

MINUTES OF THE ZONING BOARD OF APPEALS
November 28, 2016

The regular meeting of the Zoning Board of Appeals was called to order by Vice Chairman Mark Moore at 7:50 p.m. at the Village Hall.

Members present: Vice Chairman Mark Moore, Amy Flores, Matthew Krummick, Walter Oakley, Kurt Schultz, and David Semmelman.

Members absent: Chairman William Cotey.

A quorum was established.

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

Board Member Oakley moved, seconded by Board Member Schultz, to approve the October 24, 2016, Zoning Board of Appeals meeting minutes.

Motion carried 6 - 0.

OLD BUSINESS: None.

NEW 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 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 variations for signage 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, introduced the requests by the petitioner. Mr. Smith stated that the petitioner, N3 Property Advisors, LLC, is 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 the petitioner is proposing to construct a single story Burger King restaurant building with a drive through service approximately 1,900 square feet in floor area

Minutes of the November 28, 2016, Zoning Board of Appeals Meeting
Page 2 of 5

located on the south side of Peterson Road. Mr. Smith stated that the Ace Hardware store is immediately to the east and a car wash to the west. He stated that the zoning is C-3, General Commercial District and Drive-In Establishments accessory to Restaurants are listed as a Special Permitted Use in this district.

Mr. Mark Hounder, petitioner, stated that they have been looking in the Chicagoland area since April 2016 for an opportunity to establish a new Burger King restaurant. He stated that the subject site on Peterson Road is only 125 feet wide which hinders the ability to completely meet the Zoning Code required Perimeter Landscaped Open Space. He stated that they are proposing a one-way loop around the restaurant and reduce the Perimeter Landscaped Open Space from 10 feet to 5 feet along portions of the east and west sides of the property. He stated that they are proposing denser landscaping along the southwest corner of the property to help buffer light and noise from the residents to the southwest of the site. He stated that the building architecture and aesthetics are comprised of organic colors. He stated that they are proposing to move the permitted rear facade wall sign to the western side of the building which is triggering the sign variation request. He stated that access from Peterson Road will include left and right turn lanes. He stated that they anticipate that 60% to 65% of the vehicle trips generated will come from existing traffic along Peterson Road.

Mr. Hounder stated that the anticipated noise levels will not exceed what the Zoning Code allows.

Mr. Mike Caldwell, engineer for the petitioner, stated that this site will not exceed the code regarding the noise. He stated that NP3 will remain owner of the property.

Mr. Hounder stated that they want to maintain a long term relationship with the Village.

Mr. John Spoden, Director of Community Development, asked the petitioner if they intend to revise their proposed freestanding business sign as an Electronic Message Board would not be permitted at this site. Mr. Hounder stated that they will comply with the sign ordinance regarding the EMB and revise it accordingly.

Mr. Phil Cavicchia, 1716 Cedar Glen Court, stated that he is concerned about the noise, hours of operation, and the height of the structures. He stated that the former Burger King on Rt. 21 turned down their lights at 10:00 p.m. He stated that he is concerned about the noise that will emanate from the site from the restaurant's exhaust fans. He stated that the petitioner should provide equipment specifications to demonstrate what the noise levels will be. He stated that the exhaust fans should be capable of removing smoke and other particulates from the air and muffle the sound. He stated that he is concerned about the headlight glare due to on-site traffic patterns. He stated that he is concerned about the impact of the drive through speaker noise.

Mr. Cavicchia stated that he is concerned about storm water management and the noise from the refuse trucks and delivery trucks. He stated that a noise study should incorporate all pre-build ambient noise. Mr. Cavicchia stated that an 8 foot fence is not tall enough, it should be 20 feet in height.

Minutes of the November 28, 2016, Zoning Board of Appeals Meeting
Page 3 of 5

Mr. Hounder stated that the hours of operation will be from 6:00 a.m. to 10:00 p.m. He stated that the building height will be approximately 25 to 26 feet in height. He stated that they can get the mechanical unit specifications and that they roof top units will be shielded by a parapet barrier. He stated that the exhaust fan systems are design to remove particulate contaminants. He stated that the site lighting and photometric plan will adhere to the Village code. He stated that the noise study will address all aspects of noise sources.

Mr. Caldwell stated that the existing site contains more lot coverage than what it will contain when it is redeveloped with the Burger King restaurant. He stated that the storm water volume will be controlled through proper drainage facilities on the southern portion of the site. He stated that they will also incorporate a bio-swale system. He stated that they will comply with all Lake County Watershed Development Ordinance requirements.

Mr. Caldwell stated that the landscape plan is designed to mitigate headlight glare with a substantial amount of evergreen plantings along the southern property line. He stated that they want to be good neighbors.

Ms. Christine Cavicchia, 1716 Cedar Glen Court, stated that she is concerned about the potential excessive garbage and the attraction of rodents to the site. She stated that she is concerned about the proximity of the subject site to her property. She stated that she is concerned about noise that will emanate from the site. She is concerned about vehicles revving their engines as they are waiting in the drive through lane.

Mr. Hounder stated that they will maintain professional standards regarding the maintenance of the refuse containers and its enclosure. He stated that it will be constantly monitored. He stated that Burger King does not serve liquor and if there is any illegal activity on site the restaurant managers should know to call the police.

Mr. Jim Lobus, 1718 Cedar Glen Court, stated that he is concerned about the storm water facility location and capacity. Mr. Caldwell answered the storm water management facility location and capacity questions.

Mr. Lobus stated that the fence proposed to run along the southern property line is not long enough. Mr. Caldwell stated that they could wrap the fence around the southern corners of the lot and extend the fence further along the side property lines.

Mr. Lobus stated that he is not in favor of a 24 hour operation. He is concerned about the light glare from the subject property. He asked about the number of parking spaces. Mr. Caldwell stated that they have reduced the number of parking spaces from their initial plan proposal.

Mr. Cavicchia stated that he is concerned about the lighting emanating from within the restaurant. He stated that the Plan Commission should condition approval with a requirement of reduced hours of operation.

Minutes of the November 28, 2016, Zoning Board of Appeals Meeting
Page 4 of 5

Mr. Lobus asked how much the minimum required Perimeter Landscaped Open Space is being reduced. Mr. Caldwell stated that it is being reduced to 5 feet along one side and 6 feet along the other side.

Mr. Lobus stated that they should meet the minimum required Perimeter Landscaped Open Space requirement in accordance to the Village code.

Mr. Caldwell stated that the given lot width hinders their ability to provide the minimum 10 foot wide Perimeter Landscaped Open Space along the side property lines.

Board Member Schultz asked about the seating capacity as it relates to the proposed number of parking spaces. Mr. Hounder stated that the Burger King corporation requires a certain number of indoor seating which is forcing the proposed floor plan and dimensions. He stated that they are not providing outdoor seating.

Board Member Schultz stated that the hardship for the proposed reduction in the Perimeter Landscaped Open Space is self-created. He stated that the Perimeter Landscaped Open Space should be adjusted.

Mr. Hounder stated that Burger King corporate dictates to them the building width.

Board Member Schultz stated that the petitioner should be able to get the 10 foot wide Perimeter Landscaped Open Space. He stated that there should be a fence along the rear and side property lines. He stated that he is concerned about the noise impact that will be produced from the drive through speakers.

Board Member Krummick stated that the residential district backs up to the commercial district at this location. He stated that there appears to be a higher concentration of proposed evergreen landscaping along the side property line abutting the Ace Hardware property that is being proposed along the south property line that abuts the residential district. He stated that the landscape plan should be adjusted to improve the landscaping along the southern property line. He stated that the lighting should be reviewed and determined if there is a glare nuisance at night.

Board Member Semmelman stated that the hours of operation should be restricted in order to be sensitive to the adjacent residential neighbors. He asked about the delivery schedule. Mr. Hounder stated that deliveries typically happen prior to opening in the morning.

Board Member Flores stated that she would be supportive of a fence that runs along the entire rear property line and wraps around the rear corners and runs along the side property lines far enough so that it provides a buffer from the residential properties to the south.

Board Member Oakley asked about the number of employees. Mr. Hounder stated that the number of employees would be around eight on any one shift.

Minutes of the November 28, 2016, Zoning Board of Appeals Meeting
Page 5 of 5

Board Member Oakley stated that consideration should be given to executing an agreement with the Ace Hardware property owners to allow Burger King employees to park on the Ace property.

Vice Chairman Moore asked if the petitioner concurs with the Staff review comments found in the DRC Staff report. Mr. Hounder stated that they concur with the comments.

Vice Chairman Moore stated that it is a difficult site. He stated that the southwest portion of the property will need substantial buffering in order to protect the residents to the southwest. He stated that these requests should be continued in order to provide the petitioner an opportunity to respond to the review comments with revised and additional petition materials.

In the matters of ZBA 16-22 and ZBA 16-23, Board Member Oakley moved, seconded by Board Member Flores, to continue these items to the January 23, 2017, Zoning Board of Appeals meeting.

Motion carried 6 - 0.

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

COMMUNICATIONS AND DISCUSSION:

Board Member Oakley moved, seconded by Board Member Schultz, to approve the 2017 Zoning Board of Appeals meeting dates.

Motion carried 6 - 0.

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

Motion carried 6 - 0.

Meeting adjourned at 9:25 p.m.