*

*Motion carried 5 - 0.*

*Ayes: Cotey, Moore, Oakley, Schultz, Semmelman*

*Nays: None*

*Absent: Flores, Krummick*

**ZBA 17-07    Acura of Libertyville, Applicant**  
**1620 S. Milwaukee Avenue**

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**Request is for a variation to reduce the minimum required front yard setback from 200 feet to approximately 195 as measured from the center line of the Milwaukee Avenue right-of-way in order to construct a building addition for property located in a C-5, Vehicle Dealer Commercial District.**

**ZBA 17-08 Acura of Libertyville, Applicant**  
**1620 S. Milwaukee Avenue**

**Request is for variations to: 1) increase the maximum permitted number of business wall signs from one (1) to two (2); 2) increase the maximum permitted sign area from two (2) square feet to six (6) square feet for each Private Traffic Directional sign proposed; and 3) increase the maximum permitted number of Service wall signs from one (1) to three (3) for property located in a C-5, Vehicle Dealer Commercial District.**

Mr. David Smith, Senior Planner, introduced the requested variations to the Zoning Board of Appeals. He stated that the petitioner, Acura of Libertyville, is requesting approval for variations for signage and a variation to reduce the minimum required front yard setback in order to construct a building addition on a vehicle dealership building for the Acura of Libertyville dealer brand in a C-5, Vehicle Dealer Commercial District located at 1620 S. Milwaukee Avenue.

Mr. Brannon Gries, architect representing the petitioner, presented the proposed sign and building addition plans to the Zoning Board of Appeals. He stated that the remodel will stay within the existing building footprint except for the front entrance vestibule. He stated that due to the quick turn into the property caused by the existing site configuration, they thought it prudent to upgrade their traffic directional signage with the proposed design and size.

Chairman Cotey asked if the proposed improvements are driven by Acura Corporate. Mr. Eric Leys, architect representing the petitioner, stated that this project proposal for the showroom improvements is partially driven by Acura Corporate. He stated that the local Acura dealer needs the showroom space in order to accommodate interior management and logistical needs causing the vestibule extension. He stated that Acura Corporate is requiring the proposed signage.

Board Member Moore stated that it appears that front building facade is not perfectly parallel to the front property line. He stated that if it were parallel, it might have been easier to bump out the vestibule without encroaching in to the front yard.

Mr. Leys stated that the building in its existing angle layout does push the vestibule out into the required yard. He stated that it was difficult to design around this encroachment.

Board Member Moore asked what the justification is for the larger directional signs. Mr. Leys stated that their driveway entrance off of Hollister is very near Milwaukee Avenue. He stated that the vehicular path causes drivers to make quick turning decisions. He stated that the

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proposed directional signage will enable drivers to find the appropriate path more easily and be less cumbersome. He stated that they are proposing only two (2) new directional signs.

Board Member Moore asked if the petitioner was willing to concede any of the proposed front yard encroachment. Mr. Gries stated that they would lose the needed showroom space.

Board Member Schultz stated that this does seem to be a unique circumstance as this dealership seems set apart from the other dealers being separated by the railroad tracks.

Chairman Cotey asked why they needed three (3) service wall signs. Mr. Leys stated the number of service signs are protocol from Acura Corporate.

Mr. Gries stated that the multiple service signs also serve as a form of wayfinding depending upon which type of service a customer needs.

Chairman Cotey asked what the petitioner would like for the Zoning Board of Appeals to do tonight. Mr. Leys stated that they would like for the Zoning Board of Appeals to give their recommendation to the Village Board tonight.

*In the matter of ZBA 17-07, Board Member Semmelman moved, seconded by Board Member Schultz, to recommend the Village Board of Trustees approve a variation to reduce the minimum required front yard setback from 200 feet to approximately 195 as measured from the center line of the Milwaukee Avenue right-of-way in order to construct a building addition for property located in a C-5, Vehicle Dealer Commercial District, in accordance with the plans submitted.*

*Motion carried 4 - 1.*

*Ayes: Cotey, Oakley, Schultz, Semmelman*  
*Nays: Moore*  
*Absent: Flores, Krummick*

*In the matter of ZBA 17-08.1), Board Member Oakley moved, seconded by Board Member Schultz, to recommend the Village Board of Trustees approve a variation to increase the maximum permitted number of business wall signs from one (1) to two (2) for property located in a C-5, Vehicle Dealer Commercial District, in accordance with the plans submitted.*

*Motion carried 5 - 0.*

*Ayes: Cotey, Moore, Oakley, Schultz, Semmelman*  
*Nays: None*  
*Absent: Flores, Krummick*

*In the matter of ZBA 17-08.2), Board Member Schultz moved, seconded by Board Member Semmelman, to recommend the Village Board of Trustees approve a variation to increase the maximum permitted sign area from two (2) square feet to six (6) square feet for each Private*

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*Traffic Directional sign proposed for property located in a C-5, Vehicle Dealer Commercial District, in accordance with the plans submitted.*

*Motion carried 4 - 1.*

*Ayes: Cotey, Oakley, Schultz, Semmelman*  
*Nays: Moore*  
*Absent: Flores, Krummick*

*In the matter of ZBA 17-08.3), Board Member Oakley moved, seconded by Board Member Schultz, to recommend the Village Board of Trustees approve a variation to increase the maximum permitted number of Service wall signs from one (1) to three (3) for property located in a C-5, Vehicle Dealer Commercial District, in accordance with the plans submitted.*

*Motion carried 4 - 1.*

*Ayes: Cotey, Oakley, Schultz, Semmelman*  
*Nays: Moore*  
*Absent: Flores, Krummick*

**COMMUNICATIONS AND DISCUSSION:** None.

Board Member Oakley moved, seconded by Board Member Semmelman, to adjourn the Zoning Board of Appeals meeting.

Motion carried 5 - 0.

Meeting adjourned at 8:45 p.m.