

MINUTES OF THE ZONING BOARD OF APPEALS
February 28, 2022

The regular meeting of the Zoning Board of Appeals was conducted virtually due to public health concerns and called to order by Temporary Chairman Eric Steffe at 7:00 p.m.

Commissioner Rankin moved, seconded by Commissioner Pyter, to appoint Commissioner Eric Steffe as Temporary Chairman of the Zoning Board of Appeals in Vice Chairman Mark Moore's absence.

Motion carried 4 - 0.

Members present: Temporary Chairman Eric Steffe, Amy Flores, Richard Pyter, Thomas Rankin, and Gregory Wheeler.

Members absent: Vice Chairman Mark Moore and Walter Oakley.

A quorum was established.

Village Staff present: John Spoden, Director of Community Development; David Smith, Senior Planner; and Jeff Cooper, Village Engineer.

Others present: Brooke Lenneman, Village Attorney.

OLD BUSINESS: None.

NEW BUSINESS:

ZBA 22-01 Andrew Nast and Adam Clabaugh, Applicants
416 N. Milwaukee Avenue

Request is for a variation to increase the maximum permitted limitation that prohibits specified land uses from occupying the front thirty-five (35') feet of any first floor space within a building with street frontage on Milwaukee Avenue within the C-1 Downtown Core Commercial District.

ZBA 22-02 Andrew Nast and Adam Clabaugh, Applicants
416 N. Milwaukee Avenue

Request is for a variation to increase the maximum permitted limitation that prohibits specified land uses to occupy more than twenty-five (25%) percent of the gross first floor area of a building with street frontage on Milwaukee Avenue within the C-1 Downtown Core Commercial District.

Mr. John Spoden, Director of Community Development, stated that the petitioner is requesting two variations for the property located at 416 N. Milwaukee Avenue owned by Mark Khayat and formerly occupied by Indian Motorcycle. Mr. Spoden stated that in 1995, the Village adopted an

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ordinance that limited the amount of office uses in the C-1 Downtown Core Commercial District to not exceed 10% of the properties that fronted Milwaukee Avenue in the downtown. He stated that the intent of that regulation was to encourage more pedestrian traffic in the downtown area. He stated that over time the Village realized that the 10% rule became difficult to enforce. He stated that in 2004, Village Staff worked with the Economic Development Commission and MainStreet Libertyville to revise the Zoning Code to address this issue. He stated that they added financial institutions to the limitation and they added additional restrictions to office uses and financial institution uses from occupying the front 35 feet of the ground floor area in buildings with frontage along Milwaukee Avenue in the C-1 District and limited any office use and financial institution use from occupying more than 25% of the ground floor area in buildings with frontage along Milwaukee Avenue in the C-1 District. He stated that these changes to the Zoning Code also included making these regulations variable.

Mr. Spoden stated that the petitioners tonight are seeking variations from both the 35 foot rule and the 25% rule in order to occupy the entire ground floor area of the building located at 416 N. Milwaukee Avenue.

Ms. Brooke Lenneman, Village Attorney, stated that the requested variations are subject to the Standards for Variation as provided in the Zoning Code.

Mr. Andrew Nast, applicant, 1230 Elm Street, Park Ridge, IL., presented the requested variations. Mr. Nast stated that their first Brick and Mortar location is in Park Ridge. Mr. Nast presented Brick and Mortar web site screen images of the Park Ridge location and did a virtual work through that facility. Mr. Nast described the meaning of the co-working space as facilitated by Brick and Mortar. He stated that the Brick and Mortar Park Ridge location is located in the oldest building in Park Ridge which was constructed in 1865. He stated that they began opening Brick and Mortar co-working facilities since 2014 including in downtown Chicago.

Mr. Nast stated that they have background in real estate, construction, technology and market research. He stated that they are also looking to expand in downtown Deerfield, downtown LaGrange, and downtown Glen Ellen. He stated that they were required to go through similar zoning approval processes.

Mr. Nast stated that as a member your phone becomes your key card when entering a Brick and Mortar facility. He stated that the entrance door is locked 24/7 with video surveillance for security. He stated that members can use the facility as their business address. Mr. Nast continued to describe the co-working space via virtual walk-through tour on their website. He stated that the space includes conference rooms with Apple TV, lounge area, wi-fi, hot coffee, printing, filtered water, desk seating, café style seating, etc. He stated that the conference room space can be booked from an hourly up to a daily basis. He stated that they also provide a sound proof phone booth within the facility. He stated that the facility also comes with a community kitchen. He stated that they are 100% occupied with a waiting list.

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Mr. Nast stated that the reason they desire to be located in the heart of the downtown is the walkability factor. He stated that Brick and Mortar members take advantage of the downtown amenities such as the neighboring restaurants. He stated that Brick and Mortar members want a location that is impressive and a place for members to bring their guests to a location that is captivating with the downtown appeal. He stated that the 416 N. Milwaukee Avenue location comes with 35 parking spaces and this can meet the needs of the Brick and Mortar members. He stated that their goal is to become a fixture of the Libertyville community.

Mr. Nast stated that most communities want to protect their downtown commercial spaces for restaurants and retail uses. He stated that during the pre-Covid era the restaurant and retail businesses in downtowns was an understood and practical policy but now the trend is changing and operations like Brick and Mortar are filling a gap as restaurants are going out of business. He stated that employees like the hybrid model that Brick and Mortar offers which is to be able to work both at home and in an office environment as needed.

Mr. Nast stated that the larger commercial spaces are better suited for the co-working space operations and less so for restaurants in suburban downtowns. He stated that people who reside within a 25 minute radius of a Brick and Mortar facility are those that patronize the downtown area. He stated that these people who utilize the Brick and Mortar facility will get coffee, get lunch, or go to local establishments for happy hour, etc. He stated that they have business meetings, and fly in people for meetings who then stay at the local hotels. He stated that this economic activity revolves around Brick and Mortar. He stated that Brick and Mortar has partnered with local restaurants for events.

Mr. Nast stated that the expected 30 to 50 people that Brick and Mortar in Libertyville would bring in daily would utilize the other downtown businesses, services and amenities.

Mr. Nast read a letter from Mark Loeb who owns the neighboring 412 N. Milwaukee Avenue building. The letter states that Mr. Loeb supports the variation requests by Brick and Mortar and that they would be an asset for the entire village. Mr. Nast stated that Brick and Mortar will become a vibrant use for the 416 N. Milwaukee Avenue building and downtown Libertyville.

Mr. Dan Timm, 15555 West Timber Lane, Libertyville, stated he served as Executive Director of MainStreet Libertyville from 1992 to 1997. He stated that he was involved in the drafting of the Zoning Code ordinance that was intended to protect the retail uses in the downtown. He stated that he likes the Brick and Mortar concept, but does not support the variations being requested. He stated that the ordinance was put in place in order to protect the downtown retail street wall in downtown Libertyville. He stated that the prior 10% rule was established to protect the retail land uses for the long term and to make downtown Libertyville a destination location. He stated that at the time of the drafting of the ordinance there were a substantial number of banks in the downtown. He stated that by inserting a land use like Brick and Mortar in the downtown on Milwaukee Avenue it interrupts the retail street wall and would have an impact on the pedestrian traffic. Mr. Timm stated that the applicants could give consideration to reserving the front 35 feet of the space for retail or give consideration to seeking occupancy in St. Lawrence church located on Church Street and is currently for sale. He stated that Libertyville's downtown is very

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lineal. He stated that Lake Forest has struggled with their retail land uses because their downtown is full of banks, accounting firms, and other office types of land uses on the first floor.

Mr. Nast stated that he would agree with Mr. Timm that if this space was solely an attorney's office or solely a doctor's office then it would not be complementary in nature to the downtown, but the difference with Brick and Mortar is an all-encompassing model that it can be widely utilized by the community.

Mr. Timm stated that he supports the concept without sacrificing the Milwaukee Avenue retail frontage.

Ms. Erin Murphy, 418 Prairie Lane, Libertyville, stated that she owns the Black Cat Yoga around the corner from Milwaukee Avenue in the downtown and she also owns the building at 117 E. Cook Avenue. She stated that she is also a private wealth banker. She stated that she perceives the proposal by Brick and Mortar from various perspectives. She stated that as a resident business owner and a corporate professional she sees the Brick and Mortar concept as a viable amenity in the downtown partially because the land use would not be a static office space. She stated that the Brick and Mortar business model offers flexibility that a regular commercial office use would not. She stated that the members of Brick and Mortar would make use of the space and then go to the other downtown shops and spend money and keep younger people attracted to Libertyville. She stated that it is important to remain mindful of the past but embrace the needs of the present and future trends. She stated that 416 N. Milwaukee is a space that will be hard to fill. She stated that the Brick and Mortar will fill the needs of the community and look attractive. She stated that the prior tenant, the Indian Motorcycle dealership, did not look very attractive at that location. She stated that she is supportive of the Brick and Mortar variation requests. She suggested that the proposed floor plan could be tweaked in order to make the front office area to be more of a lounge area design. She stated that this could be a positive decision for Libertyville.

Ms. Jennifer Johnson, Executive Director of Mainstreet Libertyville, 158 E. Cook Avenue, Libertyville, stated that Mainstreet Libertyville has worked for more than 30 years to preserve and protect the downtown. She stated that their efforts helped to craft a Zoning Code that has fostered and maintained a pedestrian friendly retail, dining, and entertainment center in the C-1 Commercial District in the Village of Libertyville. She stated that only certain uses are allowed in the front 35 feet of the first floor space of those buildings in the C-1 District that have frontage along Milwaukee Avenue. She stated that office uses are permitted to occupy no more than 25% of the ground floor area in those buildings that are located in the C-1 District that front Milwaukee Avenue. She stated that these two provisions are what keep the Libertyville downtown vital and encourages the infill of retail and restaurant uses in the downtown. She stated that this mix of land uses creates an environment that engages the Libertyville visitor to move up and down the block and explore the entire downtown area. She stated that first floor office uses erodes the downtown vibrancy when people cannot interact with that space. She stated that by approving the two variation requests will set a precedent that will open the door for other applications for other office uses that will forever change the dynamic of the charming Libertyville downtown. She stated that a great disservice would be inflicted upon the existing businesses currently in the downtown who follow the existing Zoning Code requirements

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especially after the last two years they have endured during the pandemic. She stated that last year 12 new businesses opened in downtown Libertyville and 13 celebrated significant anniversaries. She stated that Mainstreet Libertyville was awarded the Great American Mainstreet Award in 1997 and for the past 25 years has served as a model for other communities nationwide. She stated that the Libertyville downtown thrives because of the Zoning Code provisions that are currently in place. She stated that Mainstreet Libertyville urges the Zoning Board of Appeals to deny the requested variations.

Mr. Nast stated that from their past observations of vacant buildings that there is only a 12% chance of a retail land use taking occupancy. He stated that the 416 N. Milwaukee Avenue space may be too large of a space for a restaurant which may be another reason why this space has been vacant for the time period that it has. He stated that if this space was enticing for either the retail or restaurant sector it would have been occupied by now. Mr. Nast stated that Brick and Mortar would become a meaningful part of Libertyville's downtown. He stated that Brick and Mortar is a destination place and members will appreciate the downtown in Libertyville. He stated that the Brick and Mortar members will be excited to work in the downtown and will want to show off the downtown to their business meeting guests. He stated that Brick and Mortar would become a complimentary member of an already inviting Libertyville downtown.

Ms. Michele Connors and Mr. Harrison Connors, 1032 Fairlawn Avenue, Libertyville. Ms. Connors stated that they just moved to Libertyville from Chicago about six months ago. She stated that the company she works for purchased a Brick and Mortar membership for the Park Ridge location about 1.5 years ago. She stated that both she and her husband work from home and have been looking for a downtown location such as a coffee shop to work from as well. She stated that coffee shops fill up quickly and become loud which is not conducive to completing their work. She stated that she has used the Brick and Mortar membership for the Park Ridge location. She stated that she goes to Park Ridge from Libertyville about 2 or 3 days per week. She stated that while she is in Park Ridge she will go to lunch in their downtown. She stated that she has had meetings with clients at the Park Ridge Brick and Mortar location.

Ms. Connors stated that Libertyville's downtown is one of the reasons why they were drawn to reside in the Village. She stated that it is easy to walk around in the downtown, and there are a lot of restaurants and boutiques to enjoy in the Libertyville downtown. She stated that the Brick and Mortar in Park Ridge has become part of the community by hosting events and drawing the community together. She stated that because the Brick and Mortar is located on the main street in Park Ridge it tends to draw a lot of people into that area.

Ms. Connors stated that this will be their first time to enjoy Libertyville's First Friday event and she can envision Brick and Mortar being involved in an event like that. She stated that she would love it if Brick and Mortar would open an office here in Libertyville.

Mr. Harrison Connors stated that he has worked remotely for a significant amount of time. He stated that he needs a quiet place to work. He stated that the Park Ridge Brick and Mortar location has a striking appearance and provides a great opportunity to network as well.

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Mr. Elliot Khayat, 36575 North Fox Hill Drive, Wadsworth, IL., stated that as a local restaurant owner that the Covid pandemic has created a lot of stress on the industry not just in terms of sales, but also in terms of staffing and supplies. He stated that also as a listing broker for the 416 N. Milwaukee Avenue space that they have had no interest from a retailer for this space.

Commissioner Pyter stated that his wife was chair of the Mainstreet Libertyville Board and that he later served on the board as well. He stated that the downtown was dying in the early 1990's. He stated that through the collaboration between the Village and Mainstreet Libertyville, it gradually and successfully became what it is now. He stated that he does not support changing the regulations. He stated that the Comprehensive Plan was updated a year ago and it supports a retail-restaurant mix that Libertyville has now in the downtown. He stated that Libertyville has businesses other than restaurants and bars that benefit from downtown pedestrians walking by and taking advantage of their merchandise and services. He stated that the Harris bank building has a negative impact on the pedestrian traffic in the downtown. He stated that he supports the concept by Brick and Mortar, but does not want it to front Milwaukee Avenue in the C-1 District.

Commissioner Rankin stated that he echo's Commissioner Pyter's comments. He stated that the Brick and Mortar concept is a good one, but does not agree that it should be on Milwaukee Avenue.

Commissioner Flores stated that she likes the Brick and Mortar concept, but it should not be located on Milwaukee Avenue. She stated that there is an agreement that O'Toole's of Libertyville uses most of the 35 parking spaces behind the building. She stated that she does not want to change what is currently working for the downtown and does not support the variation requests.

Commissioner Wheeler asked what the proposed seat count is for Brick and Mortar and how do they account for the needed parking for this proposal.

Mr. Nast stated that the Park Ridge Brick and Mortar location is half the size of the 416 N. Milwaukee Avenue tenant space and the Park Ridge site uses half of the number of parking spaces that the 416 N. Milwaukee Avenue sites provides. He stated that this provides a gauge in determining that there will be enough parking at the Libertyville location. He stated that the proposed number of seats in the Libertyville location will be 60, but that this can be flexible. He stated that members might use a work station space on average between 2 to 4 hours. He stated that the primary usage would take place during business hours and that O'Toole's primary usage would take place in the evening so the operations of both facilities can more easily share the 35 parking spaces.

Commissioner Wheeler asked when the peak demand would be for this facility and how did they forecast the data.

Mr. Nast stated that the peak number of people would range between 30 to 40 people. He stated that their data is based upon market research.

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Commissioner Wheeler stated that the Brick and Mortar business model would still fall under an office land use category.

Mr. Nast stated the business model is not intended to accommodate long term leases to members. He stated that the Brick and Mortar membership model is more similar to a gym membership

Commissioner Wheeler stated that he shares the same concerns as the other board members of the Zoning Board of Appeals, but does believe Brick and Mortar to be a great concept.

Temporary Chairman Steffe stated that Brick and Mortar is a great concept. He asked the petitioner if they had looked at other locations.

Mr. Nast stated that they have looked at other locations, but the 416 N. Milwaukee Avenue is their preference. He stated that the pedestrian traffic walking by the store front will be intrigued as they look in the store front window.

Temporary Chairman Steffe asked the petitioner what they would like for the Zoning Board of Appeals to do regarding the variation requests.

Mr. Nast stated that they are ready for the Zoning Board of Appeals to vote and make a recommendation to the Village Board.

In the matter of ZBA 22-01, Board Member Flores moved, seconded by Board Member Wheeler, to recommend the Village Board of Trustees approve a variation to increase the maximum permitted limitation that prohibits specified land uses from occupying the front thirty-five (35') feet of any first floor space within a building with street frontage on Milwaukee Avenue within the C-1 Downtown Core Commercial District, in accordance with the plans submitted.

Motion failed 0 - 5.

Ayes: None
Nays: Steffe, Flores, Pyter, Rankin, Wheeler
Absent: Moore, Oakley

In the matter of ZBA 22-01, Board Member Flores moved, seconded by Board Member Wheeler, to recommend the Village Board of Trustees deny a variation to increase the maximum permitted limitation that prohibits specified land uses from occupying the front thirty-five (35') feet of any first floor space within a building with street frontage on Milwaukee Avenue within the C-1 Downtown Core Commercial District, in accordance with the plans submitted.

Motion carried 5 - 0.

Ayes: Steffe, Flores, Pyter, Rankin, Wheeler
Nays: None
Absent: Moore, Oakley

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In the matter of ZBA 22-02, Board Member Pyter moved, seconded by Board Member Rankin, to recommend the Village Board of Trustees approve a variation to increase the maximum permitted limitation that prohibits specified land uses to occupy more than twenty-five (25%) percent of the gross first floor area of a building with street frontage on Milwaukee Avenue within the C-1 Downtown Core Commercial District, in accordance with the plans submitted.

Motion failed 0 - 5.

Ayes: None
Nays: Steffe, Flores, Pyter, Rankin, Wheeler
Absent: Moore, Oakley

In the matter of ZBA 22-02, Board Member Wheeler moved, seconded by Board Member Rankin, to recommend the Village Board of Trustees deny a variation to increase the maximum permitted limitation that prohibits specified land uses to occupy more than twenty-five (25%) percent of the gross first floor area of a building with street frontage on Milwaukee Avenue within the C-1 Downtown Core Commercial District, in accordance with the plans submitted.

Motion carried 5 - 0.

Ayes: Steffe, Flores, Pyter, Rankin, Wheeler
Nays: None
Absent: Moore, Oakley

ZBA 22-03 Marcin Chrapek, Applicant
2001 Kelley Court

Request is for a variation to increase the maximum permitted height of screening for ground-mounted mechanical equipment from 10 feet to approximately 16.5 feet for property located in an O-2 Office, Manufacturing and Distribution Park District.

Mr. David Smith, Senior Planner, introduce the variation request to the Zoning Board of Appeals. Mr. Smith stated that the applicant is requesting a variation to increase the maximum permitted height of screening for ground-mounted mechanical equipment for property located in an O-2 Office, Manufacturing and Distribution Park District at 2001 Kelley Court.

Mr. Bob Bleck, architect and agent for the applicant, described the screening for the manufacturer's dust collector that will be mounted on the ground and to the exterior wall of the building located at 2001 Kelley Court.

Board Member Wheeler asked if there will be enough parking.

Mr. Bleck stated that for Bona Fide there will be more than enough parking. He stated that they are still designing the interior layout of the space inside the building.

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Board Member Pyter asked if there will be a substantial amount of noise.

Mr. Bleck stated that there will be a medium amount of noise, but the proposed screening will help to mitigate the noise from the dust collector.

Board Member Rankin asked about the two additional proposed refuse dumpsters to be located adjacent to the dust collector screening wall.

Mr. Bleck stated that one will be used to discard dust and the second will be used for other types of debris.

Temporary Chairman Steffe asked the petitioner what he would like for the Zoning Board of Appeals to do this evening.

Mr. Bleck stated that they are ready for a vote and recommendation to the Village Board.

In the matter of ZBA 22-03, Board Member Rankin moved, seconded by Board Member Wheeler, to recommend the Village Board of Trustees approve a variation to increase the maximum permitted height of screening for ground-mounted mechanical equipment from 10 feet to approximately 16.5 feet for property located in an O-2 Office, Manufacturing and Distribution Park District, in accordance with the plans submitted.

Motion carried 5 - 0.

Ayes: Steffe, Flores, Pyter, Rankin, Wheeler

Nays: None

Absent: Moore, Oakley

**ZBA 22-04 Great Lakes Credit Union, Applicant
1509 N. Milwaukee Avenue, Suite 102**

Request is for variations: 1) to increase the maximum permitted number of business signs from two (2) to four (4); and 2) from Zoning Code Section 26-11-3.4(a)(1) in order to allow internally illuminated signs to allow the background of sign panels to be translucent for property located in a C-3 General Commercial District.

Mr. Scott Parker, Legat Architects, 1125 Tri-State Parkway, Gurnee, IL., introduced the proposed scope of work including a new drive-thru canopy structure and various wall signs attached to the structure. He stated that Great Lakes Credit Union occupied this location a number of years ago, moved out at one point, and then re-occupied this location. He stated that there used to be a drive-thru with a larger canopy attached to the building, but it was removed a number of years ago. He stated that now that Great Lakes is coming back they will need a new drive-thru ATM structure, but it will be detached from the main building.

Mr. Parker stated that the Tranel Financial Group also occupies this building and Great Lakes Credit Union desires to differentiate themselves from Tranel with the proposed signage on the

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canopy structure. He stated that there are two signs that face Milwaukee Avenue and one sign that faces north. He stated that the sign on the ATM structure that faces north enables drivers to identify the ATM as belonging to Great Lakes as they access the property from Milwaukee Avenue if they miss the signage that faces Milwaukee Avenue.

Mr. Mike Hersh, 7123 North Keystone, Lincolnwood, IL., representative from Great Lake Credit Union stated that they appeared before the Appearance Review Commission and received a positive recommendation.

Board Member Pyter stated that he cannot identify the justification for the sign variation.

Mr. Hersh stated that they felt that there was a need for the number of signs on the ATM structure as it is setback from Milwaukee Avenue far enough that the line of sight to the signs from the vehicles traveling along Milwaukee Avenue is compromised due to the distance.

Board Member Rankin asked for clarification as to why the petitioner designed the sign panel backgrounds translucent as this is not compliant with the Zoning Code regulation.

Mr. Parker stated that the Appearance Review Commission also pointed out the translucent background, but stated that they weren't certain about the requirement prior to the Appearance Review Commission meeting.

Board Member Rankin stated that he does not support the sign variations, but does support the Special Use Permit for the drive-thru.

Board Member Flores stated that she supports the Special Use Permit for the drive-thru, but does not support the sign variations. She stated that it does not seem like the applicant should need the lower of the two signs facing Milwaukee Avenue, she would support one sign facing Milwaukee Avenue and the other sign facing north.

Mr. Hersh stated that they would consider reducing the number of signs by one and replace the removed sign with the wave logo.

Board Member Wheeler asked for clarification of the regulation regarding internally lit signage.

Mr. David Smith, Senior Planner, explained the Zoning Code requirement that prohibits the background of the sign panel to be translucent, but does allow the logos and lettering to be translucent with the panel background to be opaque. He stated that the Zoning Board of Appeals can make the motion for approval with conditions that can address the translucency issue depending as to what the applicant agrees with.

Ms. Brooke Lenneman, Village Attorney, stated that the Zoning Board of Appeals can move forward with a motion and if they deny the translucent background then the applicant would have to apply for a permit that complied with Code. She stated that the Zoning Board of Appeals can amend their motion to support the sign variation request for only three signs instead of four.

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Mr. Hersh stated that he would hope to get this issue resolved as soon as possible. He stated that they will agree to remove the north facing sign on the canopy for a revised variation for a total of 3 signs.

In the matter of ZBA 22-04.1), Board Member Flores moved, seconded by Board Member Rankin, to recommend the Village Board of Trustees approve a variation to increase the maximum permitted number of business signs from two (2) to three (3) for property located in a C-3 General Commercial District, subject to the following condition: 1) That the applicant submit revised sign plans showing the removal of the north facing canopy sign from the plans prior to this item going to the Village Board meeting.

Motion carried 4 - 1.

Ayes: Steffe, Flores, Rankin, Wheeler
Nays: Pyter
Absent: Moore, Oakley

In the matter of ZBA 22-04.2), Board Member Pyter moved, seconded by Board Member Wheeler, to recommend the Village Board of Trustees approve a Variation from Zoning Code Section 26-11-3.4(a)(1) in order to allow internally illuminated signs to allow the background of sign panels to be translucent for property located in a C-3 General Commercial District.

Motion failed 0 - 5.

Ayes: None
Nays: Steffe, Flores, Pyter, Rankin, Wheeler
Absent: Moore, Oakley

STAFF COMMUNICATIONS AND DISCUSSION: None.

Board Member Rankin moved, seconded by Board Member Pyter to adjourn the meeting.

Motion carried 5 - 0.

Meeting adjourned at 9:26 p.m.