

MINUTES OF A REGULAR MEETING OF THE
VILLAGE OF NEW LENOX PLAN COMMISSION

Held in the New Lenox Village Hall, 1 Veterans Parkway

Tuesday, January 18, 2011 7:00 p.m.

#11-01-B

CALL TO ORDER

A regular meeting of the Village of New Lenox Plan Commission was called to order at 7:05 p.m. by Chairman Mark Muehlnickel, with a quorum present.

Chairman Mark Muehlnickel led the Pledge of Allegiance.

ROLL CALL

Upon roll call, the following were present: Chairman Mark Muehlnickel, Commissioners Joan Byerley, Rob Moss, and Annette Boyd.

The following were absent: Commissioners Gary Berner, John Kuchler, and Tony Orsini.

Also present were: Senior Planner Jeff Smith and Secretary Lorrie Sowko.

REQUEST FOR APPROVAL OF MINUTES OF A REGULAR PLAN COMMISSION MEETING OF JANUARY 4, 2011

Chairman Muehlnickel entertained a motion to approve the minutes of the January 4, 2011, Plan Commission meeting. Commissioner Boyd made a motion, seconded by Commissioner Byerley. Voice vote was taken. Motion carried.

REQUEST FOR SPECIAL USE FOR AN OUTDOOR PATIO (Public Hearing)

Culver's

1.01-acre parcel located at 421 East Lincoln Highway

Baron Waller/The Baron Waller Company – Petitioner

Richard Stelter - Attorney

Chairman Muehlnickel entertained a motion to open the public hearing at 7:06 p.m. Motion was made by Commissioner Moss, seconded by Commissioner Boyd. Voice vote was taken. Motion carried.

Baron Waller of The Baron Waller Company was present to request a Special Use for an outdoor patio for Culver's restaurant. Christopher McGuire of McCon Building Corporation was also present and is the contractor for Culver's restaurant project.

MINUTES OF A REGULAR MEETING OF THE
VILLAGE OF NEW LENOX ZONING BOARD OF APPEALS

Held in the New Lenox Village Hall, 1 Veterans Parkway

Tuesday, January 18, 2011 7:00 p.m.

#11-01-B ZBA

CALL TO ORDER

A regular meeting of the Village of New Lenox Zoning Board of Appeals was called to order at 7:14 p.m., by Chairman Mark Muehlnickel, with a quorum present.

ROLL CALL

Upon roll call, the following were present: Chairman Mark Muehlnickel, Commissioners Joan Byerley, Rob Moss, and Annette Boyd.

The following were absent: Commissioners Gary Berner, John Kuchler, and Tony Orsini.

Also present were: Senior Planner Jeff Smith and Secretary Lorrie Sowko.

REQUEST FOR APPROVAL OF MINUTES OF A REGULAR ZONING BOARD OF APPEALS MEETING OF JANUARY 4, 2011

Chairman Muehlnickel entertained a motion to approve the minutes of the January 4, 2011, Zoning Board of Appeals meeting. Commissioner Boyd made a motion, seconded by Commissioner Moss. Voice vote was taken. Motion carried.

REQUEST FOR VARIANCE FOR MENU BOARD SIGN (Public Hearing)

Culver's

1.01-acre parcel located at 421 East Lincoln Highway

Baron Waller/The Baron Waller Company – Petitioner

Richard Stelter – Attorney

Chairman Muehlnickel entertained a motion to open the public hearing at 7:14 p.m. Motion was made by Commissioner Boyd, seconded by Commissioner Byerley. Voice vote was taken. Motion carried.

Baron Waller of The Baron Waller Company was present to request a variance for a menu board sign for Culver's restaurant. Christopher McGuire of McCon Building Corporation was also present and is the contractor Culver's restaurant project.

Baron Waller notified that the Village Ordinance allows for two small menu board signs and is requesting one large menu board, which is typical for a Culver's Restaurant. The reason for the

larger menu board request is because Culver's Restaurant has a larger variety of offerings and the smaller menu board will make it difficult to depict all of Culver's menu items.

Christopher McGuire commented that the larger menu board has a total square-footage that is less than two smaller menu boards combined.

Senior Planner Jeff Smith stated that Staff reviewed the three criteria that are listed in the Zoning Ordinance.

- 1) That the property in question cannot yield a reasonable return.

Staff Response: The petitioner can achieve a reasonable return without the requested variance, per the Sign Code. The petitioner has the ability to place a maximum of two menu board signs (32 square-foot maximum for each sign) on the property in order to be able to display menu items on a total of 64 square feet. The Sign Code and the initially approved menu board sign would allow for the subject property to achieve a reasonable return.

The Zoning Board of Appeals may feel that a return could be limited since the smaller signs would not provide adequate space for all restaurant menu items, including lunch, dinner, and dessert items.

- 2) That the plight of the owner is due to unique circumstances.

Staff Response: The grade change drop from U.S. Route 30 to the subject outlot is a unique circumstance, but the other outlots in the shopping center have similar or even greater grade changes.

With or without a grade separation, the petitioner would have requested a larger menu board sign for the forthcoming Culver's Restaurant.

If the variance is granted, precedent could be established for other existing or future drive-through restaurants in different commercial areas of the Village requesting a larger menu board sign.

Staff notes that a text amendment to the Zoning Ordinance may need to be considered to avoid a proliferation of similar variance requests. The Sign Code could still maintain the current allowance of two smaller menu boards, but also be amended to provide another option to allow an applicant to have only one menu board sign, not to exceed a specified square footage such as 64 square feet (total of two menu board signs combined) or a reduced square footage (e.g. 45-50 square feet). A text amendment to alter the menu board sign allowances would require a public hearing before the Plan Commission, followed by ultimate approval or denial from the Village Board.

- 3) That the variation, if granted, will not alter the essential character of the locality.

Staff Response: The proposed variance would not significantly alter the character of the locality or negatively impact the surrounding properties.

However, Staff reminds the Zoning Board of Appeals that per the Zoning Ordinance, a variance must satisfy all three criteria in order to be granted.

If the Zoning Board of Appeals is inclined to recommend approval, it may be suggested that Staff and the Village review the option for a text amendment to avoid requests for similar variances for drive-thru restaurants.

Based on the submitted sign elevations, the location of the menu board sign on the property with adequate landscaping and the buffering by the building, the proposed menu board sign would not have negative impact on surrounding properties.

Nevertheless, since the request did not satisfy all three criteria in the Zoning Ordinance, Staff would recommend denial of the variance request to increase the menu board sign from 32 square feet to 45.6 square feet.

For this particular case, if the Zoning Board of Appeals feels that the request substantially abides to the three criteria, it may decide to recommend approval of the menu board sign area increase, but Staff would recommend that the property be restricted to only one menu board sign, not to exceed 45.6 square feet in area.

Chairman Muehlnickel asked if the two smaller signs were utilized, can they be placed next to each other.

Jeff Smith answered that there is no restriction to the location.

Commissioner Boyd explained that the Zoning Board of Appeals wants to accommodate Culver's, but not set a precedent for other businesses with drive-thru windows.

Baron Waller added that the larger menu board will help the customers view the entire menu and pricing, while small menu boards would not accommodate these needs.

Commissioner Muehlnickel added that this situation is unique due to the large variety of menu items being offered.

Commissioner Boyd asked if the order verification post is separate from the menu board.

Jeff Smith confirmed that the order verification post is separate.

Chairman Muehlnickel entertained a motion to close the public hearing at 7:25 p.m. Motion was made by Commissioner Byerley, seconded by Commissioner Boyd. Voice vote was taken. Motion carried.

Chairman Muehlnickel entertained a motion to recommend approval of the variance to increase the proposed menu board sign from 32 square feet to 45.6 square feet for Culver's Restaurant located at 421 East Lincoln Highway, Lot 3 of New Lenox Town Center First Re-Subdivision, subject to the property being restricted to only one menu board sign not to exceed 45.6 square feet in area and 6 feet in height as depicted on the attached menu board sign exhibit and site plan. Commissioner Boyd made a motion, seconded by Commissioner Moss. Roll call vote was taken. Motion carried unanimously.

OLD BUSINESS

None.

NEW BUSINESS

None.

ADJOURNMENT

Chairman Muehlnickel entertained a motion to adjourn the meeting at 7:28 p.m. Motion was made by Commissioner Boyd, seconded by Commissioner Byerley. Voice vote was taken. Motion carried.

Lorrie M. Sowko – Secretary

Senior Planner Jeff Smith explained that the C-3 Zoning District requires a Special Use for outdoor patios.

Culver's restaurant is currently under construction and the proposed patio is 390 square feet in size and is to be located on the west side of the building.

Staff has no objections to the proposed request, based on the criteria for a Special Use and additional criteria for an outdoor patio. The patio will not have any negative impact to surrounding properties or surrounding parking/drive-thru areas. Alcohol will not be served. One of the conditions for the outdoor patio will be for the petitioner to propose a shared parking plan which must go before the Zoning Board of Appeals (ZBA) for a recommendation followed by ultimate Village Board approval or denial. The petitioner is seeking to share parking at least 10 parking spaces with Wal-Mart to the north to accommodate for the insufficient number of parking stalls on the Culver's property.

Mr. Waller mentioned to Staff that the draft shared parking plan will be available soon.

Subject to the seven conditions, Staff recommends approval of the Special Use for the Outdoor patio for Culver's subject to:

1. A maximum of 390 square-foot patio shall be permitted as shown on the Site Plan.
2. The patio shall not be used after 10:00 p.m. with the exception of the extended summer hours when the patio will be open until 11:00 p.m.
3. There are parking spaces abutting the patio area, and for safety purposes, Staff recommends the installation of wheel / bumper guards within these parking stalls.
4. The shared parking plan with Wal-Mart for additional needed employees spaces for Culver's Restaurant must be reviewed by the Zoning Board of Appeals and ultimately approved by the Village Board, which includes the submittal of a shared parking agreement.
5. External speakers must be kept at a lower decibel level, not more than 50 decibels at the property line. All outside patio speakers must be turned off by 10:00 p.m.
6. Live entertainment will not be allowed on the patio.
7. All necessary permits and licenses must be obtained from the Village as well as the Will County Health Department.

Chairman Muehlnickel wanted to know if the patio will be raised.

Chris McGuire responded that there should be a raised separation between the patio and the store front parking, other than the location of the handicapped ramp. In particular, there will be a 6-foot sidewalk between the patio and the adjacent parking stalls that will contain curb stops/bumper guards.

Chairman Muehlnickel entertained a motion to close the public hearing at 7:11 p.m. Motion was made by Commissioner Boyd, seconded by Commissioner Moss. Voice vote was taken. Motion carried.

Chairman Muehlnickel entertained a motion to recommend approval of the Special Use request to allow an outdoor patio for dining and drinking for Culver's restaurant, located at 421 East Lincoln Highway, subject to the following conditions:

1. A maximum 390-square foot outdoor patio shall be permitted for Culver's Restaurant as depicted on the attached site plan exhibit.
2. The patio shall not be used after 10:00 p.m., with the exception of extended restaurant hours during the summer months until 11:00 p.m.
3. Wheel/bumper guards shall be installed within all parking stalls abutting the outside patio area as depicted on the attached site plan exhibit.
4. A Shared Parking Special Location Plan for the necessary 10 off-site shared parking spaces in the Wal-Mart parking lot shall be submitted for Zoning Board of Appeals review and ultimate Village Board approval or denial.
5. External speakers for the outside patio shall be played at a lower decibel level not to exceed 50 decibels.
6. Live entertainment shall not be permitted on the outside patio.
7. The petitioner must obtain all necessary permits and licenses and abide by all requirements specified by the Village and Will County Health Department.

Commissioner Boyd made a motion, seconded by Commissioner Byerley. Roll call vote was taken. Motion carried unanimously.

OLD BUSINESS

None.

NEW BUSINESS

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Jeff Smith announced that the next regular scheduled Plan Commission meeting will be February 1, 2011, and may include a county case. Also, a shared parking special location plan for Culver's may be submitted for review by the Zoning Board of Appeals.

ADJOURNMENT

Chairman Muehlnickel entertained a motion to adjourn the meeting at 7:13 p.m. Motion was made by Commissioner Boyd, seconded by Commissioner Moss. Voice vote was taken. Motion carried unanimously.

Lorrie Sowko - Secretary