

**MERRILLVILLE BOARD OF ZONING APPEALS
MAY 27, 2015
6:30 PM**

The Board of Zoning Appeals meeting of May 27, 2015 was called to order by Chairman Minchuk at 6:30pm and led the group in the Pledge of Allegiance.

ROLL CALL

Members in attendance were John Minchuk states he is here, Tim Fortier present, Chuck Stojakovich absent, Ric Holt here and Robert Bigelow here. Staff in attendance was Dorinda Gregor, Attorney Touchette and Bob Csanyi of Robinson Engineers.

Chairman Minchuk said we have 4 so we can make a decision tonight. Three is unanimous. The minutes from the last meeting and there are 3 sets. One from February 25th, March and April. Before I go into the other part I wanted to make sure you guys made sure there were 3 of them. I will go into that in a minute.

Chairman Minchuk proceeded I will call the case by case number and name of the petitioners I would ask that you come forward state your name and address for public record at which time you will be given an opportunity to present your case accompanied by any professionals that you may wish to have with you. After that we will have the open the case for further comment. If you are desirous of speaking for or against any case we ask that you please sign in at the registry in the center of the isle. We will have a question and answer period followed by a staff report pertaining to each case presented this evening. We will also render a decision either for or against or a deferral for more information or other reasons which we will state. Would you please at this time silence any communication devices, cell phones or pagers. We will appreciate it. Thank you. Minutes I said we have 3 sets.

Mr. Holtz said we need to make some corrections for the February 25th. Page 12 and 13. Seven lines up above it says Mr. Hardaway made the motion. He did not make the motion I believe I made the motion and then gave us the roll call was 5-0 but there were only three of us so. There was a reference in there to a pork chop page nine it was some type kind of traffic control device other than that. Other than that I will make a motion to approve February, March and April minutes with those correction to page 9, 12 and 13.

NOTE: A PORK CHOP IS A RAISED CONCRETE CURB TO DIRECT TRAFFIC IN AND OUT OF PARKING LOTS AND IS SHAPED LIKE A PORK CHOP.

Mr. Bigelow seconded the motion

Chairman Minchuk asked for a voice roll call.
All ayes motion carries.

COMMUNICATIONS: Letter of correspondence from James Strezovski on May 21, 2015 requesting to defer petitions #1 and #2 (Z15V6-0515 & Z16uV5-0515)

Z15V6-0515 JAMES STREZOVSKI, PETITIONER

STROJAN STREZOVSKI OWNER, Located at 7200 Broadway (Lot 1 Union Park) Variance approval from Sec. 21-192 c.2. to reduce the 1,320 foot distance requirement from another billboard sign and a variance from Sec. 21-192 (6) to allow a billboard sign to be located within 300' of a residential zone in a C-3, Highway Commercial Zoning district for a proposed two (2) sided 10.5' x36' For a digital billboard sign.

Z16uV5-0515 JAMES STREZOVSKI, PETITIONER

STROJAN STEZOVSKI, OWNER, Located at 7200 Broadway (Lot 1 Union Park) for a Variance of use approval to allow a digital (LED) message center on a billboard sign in a C-3, Highway Commercial zoning district for a proposed two sided 10.5' x 36' billboard sign

Mr. Fortier said I have a letter here dated May 21, to Dorinda and the Town of Merrillville BZA.

I James Strezovski would like to delay my hearing on May 27, 2015 for petition of use Variance until June 24 2015 at the Merrillville BZA meeting.

Thank you in advance
James Strezovski.

Mr. Fortier said which pertain to the first two petitions tonight.

Chairman Minchuk asked if we need a vote on. You are going to do it next meeting.

Mrs. Gregor said I did want to make mention that there was an error in the legal advertisement for the petition 1 so we will re-advertise that correctly. The spacing requirement should have been 1,980 feet from another billboard sign and I quoted the billboard sign off of I-65 and that is a smaller distance. So it will be re-advertised and mailing will go out.

Chairman Minchuk asked if he could get a motion to change the petitions until the next meeting.

Mr. Holtz said so motioned

Mr. Bigelow seconded the motion.

Chairman Minchuk call for a roll call vote.

Mr. Minchuk yes, Tim Fortier yes, Ric Holtz yes, and Robert Bigelow yes.
Motion carries 4-0

Z17V7-0515 CYPRESS/MERRILLVILLE I LTD, PETITIONER & OWNER, Located at 1488 East 79th Avenue for a Variance from Sec. 19-105 (e) to exceed the lot depth/width ratio from 3.5 to 1 and a Variance from Sec. 21-137 to reduce the minimum lot frontage from 100' to 63.07' in a C-3, Highway Commercial zoning district on 4.618 acres for a proposed retail development (Bob's Discount Furniture)

Richard Anderson 9211 Broadway Merrillville Indiana I represent Cypress/Merrillville I LTD. John Fainter from Cypress Equities is here. Jim Keilman is here the architect and also Doug Homier the surveyor. The address is 1488 East 79th Avenue and that would be the property between Lowes and Costco. It is 4.618 acres it was at the Plan Commission it was approved for a 1 lot preliminary subdivision subject to the variances being approved and also the drainage approval from the engineer. The preliminary PUD which is a part of the whole project of which this is a part expired back in 2001 or 2002 and so basically what is happening now is in order to have the subdivision of the last piece of land there which this is the last piece the 4 acres piece we need to have a variance because our lot depth/width is too long and secondly the lot frontage instead of being 100 feet is 63.07. Now as you indicated Bob's Discount Furniture which was established in 1991 is the proposed user of the property? On the Web site I told you it had 57 stores in the northeast and mid-Atlantic region I have now learned that they are in a massive expansion program so this won't be the only Bob's Discount Furniture that you see in this area though there will be more of them. The building which will sit back in here is 30,000 square feet it is 200 feet by 100 feet so when we get to where the building sits the size of the lot is 275 feet by 100 feet so just so there is no question that the building sits back here because we have 37 ½ feet on each side of it so we need 10 feet of green space and we still have 27.5 feet with regard to pavement and that would be on both sides of the building.

Mr. Touchette said excuse me did you say 200 feet by 100 feet.

Mr. Anderson said the 200 x 100 is the size of the building.

Mr. Holtz said that is 20,000

Mr. Anderson said 200 x 150. 30,000 doesn't add up with 100 x 200 I apologize. So basically what this building of that size is going to create substantial tax revenue and the reason for this variance basically is that in a PUD you can have this configuration so that is how this configuration ended up as it is. Since the PUD the preliminary one is expired we are now at the point where it is a 1 lot subdivision and in a 1 lot subdivision we have to get a variance for the same thing in which we would have automatically before. As some of you know there is also the access of this property in addition to being side by side because there is still the cross easement which are available to this sit just like the rest of them like all the rest of them. There is a driveway and Lowes and this piece of property and also excuse me Lowes is over here between Costco over here and Lowes over here so actually so even thou the dedicated land is 67 you also have more land than that in addition because of the shared driveways so basically what we are this is one step in a long process to get a building permit and so we are requesting a developmental variance for the two things mentioned.

Mrs. Gregor read the staff report. If approved for this petitioner only at this location only for this use only.

Chairman Minchuk said how about our town engineer.

Mr. Csanyi said I was interested in seeing more of the drainage that we had talked about as far as the frontage width I mean it is obviously short. With the entrance way that I have seen at that little line that comes out I think that it is going to be a

little hard to get some trucks in there. I know there are other entrances as you have brought up. I think that it is going to be an issue on the frontage portion.

Mr. Anderson said yes across the back which basically you can bring the trucks in if you come in on the side of Lowes there is a driveway and back behind all the buildings and then plus the one that is designed on the Costco side is actually designed for their trucks Costco's trucks and Bob's can use it also.

Chairman Minchuk asked if there is a written agreement on that.

Mr. Anderson said yes.

Chairman Minchuk said I wish it were put inside here. That was a concerned

Mr. Anderson said there are multiple easements they are like 30 pages each so basically you can make it a stipulation that there is cross easements that is fine as your approval.

Mr. Touchette said the easements will need to be a part of this.

Mr. Anderson said yes it can be subject to the fact that there are cross easements as I told you we still have to go in for site plan approval. This is one piece of it so when we go in for site plan approval that is when you will be looking at more of these things. There is still landscaping to do there is all the different things with parking layout etc. that it is done through the site plan review which is the committee that Dorinda heads.

Mr. Touchette said with the town engineer what is this about the driveway and the trucks. You think that it will be difficult for trucks to turn in there.

Mr. Csanyi said I think that in that far East entrance I don't think that the turning radius is

Mr. Anderson said I think that it is designed for the west one. The one that goes straight thru that Costco uses.

Chairman Minchuk replied is it the same one that Costco uses.

Mr. Anderson said they also use the one behind Lowes.

Mr. Touchette said I have trouble conceptualizing this without a drawing in front of me. I am not that familiar with it so

Mr. Anderson said well basically I gave you that at the Plan Commission but I can give you the drawings again showing where the cross easements

Mr. Touchette said I think I got a drawing I think that I got this but I don't think that I have a drawing.

Mr. Anderson said I can give you and I forgot to give you the rendering that Mr. Keilman. The group was all talking at one time.

Mrs. Gregor asked Mr. Anderson can you show the members where some of that traffic is going to flow.

Mr. Anderson replied yes driveway is going to flow this is the Costco side ok so there is a driveway already created out there that is double and then you have the driveway on the side of the Pancake House and both of those are in addition to what we have of our own lane.

Mrs. Gregor said what about those behind Lowes and that

Mr. Anderson said if you look at the drawing the little one basically what it is they are coming across in the back which is the same as what is already out there as far as the

Mrs. Gregor said so I am showing the parking for Lowes on the west side of Lowes and so

Mr. Anderson said there is also a cut up there in the front and also where the store is. There is one by the store. This one is the one I think I gave the Plan Commission which show the arrows. He passed out a drawing.

Mr. Holtz said the front of the building shown will not be any further than Lowes or Costco.

Mr. Anderson said it will be in the same general vicinity so it lines up.

Mr. Holtz asked if they are going to upgrade the entrance on the IHOP side

Mr. Anderson said I assume that there will be there isn't a lot of upgrading yes. It already has the curbs in I don't think there is a lot of upgrading to do.

Mr. Csanyi said there will be curbing put on the eastern side there because there is none there now.

Mr. Anderson said it will be landscaped too that is part of the landscaping.

Mr. Holtz asked if there is any way that we can restrict truck traffic on just that one Entrance.

Mrs. Gregor said on the front entrance off of 79th.

Mr. Holtz said yeh do they have to use the Costco side or the one behind.

Mr. Anderson said no problem. Mr. Fainter says that we can actually say that we restrict it to the west side because I think that a lot of them are going to come across the back any way. I think that this is the last truck driver because you would come into the back where I would think that the loading docks would be. There wouldn't be any reason for them to come through the front but if they do then we can restrict them to the west side.

Mr. Bigelow said there is the opportunity to restrict all the trucks to the back because coming up on 79th has got to be very, very difficult and how you have sited your building there is a lot of room in back. I happen to have a copy of the

engineering plans here that I was able to get my hands on so I have got a little bit more information that what these other gentlemen have because of it but with the building coming as close as it does to the two side lines in my mind really conducive to good use if the building could be turned at a 90 degree that we are 150 foot frontage and 200 foot depth might be a little bit better.

Mr. Anderson replied that you have 37 ½ feet on each side of the building a normal public street is 24 so if I give myself 10 feet of greenspace I still have got 27 feet for roadway. So I have more roadway than what a normal street is on both sides of the building because one of the things is when you start turning the building and shrinking it then the building looks smaller and then the fact of trying to get customers there isn't so good but I mean usually what we end up with is a 20 foot actually what is required in the town is a 20 foot side yard on each side. We have almost double that. We have 37.5

Mr. Bigelow replied that part of that is already taken up by paving on both sides because the pavement from both sides crosses the property line by about 10-12 feet on each side so now

Mr. Anderson said so basically we have the greenspace for the 10 and then we have 27.5 of pavement which would be there and normally what you would have is a 10 foot driveway alongside of the building and if you went all over Merrillville you would see that basically there is a 10 foot and then there is a 10 greenspace so I mean we are double what the requirement is of the town. One thing is yes if we were going to design this from scratch is one thing but when we have the opportunity to build a 30,000 square foot building in an area that if for commercial which this is and basically it was designed as a PUD lot but it is a subdivision. That is why it was designed this way and since that has expired now there is an opportunity to build something that is what we are trying to do really.

Chairman Minchuk asked if there is any one that would like to speak for or against. Seeing none the board.

Mr. Holtz said there all 67 feet in the one little strip between IHOP and Lowes right.

Mr. Anderson replied 63 feet but then there is cross easements on this side that serve this lot that would be the west entrance. Which the truck traffic can be restricted to the west entrance.

Mr. Fortier replied or rear entrances.

Mr. Anderson replied yes the only thing if when we say you can't have any trucks going in from the front. If we don't let them go in from one of them what is going to happen is they are going to go down there and figure out how to turn around because they went in any way. Just from a practical standpoint I think that it is easier to say that you can't go in the one entrance but you least have one way to go without sitting in the middle of the street trying to figure out what to do.

Mr. Fortier said any decent truck driver should be able to get in a 63 foot opening.

Mr. Anderson said I would hope so I have seen them do it. Not me but them.

Mr. Bigelow said I would think that if we are going to approve this there should be some improvement to the east drive number 1 and also I would like to know how they are going to mitigate the wetlands that a portion of this building is going to sit on.

Mr. Anderson said basically if you remember from the plan commission is the wetland issue is some of that that has to be addressed. It is not really a part of the subdivision process it is not part of the BZA process because you have a very limited part of it right now but it is part of getting a building permit. So you are not allowed to get a building permit if there is any wetlands there so we are in the process of hiring an engineer who does do this type of soil. Soil Solutions out of Valpo They are going to analyze it and they say it is wetlands and you are right we have to mitigate it. We have to do exactly that there nothing else to do so were it is not really a part of approval for the BZA it is part of the building permit process but I am acknowledging we are doing it. It has to be it is a federal law.

Chairman Minchuk said we are talking about the east entrance.

Mr. Fortier said there isn't an east entrance. All you have is a south entrance.

Mrs. Gregor said this isn't part of the IHOP entry way.

Mr. Bigelow said the entry that is shown on the east side of IHOP is shown to be a common entrance for this site and for IHOP.

Mr. Anderson replied yes.

Mrs. Gregor said it is the entire 63 feet.

Mr. Anderson said no it isn't the entire 63 feet it is the width of the right roads that were approved in there.

Mr. Fortier said it is the access road that is running behind Lowes

Mr. Anderson said no this would be the one that would be on the side of It is right here it is between Lowes and the Pancake place. This would be the pancake

Mrs. Gregor said and the street is to

Mr. Anderson said this is going out so this is Mississippi Street.

Mr. Fortier said it is facing south correct.

Mr. Anderson said I just call it the east entrance because it is on this side

Mrs. Gregor said why don't you flip your plan over so they can get where you go

Mr. Bigelow said that way north is to the top

Mr. Fortier said the drive is facing south

Mr., Anderson said I am left handed I apologize

Mr. Holtz said but it is on the east side of the property.

Mr. Fortier said it is logistics. I am just saying it is the south entrance

Mr. Anderson said it is south on the lot. Yes and then I am trying to designate it between the two of them. The north lane would be the truck lane.

Chairman Minchuk asked if there is any legal things we need to have done.

Mr. Touchette said I think that if you are going to make any restrictions on entrances that trucks can use that you should make that part of granting any variance. I think that the town engineer should confirm that there are easements in what is Platted in the PUD. I would like to have seen the PUD myself ok in the context of all of this because I am still very confused about how the traffic is flowing through here because I don't picture that in my mind. I would like to see a drawing of the PUD but you know.

Mr. Anderson said this is a portion of the PUD right here.

Mr. Touchette said yes I know but I would like to see Costco, Lowes I would like to see the road I would like to see where your building is going to be.

Mr. Anderson reviewed the portion of the PUD with Mr. Touchette. That site plan approval but we are not at that stage right now. That all has to be approved and I am not saying it doesn't it does but these are just like little pieces of the puzzle.

Mr. Touchette said we are talking about how traffic is flowing and that is part of what we are looking at here.

Mr. Anderson said basically was set up at the time of the original PUD. The traffic flow of the two entrances into this lot were basically designed at the time of the original PUD. There is very little that can be done to change the traffic flow at this point and time. This is we get back to the fact that this is a residual piece and the cross easements provide for that and I told you that you can make it a connection that there are cross easement and that is not a problem. You can make it a condition that the east entrance the southeast entrance is no trucks and the west one is where the trucks can go in the back.

Chairman Minchuk asked can we say no trucks through the southeast entrance.

Mr. Touchette said yes if you want to make that a condition of approving the variance.

Mr. Anderson said and we have agreed

Mr. Holtz asked would you curb the

Mr. Anderson said I was told that we were going to curb the east side where it is not curbed right now so it will be curbed.

Mr. Holtz said for as much traffic that will be going on that it would be more of a street instead of a parking lot.

Mr. Anderson said it is still going to be an entrance because it is a cross easement into the parking lot just like all the rest of them out there.

Mr. Holtz asked I don't know how well the under lament was and was it still going to be strong enough for vehicles.

Mr. Anderson said right part of it was designed under the standards for the town.

Chairman Minchuk asked do we agree on the restriction. The southeast and no trucks. Does every one agree with that? Mr. Bigelow do you agree on that.

Mr. Bigelow replied yes

Mrs. Gregor said we need to vote on these separately.

Mr. Holtz asked which one does the restriction have to be put on both of them or .

Mr. Anderson said probably the lot width.

Chairman Minchuk stated they are both under the same number. We vote twice.

Mr. Holtz asked are they two different variances.

Chairman Minchuk said I understand that but there under one petition.

Mrs. Gregor said we know we set it up that way so variances can if they are both one petition. You will find out maybe on another they have 3 variances on the one petition.

Chairman Minchuk said so the first one Variance from Sec. 19-105 (e) to exceed the lot depth/width ratio from 3.5 to 1. That is going to be the first one we are going to vote on.

Mr. Fortier said Mr. Chairman I would make a motion to approve Z17V7-0515 for the Variance from Sec. 19-105 (e) with the stipulations that the 63 foot southeast entrance be restricted from truck traffic.

Mr. Holtz second the motion.

Chairman Minchuk asked for a roll call vote

John Minchuk yes, Tim Fortier yes, Ric Holtz yes and Robert Bigelow yes.
Motion carries 4-0

Mr. Touchette said to restrict that from truck traffic will there be a sign that says no truck traffic or load limit on it. I don't know is that how you do that Mr. Engineer?

Mr. Csanyi said you would have to put some kind of signage there and where you are talking about out on the Costco have truck deliveries here with Bob's Discount Furniture name on there

Mr. Anderson said the only thing in regards to that one it is not a problem with the regards to the one on the one side but on the side property on the other side is not

owned by us. We can put signs on our own property but unless the town lets us we can put it on Costco. We can try. Cross easements do not usually apply to signs.

Mr. Touchette said I think that the traffic will be on Lowes anyway. Costco is a dead-end if you go that way.

Mr. Bigelow said the signage would still be on your property because the road over on the west side is over on to this property so if the sign is beside the road it is on this piece of property

Mr. Anderson said are you talking about putting it up here then that is fine but it is not going to be very close to 79th Avenue.

Mr. Holtz said will your sign going on the southeast side there could be a sign saying no ruck traffic use next entrance

Mr. Anderson said yes we could do that to. I just don't want to get in a situation where we are agreeing to something more on the neighbor's property.

Mr. Fortier asked if we had a vote on that and moving on to the next one now.

Chairman Minchuk said I am waiting for everybody to get done.

Mr. Fortier said it has already been voted there is no more discussion on it.

Chairman Minchuk said approved

Mr. Touchette said I was just saying that so the town engineer would put a note in his file as to what and I think that the engineer for Bob's Furniture also made a note.

Mrs. Gregor said we have another variance on this request

Chairman Minchuk said variance from Sec. 21-137 to reduce the minimal lot frontage from 100 foot to 63.07 in a C-3 Highway Commercial zoning district on 4.618 acres. Now I need a motion for that one.

Mr. Holtz said I would like to approve case Z17V7-0515 to except a variance from Sec. 21-137 for this petition only, for this use only at this location only and I don't know put on the easements are approved properly.

Mr. Bigelow second the motion.

Chairman Minchuk asked the town engineer if he has any comments before we get a roll call vote.

Mr. Csanyi said as long as I get those I would like to see those copies of the cross agreements that should be sufficient. I made a note of that as well

Chairman Minchuk asked for a roll call vote

Mr. Minchuk yes, Mr. Fortier yes, Mr. Holtz yes and Mr. Bigelow yes.

Chairman Minchuk said approved

Mr. Anderson replied Thank you very much.

Z18E6-0515 MINIKA JOHNSON, PETITIONER

PAUL SUROWIEC, OWNER, Located at 7897 Taft Street for a Special Exception approval in C-3, Highway Commercial zoning district for a proposed childcare facility having seventeen (17) or more children.

Good Evening my name is Minika Johnson and I am asking for a Special Exception for a childcare center. I have my architect with me Mr. Cleon Stutler and the owner of the building Mr. Paul Surowiec.

Mr. Stutler said I would like to point out the additional drawings that I dropped off are updated. The changes from the original are some minor interior changes but we have added a stair to the rear of the building that we are proposing so that she could access the storage that is existing above the back end of the building without having to go through a pull down stair. It makes it a lot easier to access that area. This is an existing building other than this addition to the back. We won't be doing much work to the outside of the building. We may be painting and cleaning Up the outside of the building. We will be adding two playground areas to the rear of the building which is required by the State for a daycare facility this size. We are going to have parking where the children will be dropped off. No one is going to drop kids off and pushing them out of the car. They have to be walked inside by their parents and they have to come inside and pick the children up and walk them back outside. Other than that we are open to any questions you might have.

Mrs. Gregor read her staff report. If approved petitioner will need to obtain building permit for and interior remodel and meet all the code requirements necessary for the operation of a day care center. If approved for this petitioner only, at this location only for this use only.

Chairman Minchuk said questions

Mr. Fortier said first of all let me thank you for giving us an up to date drawing. I was wondering where the doors were going to be and how they swung so I am glad you provided that information and secondly and finally with as many childcare request that we have had we finally have somebody from the lot that will provide a safe area for the kids away from the traffic. So no I don't have any questions just comments.

Mr. Bigelow said Mr. Chairman I do have a couple of questions. Number 1 for the engineer how many parking places I went out and counted them the other day. How many parking spaces are required for a facility of this nature?

Mr. Csanyi said it is square footage divided by 200.

Mrs. Gregor said that is for retail. One for each employee I don't have the code in front of me.

Mr. Touchette replied I don't either

Mr. Stutler asked how many employees you will have.

Ms. Johnson replied eventually I hope that I grow to have 27 employees

Mr. Touchette replied 27 employees

Mr. Stutler said we have 63 parking spaces proposed here.

Mr. Bigelow said the other question with the play area I noticed that is all paved back there now are you going to remove the pavement to make your play area or what.

Ms. Johnson said I plan to put the rubber I don't know if you have been to a couple of parks but the rubber I don't know what to call it put it down

Chairman Minchuk said it is made out of old tires. Our parks have that where they come off the slide

Ms. Johnson said it is soft and the kids don't get hurt. The whole playground area will consist of rubber.

Mr. Touchette said I think that if this goes through you need to check with MCD about

Mrs. Gregor said I think that this is IHCD

Mr. Touchette said then you will need to check with IHCD about the kitchen facilities because I think that you may need a grease trap.

Mrs. Gregor said the plans will have to go down state for a change of use so all of that.

Mr. Touchette said I don't think that they look at the grease stop stuff.

Mrs. Gregor said I understand that.

Chairman Minchuk said didn't they already have one from the hall.

Mr. Touchette said actually if they have a grease trap I didn't know.

Mr. Stutler said the kitchen is there right now. We have certain requirements imposed by the state for childcare facilities that we will have to update to make sure that everything and we certainly will meet those.

Chairman Minchuk said I have been in the kitchen and I know they have a grease trap. The state is going to inspect it anyway that I know.

Mrs. Gregor said I provided him with the plans so I am not for sure if he has reviewed them yet but this still has to move forward to the town council so we will probably address some of those things if there are any questions or concerns with fire codes. He was out of town and just got back.

Mr. Touchette said one of the parking places up front is being taken up with a freestanding sign for Promenade Hall right now is that sign going to remain and different face put on it or.

Ms. Johnson said that is what I plan to do.

Chairman Minchuk said it still leaves you with 52 parking spaces

Mr. Touchette asked did you say 63 spaces

Mr. Stutler yes

Chairman Minchuk said it still don't matter because we have 27 employees you are allowed for two or three more maybe 30 so we have plenty

Mr. Stutler said we have more than enough parking.

Mrs. Gregor said and the drop offs will be staggered like lets says some are going to come at 6:00 in morning.

Ms. Johnson said and set it to where there is designated parking for employees. They can only park at the back of the property over here so everything across front of the entrance is designated for parents.

Mr. Bigelow said when I was out there I counted 53 spaces if you take away the spaces in the back where you are proposing to put the playground.

Mr. Stutler said it depends how you lay it out. We have got it laid out for 63

Mr. Bigelow said I was looking at what was physically on the pavement right now the way the lines are all painted up. There are 50 regular spaces and three handicapped spaces.

Mr. Stutler said even then we are well beyond what we need

Mrs. Gregor said it is up to the board as to how they want to approach that. They can approach this upon him reviewing this and approving it. Once again it will move forward to the town council. The town council are the final decision makers we are just a recommending body so you can put a condition upon his review and approval.

Chairman Minchuk said I would really like to see that in there so the council will know the fire commission or whatever you want to call them.

Mr. Fortier said I think that between the State and the town board I think that it is going to be covered. It is really not are position to put that stipulation on it.

Mrs. Gregor said we probably should.

Ms. Johnson said considering the fire department are you talking about fire protection based on the building has it is standing now because I will have to get approval after it is built up also. They will have to approve that.

Mr. Touchette said I think that when you go down state and especially when it is childcare facility the licensing people will have regulations about what fire protection you will need. You might need sprinklers I just don't know.

Chairman Minchuk said Home Land Security which use to be the fire marshal's office and they are now called Home Land Security they will come down with our town fire marshal and they will go through it together. The state fire marshal will tell you how much sprinklers you need and how much distance apart. Fire extinguishers apart. They will definitely tell you what you need.

Mrs. Gregor said they will tell you about the lighting, the way the doors swing.

Mr. Touchette said I am sure that your architect will cover you and make sure you have all those t's crossed and I's dotted.

Chairman Minchuk said I just wanted to put that in about are fire marshal if they approve it then we are ok with it to. Should we put that on there that is all I am looking for?

Mr., Holtz said one thing you said 63 parking spaces and you have 27 employees even if you say 30 that gives you 33. You can up to 116 kids.

Ms. Johnson said I can depending on what the licensing representative approves so we will have to get the building built and then the licensing representative will tell me based on how many toilets or how many classrooms or how things are looking how many kids we will have. Right now we are planning for 96 kids it could always go up or down but I won't know for sure until the licensing reprehensive gives up the final count. You are approved for this many kids.

Mr. Stutler said with the amount of square footage that we have and the toilets that we have and the size of the classrooms I don't see exceeding 96 children by very much at all. We certainly aren't going to have 200 children in this space.

Chairman Minchuk said the fire marshal will take care of that. He makes sure you have the right amount of toilets. He just wants to make sure everything is up to code.

Mr. Holtz said based on her documentation as far as with her standards as far as with 5 - 1 for two year olds, 7-1 for two to one, toddlers 5-1, infants 4-1, 5 years old 15-1 so you said you plan on them you showed doubling every month. I just didn't see how you can have 30 five year old and the original drawing was 528 square feet and you have moved the room so to 600 square feet that is a lot of kids.

Ms. Johnson said the classroom is based upon square footage however many children in the classroom the parents will have what the classroom is. So if there is 35 square feet per child what you have is a ratio of student/teacher ratio so how many students can be in a classroom for one teacher and then you have a max amount of students that you can have in one class. I might not meet that maximum amount of students based upon the classroom size so if I need a classroom to be a smaller room 1-5 maximum amount of children is 10 so I would need 418 square feet for 10 children to be in the classroom but if it is less let's say it is 400 square feet then 10 kids won't be able to enter that classroom so therefore it changes the amount of students that I could have in the school.

Chairman Minchuk asked anyone else

Mr. Holtz replied no I was just basing it on your one ratio teachers to students and multiplying them out and putting them in your classrooms here and I can see how you get

Mr. Stutler said it isn't going to happen to that many.

Mr. Holtz said I still don't see how you get 96 kids in this building.

Ms. Johnson said don't think of it has 96 kids think of it as 7 classrooms.

Chairman Minchuk said I think that she is doing a very good job. She is very through. We have had day care coming in here that didn't have half of this information and I don't want to see another eyesore in Merrillville. I have the feeling from what I see you would do a very good job there.

Ms. Johnson said Thank you.

Chairman Minchuk said sorry we had to put you through all of this but we have had daycare centers come in here who didn't have the slightest idea of what they are going through or they didn't have half of the paper work that is why I was such a tickler about the Fire Marshal. If it were an adult center I would be ok but when it is kids it is a whole different thing to me.

Ms. Johnson said it is.

Chairman Minchuk said I am very confident when it is children.

Ms. Johnson said especially with homeland security and Ms. Dorinda helped me with that.

Chairman Minchuk asked if there is anyone for or against in the audience that would like to speak please. Wherever now or hold their peace. Broad members I would like to get a motion please.

Mr. Fortier said Mr. Chairman I would like to make the motion that we approve the Special Exception approval on Z18E6-0515 for this petitioner, at this location for this use only and with the stipulation that the finding of the development is approve by the Fire Marshal.

Mr. Bigelow replied I will second that motion.

Chairman Minchuk called for a roll call vote.

Mr. Holts asked can I just ask one more so you are saying it depends upon the ages on that 35 feet per child or is it always going to be 35 feet.

Ms. Johnson said 35 square feet per child,. It is definitely in the infants room is 50 square feet per child because you have to have extra space for cribs and cubbies and toddlers have to have extra space I mean infants not toddlers have to have extra space because they are developing so they could come from now being held

to now crawling you have to have that space. The ratio is based upon teacher/student and it is the licensing rule for the State of Indiana. So for the State of Indiana for every one child in the infant classroom I mean for every one teacher in the infant room for every 4 children in the classroom you have to have one teacher but when as they get older the ratio the amount of students you can have in the classroom increases so for kindergarten class which is typically 5 or 6 because some kids birthdays are late the ratio goes up to 1-15 and the maximum amount of students you can have in a classroom is 30. Do you understand a little bit better?

Mr. Holtz said that I understand. But ok how many square feet is my concern

Ms. Johnson said for every child is 35 square feet in a classroom per child so for 10 children in the toddler classroom I would need 400 square feet. Actually I would only need 350 square feet but I like extra space for the kids.

Mr. Holtz said but I am still concerned about the 5 year olds. You have 600 square feet.

Ms. Johnson said it is not going to be a classroom full of 30 kids. Do you understand? You would take 600 and divide it by 35 and that is how many student will be able to go into that classroom. Yes

Mr. Holtz said so your ratio would be less than 1-15.

Ms. Johnson said it would still be 1-15. So if I have 16 kids

Mr. Fortier said if the ratio is set number of students per instructor so for every 15 students you have to have one instructor. That is all regulated by the state.

Ms. Johnson said so if I had 15 kids I would have to have two instructors. Do you understand?

Mr. Holtz replied yes like I said if you have 20 kids you have to have

Ms. Johnson said I would still have to have 2 instructors. If it goes one above 15 I will have to have another instructor in the classroom

Mr. Fortier said that is all regulated by the State.

Ms. Johnson said that is the States rules and regulations. If you would like that book I can find it out for you.

Mr. Touchette asked if they conduct inspections once you are up and running.

Ms. Johnson said yes I have to be permitted for everything after the building is build. The licensing rep would have to come out and walk through the building and if there is anything in the building that is not approved I will have to change it and then they will come out and do it again until they say OK the daycare center is ready to open.

Chairman Minchuk said Homeland Security also will talk to our fire marshal and nothing gets approved until they come back and check it and they say you need to fix it they won't approve nothing until they come back and it is fixed. The State

fire marshal actually from our area here and they will make sure things are fixed or they won't approve nothing until they come back and it is fixed. The State Fire Marshall are not from Indianapolis they are from here and they will make sure things are fixed or they won't approve this.

Mr. Stutler said we have a checklist that I have to go down through for myself and I have check everything off and I have to have it certified and notarized that we meet those codes also. It is more strict than other buildings.

Mrs. Gregor said she won't open until she has all of her certificates from the State.

Chairman Minchuk said Ok.

Mr. Holtz said I just couldn't see that you could get 30 students into the 5 years old.

Mrs. Gregor asked if she could ask one more question. If somebody has a 6 year old and one of their children already go to the facility are you going to accept them? If there is a mother who has two children one is already going to your facility and in the summer time she needs somebody to watch a 7 year old would you accept them?

Ms. Johnson said I won't be able to because they are over the age limit.

Mr. Holtz said she is limited no one is over 6 years old.

Ms. Johnson said if you are in 1st grade you can't come to my child care because I don't have an after school program. It is just a child care center and that would put me out of licensing rules and regulations and I am not willing to mess that up for anyone.

Chairman Minchuk said she has answered all the questions so far and pretty good too. Now can we get a roll call vote?

Mr. Minchuk yes, Mr. Fortier yes, Mr. Holtz yes, Mr. Bigelow yes.

Motion carries 4-0

Chairman Minchuk said see Dorinda.

Mrs. Gregor said you will have two more meetings to attend. I will call you.

Ms. Johnson replied Thank you.

Z19E7-0515 DVG. INC. PETITIONER

1550 E 81ST AVENUE MERRILLVILLE LLC., OWNER,

Located at 1550 East 81st Avenue for a Special Exception approval in a C-3, Highway Commercial zoning district on lots 2 & 3 in the Mississippi Addition Subdivision for a proposed restaurants.

Z20V8-0515 DVG., INC. PETITIONER

1550 E 81ST AVENUE, MERRILLVILLE LLC., OWNER,

Located at 1550 East Avenue for a Variance from Sec. 21-172 (14) (r & y) for a

reduction in parking spaces, a Variance from Sec. 21-12 (b) (6) to allow or a dumpster location not places in a side or rear yard, and a variance from Sec. 19-226 EXHIBIT B to increase the number of parking spaces without a landscaping island in a C-3, Highway Commercial zoning district on 6.11 acres for a proposed retail and restaurants development

Thank you Mr. Chairman my name is Jeff Ban I am a project manager and principle for DVG at 11065 Broadway I am here tonight with Ryan Marovich who passed out some additional information. Some exhibits to be part of our presentation and to help explain some of the parking issues and also Courtney Cash project engineer with DFV as well. I want to thank you for your time and as always thank Dorinda for her assistance in evaluating this project. We have been before the Town in quite a number of issues related to this parcel. This parcel is a 6.1 acres site located at the northwest corner of Mississippi Street and US 30. It is the old Wickes furniture site and if Mr. Chairman it is ok we are both item number 5 and number 6 as far as the petition they are all together. What I would like to do is make a presentation for both of them because what I am saying for one so I won't have to repeat for the other again. Then we can kind of get into the action separately for each item. Again the site is 6.1 acres. We have been to the Plan Commission several times to subdivide this land and we did that in the fall in the late fall of last year to make a one lot subdivision to permit the new Ashley Furniture site. Ashley has acquired all of the 6.1 acres which they do not need for their facility and they have decided to do some additional lots commercial lots out front we have been in the spring of this year before the Plan Commission to subdivide the one lot that was previously subdivided in Late 2014 in to the 3 lots that permit the two out parcel out in front of US 30 that fronts this. This project in this site represents two very important improvements that were made part of those Plan Commission approvals. One is their redevelopment of a very tired and run down abandoned building the old Wickes building has been vacant for a number of years and had some tenants in there doing Fireworks sales (Powder Keg) and I am happy to report as of this morning I think that you were on site this morning we had a final walk thru on the demolition so it is nice and clean to do the things that we were proposing to do and we have been approved to do through the Towns Plan Commission and the Town Council. The 2nd thing is part of this was to improve the traffic down Mississippi Street. Very, Very critical item that the Plan Commission looked at. It was a tremendous cooperative effort in a coordinated effort between the developers of this parcel, the Town of Merrillville and its engineering and technical staff and INDOT to improve Mississippi Street. I am a guy that grew up here in this Town and traveled Mississippi Street all my life and get very frustrated when I cannot go straight ahead because the left hand turn south bound at 30 is backed up in that through lane and the same holds true for turning right so I would tell you that you are looking at someone very familiar with the experience Ryan as well he has also grown up here traveled that route and every one of you has done the same thing and complaint a lot so what we did is we had a traffic study very thorough and very expensive traffic study that was cooperatively between the town engineering staff and INDOT and our development team to make sure that whatever we did and whatever you are proposing improve the level of service on the Mississippi Street corridor and the conclusions were that the south bounds side of Mississippi Street was going to add capacity to the left turn lane at US 30 so you will have dual turn lanes that are 200 feet in length so you will have 400 feet of stacking in the south bound lane and it will get everybody out of the through lane so as you are going south bound you can go through without being stopped by those left hand turners. There will be a

dedicated single through lane that would cross 30 into the south side of 30 on Mississippi Street and then there is a dedicated right turn only which will run the length basically of the entire site that you have here so tremendous amount of improvement that is being proposed for Mississippi Street to facilitate this development. The existing driveway connection to Mississippi Street that Wick's site is going to be eliminated you will see it on your drawing it is about half way between 30 and our new proposed entry way and in part of this traffic study we looked at it was very important to have access off of Mississippi Street to allow for this development to occur and the Plan Commission and its technical advisors review that and concurred with that and the approval of the subdivisions. Both the 1 lot and 3 lot subdivision but the current location you will see a temporary driveway here along the property line which we are calling it lot 1 which is the Ashley Furniture site and lot 2 and 3 which are the off property sites and that lot line is where the existing driveway once the INDOT work goes through that will be eliminated and that was represented on the engineering plans and there was some reasons for facilitating allowing that to happen in the short term but in the long term in the next year/year and a half when INDOT is done doing the Mississippi Street improvements they are going to have and that is what this black line represents in one continuance curb line that will prevent any access off of Mississippi Street along its frontage. We have an access point that is exactly midway between 79th Avenue and US 30 and that will provide stacking for 6 cars and it is 120 feet long of cueing space and that left lane with a 75 foot taper and that again was analogized with a traffic study and reviewed and approved by the town and both INDOTs traffic engineers in terms of how it improves the level of service terms of so that is how the excess will be. You will only allow you can see on your drawing that Ryan passed out there are 3 arrows and those are representing the turn movements into this location so you will be able to have a left turn west bound movement off of Mississippi Street into the site. You will have a south bound right turn in only traffic movement into the site and you will only be able to leave the site onto Mississippi Street by turning right. There is a little pork chop that will allow only a right hand outs only no left hand turns north bound are going to be permitted because that will cause more of that existing problem that we have out there. So 79th avenue and US 30 I don't recall the exact distance I want to say 900-1000 feet half way in the middle is where the access to the site will be off of Mississippi so that is another traffic improvement. Two other things that we did to Enhance traffic is there is an existing frontage road that you get to American Sales and La-Z- Boy and Car Max everything that is west of Mississippi that access road has been abandoned and you can see how it has been fenced off today as we stand here as we speak that is going to be totally eliminated you will not be able to get to Mississippi Street from that frontage road but what you will be able to do from that frontage road on the southwest corner is to continue along that frontage road and turn 90 degrees northbound as part of the subdivision there is a 30 foot access easement that connects the frontage road to what is called Indiana Street and that is the road that is on the west side of Culvers. We worked with the Town Council this was at one time this development that PUD had publicly dedicated road when this got built got some re-plats and then that got vacated Cypress cooperated with the Town and helped out with acquiring that right if way back so there is right of way now for Indiana Street to be a public access road. So the frontage road will be turned into Indiana Street so this traffic that came out in a very unsafe condition and basically the only activities you could be doing is taking a right turn because you couldn't cross the 3 lanes of traffic to get to the left turn very well and safely brought back to 79th Avenue to the safe condition of the traffic signal that is there. So with that being said in addition to the improvement the Town has also been

working in a coordinated effort to do some improvements to 79th Avenue. I believe the Redevelopment Commission has some reconstruction and some lane addition again to help this activity this left turn into the Costco area so that capacity is being enhanced. The traffic study looked at today's condition as it exists measured as a very poor condition it looked at the site development with the improvements which enhance the level of service and it also looked at the site development conditions with a 10 year projection with additional traffic based on new development north and south of here so I guess I spend a lot of time talking about traffic that was the most important thing for the developer before they moved forward and went through the process of approval to make sure that the access off of Mississippi Street would be permitted and would be permitted in a safe way and I think that it went through very technical and very analytical process to do that and again just to reiterate to the Plan Commission reviewed that and sought the advice of the Town Engineer and your advisors and has approved this plan as a 3 lot subdivision with those improvements. So we are here tonight to take the next step to place specific uses in here. Our developer that we are working for Ashley Furniture is not able to be here tonight they are out of California and they had some other commitments so they wanted to make sure that I apologize for their absents. But they have several restaurants that are interested in the 2 lots that are out in front of the Ashley Furniture store and by your ordinance all restaurants in any zoning classification has to come before this BZA and seek special exception to be permitted to be used so that is the first item for action for this item 5 and I am not going to go through the long list there but that is what we are here tonight to permit restaurants. This is a visually activated corner and there has been a lot of interest in numerous restaurants very good quality restaurants here nothing fast food it is all sit down. So there is no drive thru proposed all sit down restaurants.

Mrs. Gregor read her staff report. Conditions if approved for this petitioner only at this location only for this use only.

Chairman Minchuk said board members

Mr. Touchette said just to make this clear there's no owners of these restaurants. Will these restaurants be sold to somebody else or will they be leased to them.

Mr. Ban said that is to be determined but my understanding is to sell them.

Mr. Touchette said ok so for this petitioner only I don't really think that is really accurate here. We might want subsequent purchaser to

Chairman Minchuk said the purchaser would have to come back here again.

Mr. Touchette said we don't want to make them do that.

Mr. Ban said the point is that part of the condition of the evaluation is this a permitted use in our current developer/owner Ashley Furniture says no. They said we aren't going to buy it until we go through that exercise.

Mr. Touchette said I think that we should leave that off this one because they are going to be selling it to somebody.

Mr. Bigelow said question Jeff in regards to Indiana Street and lets deal with Indiana Street first. Who is going to pave that because right now I would hate to put my car down that what is there right now.

Mr. Ban said it is part of the town's 79th Avenue improvement project. There are some drainage that need to be taken care of and Bob I am not sure whether you have any comment on that but it is my understanding that it is included in the 79th Avenue improvement project.

Mr. Touchette asked so does the Indiana Street improvement just go up to the border of lot 1.

Mr. Ban said that is correct and then we are taking it from the northern border of Lot 1 all the way through and making it a part of the parking lot and driveway. Actually the driveway is wider it is 30 feet on the south end and 27 feet actually both of them are wider than Indiana Street is now.

Mr. Touchette said then there will be parking along the western border

Mr. Ban said correct of the driveway on lots 1 & 2 but not along Indiana Street

Mr. Touchette said right and then who will be responsible for maintenance and plowing.

Mr. Ban said everything on Lot 1 and Lot 2 will be the responsible of this developer.

Mr. Bigelow said of the developer or say with the Lot 2 once that is sold off would that still be the developers responsibility.

Mr. Ban said what's been drafted which has not been presented is the REA which is a reciprocal easement agreement which provides responsible maintenance of Ashley Furniture. Ashley Furniture is going to be the landlord as you will all the site lighting for Lots 1, 2 & 3 that is all going to be going into the main electrical panel and they are paying the bills and they send out sub bills.

Mr. Touchette said would this be like a condo type of thing

Mr. Ban replied yes

Mr. Touchette said and then Ashley will maintain all the parking lots

Mr. Ban said that is correct and we can provide a copy of the REA once it has been established and recorded so you can have it on record.

Mr. Bigelow said if this is going to be a primary access for Ashley. Timing wise will the town have that work done by the time you are ready to open.

Mr. Ban said it is our understanding that the town is doing Indiana Street this year and also as far as Mississippi Street is concerned that is scheduled by INDOT for spring of 2016. The Ashley Furniture store is trying to get under construction within the next several weeks so that it can open by the end of the year. So there

will be a few months that will go on with Mississippi Street. The access to the site would be off of Indiana Street and off of right here (map)

Mr. Touchette replied your temporary entrance.

Mr. Bigelow said so the north of your 2 entrances would not be completed until After the Mississippi Street is (renovated)

Mr. Ban said that is correct and then that again is recognized and documented On the approved plans through the Plan Commission. There were notes and schedules

Mrs. Gregor said however they can still access the site through 79th Avenue and go around Car Max and Babies R Us and come along the frontage road.

Mr. Ban said that is correct. The tie in to the frontage road will be this year as far as part of the Ashley work.

Chairman Minchuk said the frontage road is not in very good condition right now. Mr. Town engineer what do you think.

Mr. Csanyi said just for the record Indiana and 79th that is being handled by a different engineering firm so I don't know the specifics. Time frames or what is going on with that. Other than that I don't really have any further comments.

Mr. Bigelow asked if the dentation area has been changed from what it was used to be along the north property line and now it is over next to Mississippi Street. Is that of sufficient size to take care of all this pavement and building?

Mr. Csanyi said yes we have looked at that in the past and have approved on this scenario.

Mr. Ban said we have received a storm water permit from Matt Lake's office as well

Mr. Bigelow said that is an awful lot of asphalt to deal with

Mr. Holtz said so the new drawing that Ryan handed us changed the requirements for the parking.

Mr. Ban said that is the next Variance. We didn't change anything from I shouldn't say that there were some modifications that we wanted to be able to review with you about parking space and Island locations.

Mr. Touchette asked are you going to vote on this Special Use first and then we can. You might want to do that now.

Chairman Minchuk said we are going to address the petition #Z19E7-0515. It is open to the public for or against. Seeing none motion anyone

Mr. Holtz said I know when you were here before the Plan Commission you guys were saying retail so these are now both restaurants.

Mr. Ban said we always proposed this to be a restaurant. This was originally purposed for this to be a restaurant and the traffic study analyzed that as a restaurant what we have is a multi-tenant building which we believe one will be a restaurant and the other tenant spaces will be retail spaces and it is a 6000 square foot building so it would be a small 2000/3000 square foot restaurant space.

Chairman Minchuk asked anybody else. Motion please.

Mr. Fortier said Mr. Chairman I would like to make a motion that we approve the Special Exception for Z19E7-0515 with no conditions

Mr. Holtz seconded the motion.

Mr. Minchuk yes, Mr. Fortier yes, Mr. Holtz yes and Mr. Bigelow yes.
Motion carries 4-0

Chairman Minchuk said now let's go for the second one. What I have marked off some stuff so you are going to have some talking here. Petition Z20V8-0515

Mr. Ban said if I could add a little bit more. Give me another 2-3 minutes. We have 3 development Variance that we are requesting and the first one is parking. I want to make sure that everyone understands that we really are not asking for a parking variance in total. The way the lot lines have been configured we tried to create your geometric lot lines and there you can again see lot 2 and 3 on the south end of the parcel we have a lot line that lines up with the temporary driveway. At the time we drew these lot lines we weren't exactly sure about the specific users and size. This is becoming a little bit more defined right now so when you look at the parking in total we have a total enough on the page that Ryan passed out to you there is a total of 354 parking spaces up on the left hand corner that provided on the site plan and when we do the calculations from each individual lot we look at a total of 345 are required based on the retail space on lot 1 and the restaurant/retail space on lot 2 and the restaurant on lot 3 so in totality we are really compliant. It is on an individual lot basis and if you look at the little box to the left side of the lot 1 the Ashley Furniture store site you will see there is a required amount of parking spaces of 148 and we have provided in this spot 198 spaces. On lot 2 they provide number of space is 75 and we are required to have 72 based upon on the square footage and the seating that we have calculated. On lot 3 that is the problem we have that lot 3 is required to have 125 parking space which 81 is what fits on this site based on the footprint of the building and as you can kind of see again we are short about 40 space on that lot and we have and access of 40 space on the other lot and so we have provided Attorney Touchette and Dorinda a day ago a proposed cross parking access easement agreement that we would make part of this so that lots 1,2 & 3 all users within the development can use each other's parking lot. So the additional parking that is needed for lot 3 would naturally probably navigate to the se corner to lot. So we don't think that this is any different that any shopping center up and down US 30 on the north side of 30 and the 30 side of 30 quite frankly and multi commercial lot space here in the Town of Merrillville. It is not unusual it is not diminishing property values of any of the lots within the development nor adjacent to the development so we think that this makes good sense. With regards to the dumpsters when we looked at Lots 2 & 3 it kind of consider that lot 2 & 3 would call 2 frontages and frontage off of US 30 but also frontage internally here and we didn't want to put dumpsters on lot 3 facing Mississippi Street surely you don't want to put something on US 30 so it just made

sense putting the dumpsters on the north side which is being considered to be a front yard as well by the interpretation by the planning office so that is why we are looking to have an approval to allow for the dumpster to be located there. The dumpsters for the Ashley Furniture site is up on the side yard over on lot 1 so it is out of the way visually and we have a landscaping plan that kind of provides a screening in the green space up in the northwest corner that you will not see at all. It will also be constructed of architectural concrete and aesthetic block that matches the aesthetics of the building and that will get reviewed as we go through the site plan a little bit more in detail. Thirdly we did make some slight modifications with regards to the parking lot we put truck turning radius in to make sure that the delivery trucks and garage trucks can all fit in. We widened in some driveways we relocated some isles to make bigger turning radius and also putting islands in location where they couldn't get hit by morning deliveries to all 3 of these lots. The intent is almost exactly what we had originally what we had purposed to the plan commission. We did tweak it a little bit to get a little bit more functional in terms of how the site is being used.

Chairman Minchuk said fire trucks too.

Mr. Ban said fire trucks too. Get Tim in a fire truck that would be fun. What we ended up doing is creating parking islands there are a lot of parking islands on the site as you can see we have 5 areas that are in excess of 15 parking spaces in a row but we have 18 areas that have less than 15 parking spaces in a row so I think the intend of our site and some of the specifics of the site like we wanted to make sure there was an island at the end of the driveways so you didn't have a bunch of cars backing up into the drive isles coming perpendicular so we tried to look at those things so everything internally is less than 12 and 15 parking spaces. We think that the intent has been met. We wanted to make sure there was plenty of parking so we didn't have a problem and at the same time also making sure we had enough green space on the site and we believe we do. With that Mr. Chairman that is my presentation for that.

Mr. Touchette asked the hash area there the sidewalk.

Mr. Ban said the hash are painted areas that are not provided it is walkways and you can see the black in between the 2 buildings lot 2 and 3 the thicker black lines are stop bars so that traffic would stop so that anybody parking here would be able to walk across here and access the lots safely.

Chairman Minchuk asked if there are any questions.

Mr. Touchette said I do want everybody to know that I did get a declaration of parking easement from Jeff's office and the language looks good. It provides for cross easements for parking lot 1, 2 & 3 and it is to be granted by 1550 E 81st Avenue, Merrillville LLC., and I am assuming that is Ashley's LLC that is also maintaining all the parking.

Mr. Ban replies that is correct.

Mr. Touchette said now it reference the plat addition Mississippi Addition 1st resubdivision per plat thereof recorded. Has that plat been recorded?

Mr. Ban said it has not it just has received approval just this May. Just a week ago.

Mr. Touchette asked so is it too late to add this parking language as an easement on the face of the plat.

Mr. Ban said I don't recall that.

Mr. Touchette said it may be a more efficient way to do it.

Mr. Ban said I understand what you are saying and for some reason there is something inside in my memory that the Ashley attorneys would prefer to do it by separate document but I don't know why that would be the case.

Mrs. Gregory said can they make a notation per document.

Mr. Ban said that we can't do

Mr. Touchette said they could but it is nice to have it all on one document with the utilities, easements and all the parking's for 20 years down the road when somebody goes to look at this and at the very least you would want to note that there was a parking easement here.

Mr. Ban said at a minimum if I could ask this at a minimum I will make a note on the plat that reference a parking easement.

Mr. Touchette said and it should be a recorded easement. Already recorded if you would reference the document number.

Mr. Ban said that would be fine. I would also ask to see if we can eliminate that document and put it on the plat and report that to Dorinda they would accept or not. If I can have two options

Mr. Touchette said either will work I just thought that it would be simpler on the plat.

Mr. Ban said sounds good.

Mr. Bigelow said it is a lot less messy that way.

Mr. Touchette said one less document to get loss.

Mr. Ban said it keeps the attorney working by having more documents.

Chairman Minchuk asked is there anyone else.

Mr. Holtz said this one is off the wall but so Mississippi Street is only going to have 3 lanes coming out heading south. Two turning and one going straight.

Mr. Ban said one straight, two turning and one right and again cars and all the traffic going south bound is either going right or left. That kind of makes sense with the experience that I have had with Merrillville over the years that is why we are always backed up because of those and the heavies turning motion is that left hand turn lane. I don't recall the split percentages I want to say

Chairman Minchuk said the left hand going on to 79th

Mr. Ban said the south bound going on to 30.

Mr. Touchette said left hand down at 30 east turning east on to 30

Chairman Minchuk said you have to wait if you want to go straight you still have to wait.

Mr. Bigelow said south bound turning west on to 30 backs up almost to the traffic light up at 79th at times.

Chairman Minchuk said anybody in our audience for or against. Come up and state your name and address.

Marcia Forcey 668 East Westville, Indiana. I am the owner of the La-Z-Boy property. My concern is parking and my concern is the location of the dumpster for the restaurant because my parking lot is going to be in front and if a restaurant dumpster would be un appealing for a customer to have to pull in that way so my concern is the dumpster going to be covered or protected or is it just going to be out there

Chairman Minchuk said he can answer Jeff he just talked about a walk. Tell her about the dumpsters please.

Mr. Ban said the dumpster proposed for the 2 lots and your property is here

Ms. Forcey and my parking is here (referring to the plat)

Mr. Ban said what we would be doing is these will all be masonry and they will be hidden with architectural metal gates. Nothing can be seen through and will be kept closed all the time and they will match the architecture of the masonry that is going to be proposed for both of these just like this dumpster up here will be doing the same thing.

Ms. Forcey asked do you have a restaurant name in there.

Mr. Ban replied no

Ms. Forcey said with this parking available if this fills up then it is going to be pretty normal for them to use my parking to walk across there.

Mr. Ban said we don't want that to happen and I guess in totality for the 6 acre site

Ms. Forcey said because this is up front and this is back. My store sits here with all this parking available.

Mr. Ban said we have provided for the whole site the required parking per ordinance it is just this restaurant site doesn't have enough. We are 40 short here and we are 40 in access on this site.

Ms. Forcey said by being short here it will go into this one which

Mr. Fortier said I think we are on parking now.

Mr. Ban said we don't want that to happen. That is not our intent I think that.

Ms. Forcey said is there any way you could

Mr. Touchette asked if there is any landscaping on the border there.

Ms. Forcey said yes but the roads come in here now and it won't have access to mine.

Mr. Ban said no this is Indiana Street which will come through our site our driveway then it will turn to the access road

Ms. Forcey said there is a berm right here with grass in between the two buildings well what was and so it is not very wide not even as wide as this table

Mrs. Gregor said at least 10 feet

Mr. Ban said so if we have to enhance landscaping we can do that along this line. I don't like cocooning.

Mr. Touchette said I know that they have that at La Qunita and Red Lobster and I still cut through there

Ms. Forcey said everyone does it.

Mr. Ban said if we could get a more visual barrier and enhanced landscaping through there I think we can do that.

Ms. Forcey said I am concerned about parking. I think that everyone has done that and I am concerned about the parking. There is parking here and I don't know where the front of the restaurant is I am assuming it is going to face highway 30 so those are the premium parking spaces or to this side. Discussing from the site/map he said you are going to park here and walk here. I am concern I am not concerned at all about this spot I am concerned about the second location. The dumpster is far enough away it wouldn't affect me. This restaurant and this lot I am very concerned about.

Ms. Gregor said this isn't going to be an entire restaurant there. There is going to be 3 units there. There will be a restaurant.

Ms. Forcey said like Chinese.

Mr. Ban replied we don't know.

Ms. Forcey said if there are 3 different restaurants it will really make a difference.

Mr. Ban said actually it works in reverse the smaller restaurant pads require you get into the peak demand times. This will be more of an evening type of use at this point in time. These are more of an afternoon type when these are at peak there not working at peak. I think if we make this harder and unsafe to cut across.

Ms. Forcey said we all eat breakfast and dinner so we know what peak times are.

Chairman Minchuk asked what is next door to you now, just a big empty building

Ms. Forcey replied ok I am tickled to death with this

Chairman Minchuk replied if there was nothing there it looks like garbage.

Mr. Touchette said the flow of traffic would help to.

Ms. Forcey said but this I am not tickled about.

Mr. Touchette asked if you can commit to putting enhance landscaping that would make it difficult to go through

Ms. Forcey said the restaurants want to face 30 but that is fine but with this much here it is going to be tough because these are going to fill up first.

Mr. Touchette said but they might park over there and walk into your place to.

Ms. Forcey said if you are going to go to Starbuck's you are not going to buy a La-Z- Boy just let's face it. I don't know

Mr. Touchette said if you are coming out of Ashley and you didn't like what they had you might walk right across the street and buy

Ms. Forcey said and they will. We had a walk way between ours and Wicks and they had a little stone path that my store and them

Mr. Touchette said would you like a walk way there.

Ms. Forcey said that is a road.

Mr. Ban said there is a road that will provide and act as a road

Ms. Forcey said I don't want anybody getting killed there.

Chairman Minchuk said if they can do something to the best of their availability humanly possible is what I am saying if they can do something humanly possible to try to stop it because you are not going to

Mr. Touchette said you can cut back on it.

Mrs. Gregor said the bottom line is there is a lot of distance from here than to park here for these restaurants any restaurant. This is a longer distance to walk to travel versa the distance right in the middle of the parking place. I would think that if I were going to go to a restaurant on that southwest corner I would be in that parking lot I would not walk

Mr. Touchette said I think that especially will have the traffic turning in from Mississippi Street on to that upper road there by your pin They are going to coming in there so if they do want to go to these restaurants see that hash area that like

where he was saying it was marked out for people to walk and it is going to be directing people to the two restaurants.

Ms. Forcey said I totally agree I think that is wonderful I am just concerned with the dumpster location and I am concerned with the

Mr. Touchette said the way the side yards are the other dumpster location would be facing you building.

Ms. Forcey said right

Mr. Touchette said that would be the permitted location and I don't think you would want that.

Ms. Forcey said this is facing my building. My building is here the same as Ashley's and my building is here and this is all parking lot so you are absolutely right but with I don't know my building is going to be right here that is where my building is and all this parking lot right here.

Mr. Ban said would you commit to enhanced landscaping that would create a hurdle to jump over if you had to. I don't have a problem I think you were

Mr. Fortier said I was thinking that you could provide signage for them to post

Mr. Ban said we could provide signage on your property that say parking for La - Z- Boy only I don't have a problem with that

Mr. Fortier said towed at owners expense no one wants to spend any more money that they have to.

Mr. Ban said and the architect of the dumpster would match the architect of the buildings which would be all masonry and that there would be gates that would be opaque so you won't see through. We have a little bit of an island here that has landscaping.

Chairman Minchuk said I think that you are doing the most feasible solution there is I mean you said humanly possible you can't stop everybody there is no way

Mr. Touchette said there will be people going back and forth so you will get some benefit.

Ms. Forcey said I just want my concerns noted so in case we have a situation down the road that I have expressed my concerns and that because parking lot maintenance

Mr. Touchette said maybe you can get Jeff's business card and he can give you the number of whoever is in charge of the parking lot there

Ms. Forcey said just the wear and tear with people going across and if there is landscaping and someone falls is it your fault or my fault.

Mr. Ban said it is both of our faults.

Ms. Forcey said it is not my fault. I just want my concerns to be public record that I am concerned about the parking limitations I am concerned about the two lots and I am very happy with Ashley and this lot. I am concerned about the third lot only because of the parking and my available parking's right here.

Mr. Ban said it will be noted that we will make the best attempt Ashley Furniture wants to be a good neighbor.

Ms. Forcey they are a great neighbor and I am happy that they are there. It is a good match and it enhances the value of my property also.

Mr. Touchette said the restaurants will bring more customers around.

Ms. Forcey said it depends who is there. Thank you

Chairman Minchuk said thank you very much. Did you sign the register in the middle Mam?

Mr. Bigelow said one question for Jeff. Are the curbs to be roll type curbs or square cut?

Mr. Ban said I believe they are stand up curbs

Mr. Bigelow replied good.

Chairman Minchuk asked if there are any other questions.

Mr. Holtz asked if the handy capped parking is plenty

Mr. Ban said we will be meeting the requirements for that. As this tenant looks at this site plan we are just talking about adding more handy capped parking.

Mr. Holtz said if you do that you lose a couple but you are still within what is it 354 versa 345 so you can lose up to 9.

Mr. Ban replied right.

Chairman Minchuk asked anybody else. Seeing none can I get a motion please?

Mr. Holtz asked so is it for the petitioner only for this use only

Ms. Gregor said for this particular one. There are 3 separate variances.

Mr. Holtz said but he is not the petitioner

Mrs. Gregor said reduction of the parking spaces,

Mr. Fortier said he is asking about the petit rule do we add that in to it.

Mrs. Gregor said yes

Mr. Touchette said for the other one it didn't make sense because it was a use variance for a restaurant for this you can.

Mr. Holtz said get the approval of Z20V8-0515 for the Variance of Se. 21-172 (14) (r & y) for the reduction of the parking spaces for this petitioner only for this use only at this location only.

Mr. Bigelow seconded the motion.

Chairman Minchuk asked for a roll call vote please.

Mr. Minchuk yes, Mr. Fortier yes, Mr. Holtz yes and Mr. Bigelow yes.
Motion carries 4-0

Chairman Minchuk said next.

Mr. Touchette said we have two more variance to do.

Mr. Holtz said Z20V8-0515 for a variance from Sec. 21-12 (b)(6) to allow dumpster location to be placed in side or rear yard it is to be masonry and the fencing needs to be opaque for sure for this petition only for this use only at this location only.

Mr. Fortier seconded that.

Chairman Minchuk asked for a roll call vote please.

Mr. Minchuk yes, Mr. Fortier yes, Mr. Holtz yes and Mr. Bigelow yes.
Motion carries 4-0

Chairman Minchuk said I am the last one

Mr. Holtz said approve Z20V8-0515 for a variance on sec. 19-226 to increase the number of parking spaces without a landscaping isle in a C-3 Highway Commercial zoning on 6.11 acres. For this petitioner only this location for this use only and probably on the first one but we will mention it here for the area to be landscaped properly between La-Z-Boy and the southwest corner to enhance that improvement.

Mr. Fortier seconded the motion.

Chairman Minchuk asked for a roll call vote

Mr. Minchuk yes, Mr. Fortier yes, Mr. Holtz yes and Mr. Bigelow yes.
Motion carries 4-0

Mr. Ban said Thank you very much and thank you for your time

Chairman Minchuk said now the next case other business

OTHER BUSINESS

1. VERIZON WIRELESS/SBA COMMUNICATION CORP

Located at 8127 Merrillville Road

To allow the expansion of a telecommunication site per condition placed on
A 2001 special exception approval (Z6E4-2001)

Chairman Minchuk asked Dorinda about a second letter in there did you want that read now or wait until he is done.

Mrs. Gregor said that is a short scenario I can read that if you want. We will just finish this now.

Tom Lang and my address 1 South 660 Midwest Road Suite 140 Oakbrook Terrace Ill 60181. I am here on the behalf of petitioner Verizon Wireless and SBA Communications. The reason I am here to seek approval for a ground compound expansion of an existing telecommunications space. Due to a condition that was placed on the tower when it was built in 2001. That existing tower is located at 8127 Merrillville Road SBA owns the tower and Verizon approached SBA to co-locate antenna on that tower so before I go into this condition I believe Ms. Gregor provided you with. I just wanted to kind of explain what the proposal was is a issue and what is not really an issue. So Verizon is proposing to co-locate 6 antennas at 67 feet on a 94 ½ foot existing cell tower. There are other carriers on that tower with two other carries on that tower one is at the top at 94 ½ feet the second carrier is at 83 feet. Verizon again is proposing to go at 67feet lower than both of the other carriers. Just like any cell antenna site that has come before you in the past whether it be a new tower or existing tower like this one the carriers need to place equipment on the ground level for lack of a longer explanation that equipment makes those cell antennas on the tower work in this case on the SBA tower had contracted to utilize 2400 square feet of this property. It had only developed about 960 square feet so what really happens is Verizon Wireless or any carrier when they are driving around looking for an acceptable cellular antenna site the first thing they are doing is looking at existing sites and in this case that tower was in area that Verizon needed to go and the height available on that tower that Verizon needed. Now the unfortunate part about that was there is no developed ground compound space left in that compound no wall SBA had the right to develop more of it that a lot of these big cell tower companies to may have heard of American tower or Crown. SBA is a little smaller than they are but a lot of them will only develop what they need at that time so in this case they have contracted with the property for a much larger space but they only developed a certain amount that they needed when they built the tower in 2001. So I guess the moral of the story what I am trying to explain is that they have the right to us more space but it is not developed yet. It is kind of why I am here because Verizon needs to be able to put his equipment in a compound so they are basically expanded the compound in a leased area.

Mr. Touchette asked do they sub-lease it then.

Mr. Lang said well what happens is Verizon only deals with SBA so they approach the tower only. Now let's say SBA didn't have right to anymore lease area. Let's say it was just the 960 square feet and anything more that they didn't have the contracted rights for that. Most of the tower companies not the carriers but the tower company will create a separate contract with that ground owner and will

negotiate on behalf of Verizon Wireless certainly there are exceptions to every rule sometimes that tower company will say maybe this property owner is a little bit difficult and we want you to deal with the ground expansion and in this case it is in the case here SBA already had the rights but just didn't develop any on it so this all kind of ties back to the condition that was placed on the tower when it originally came before the board and before the village when it was built in 2001 so a special condition on placed on the property among other things the village wanted the tower to hold 3 carriers but really the language at issue is there was a little excerpt At the end and I have heard some people use this phrase tonight but it was this tower at this location so that is more interpreted in order for Verizon to expand that compound we kind not kind of it has been interpreted to need that approval to have at that location to include that developed compound space. I hope I explained that correctly Ms. Gregor that was about as accurate as I think that I possible could have. Now just in general in terms of Merrillville's Wireless code ordinance. The code heavily promotes co-location of telecommunication on existing structures so the co-location itself so the act of putting antennas on the towers or really putting supplemental equipment on the ground is not an issue it is the compound expansion is the issue. The act of co-locating the antennas is highly promoted in the code and harmonious with the code. I don't need to read every bit of code section but just to give you a little bit of snapshot chapter 21, Article 1 Section 18 kind of outlines this preference. Paragraph 8 stated the purpose of the code is to minimize the numbers of towers in the community and strongly encourages joint use. So that is what we are doing trying to jointly use the tower. We do not want to build a new tower it is quite costly. The town doesn't want it residence don't want it so we are trying to use that existing structure. Paragraph L 4 and this is the last section that I will site I am just trying to give you a flavor of what it says. Paragraph L4 allows antennas without zoning proceeding on towers as long as the over haul height isn't increase by 10 feet. In this case we are not increasing in fact we are the lowest carrier going on that tower at 67 feet and the reason I really brought the code up is to reinforce the benefits to the community to provide voice and data coverage in an area of need and the encouragement that the code provides to allow this co-location to allow the ground expansion they kind of go hand in hand because the ground expansion really is necessary to get on the tower without that ground expansion the petitioner would have to look for a new cell site and maybe even a new tower site. There are not just 100 to 150 foot buildings sprouted up everywhere or you know 100 to 150 foot towers everywhere. This is a good tower in a good location and the only impact really is that expansion of compound space so I guess to summarize those would be the reason for which I would humbly request your approval and I would be happy to answer any questions that you may have about that.

Mrs. Gregor said how this came up is Verizon Wireless SB Communication applied for a permit and upon my review I seen that the area is expanded and I felt there was a need to bring this in front of the board just like even a restaurant if you stipulate the times that the restaurant can operate if they want to change those times they have to come back because of the conditions states for this time only. So because they are expanding the site I felt there was a need for him to Mr. Lang to come and approach the Board of Zoning Appeals and receive some type of approval if he can receive that.

Mr. Fortier said it does have sufficient space to accommodate this added equipment.

Mrs. Gregor said yes it does not the existing site the site where they want to put the extra antennas requires additional property. There is vacant property back behind that medical facility that you can see.

Mr. Lang said to echo what Mrs. Gregor said the property is quite large and there is a lot of unused property back there. It is the fenced off compound which again while SBA has the lease rights with the property owner for a much larger swap of land it is really the rest of that space has not been developed so it hasn't been fenced off and used as compound.

Mrs. Gregor said and they never showed it on the first site.

Mr. Lang said they only showed the original compound space when they applied for the tower.

Chairman Minchuk said it doesn't bother the residence.

Mr. Lang said it is no where near residence.

Mrs. Gregor said it is located between a building on Merrillville Road and K - Mart.

Chairman Minchuk said I know I live in that area. I go by there every day.

Mr. Lang said it is very well in shrouded may not be the right word. You can't see it very easily unless you are looking for it.

Chairman Minchuk said now this other one is it going to be above the trees is it going to be different.

Mr. Lang said it is going to be the same exact tower.

Chairman Minchuk said so you are just adding on to it.

Mr. Lang said it is not adding upward to it so the tower itself and I don't know if I have an elevation picture.

Chairman Minchuk said it is going outward

Mr. Lang said a couple of feet maybe but it is so far down if you have seen those rays of antenna they are probable 8 feet by 8 feet or there about.

Chairman Minchuk said but it isn't going any higher.

Mr. Lang said right not any higher.

Mrs. Gregor said the expansion is occurring on the ground for the placement of the cabinets.

Chairman Minchuk said I just wanted to make sure that it won't go above those trees like I said I don't live to far from there and I would hate to go down Merrillville Road and have to look at it.

Mr. Lang said I think that it would be an entire different conservation if I were trying to add a significant.

Mr. Fortier said so we are just modifying the wording to the existing case on record and removing the type of working are we removing or adding to the original.

Mrs. Gregor said we are going to state that they can expand on this site to provide adequate room for the additional equipment.

Chairman Minchuk said they have to have extra space on the ground for equipment and it is all wooded area.

Mr. Fortier said I wasn't sure how to go about rewording it that's all.

Chairman Minchuk said he scared me when he said compound.

Chairman Minchuk asked if there is any one in the audience that would like to say anything.

Mr. Holtz said are we going to vote on this now.

Mrs. Gregor said I think that we want to it is just under other business will you allow them to expand on to their site for the additional cabinet space

Mr. Touchette said for this use only.

Chairman Minchuk said again we are going to put for this use only.

Mr. Touchette said so if you have to come back for more you have to come back for more.

Mr. Lang said maybe I will come back and say hello.

Mrs. Gregor said at a different site probably.

Mr. Lang said I guess this is on the record but generally when you are talking about searching for potential sites there is a pecking order the codes specifies pecking order. It is looking for people to co-locate at basically any cost if possible so this tower is a good tower and in an area that Verizon needs coverage and that is why I am here.

Chairman Minchuk said 7430 Broadway there is a lot of property there. American Legion. Can I get a motion please?

Mr. Fortier said Mr. Chairman I would like to make a motion that under case Z6E4-2001 we allow for expansion for this petitioner at this location for this use only.

Mrs. Gregor said remember the case number you had read was previously approved in 2001.

Mr. Touchette said we are amending that.

Mr. Fortier said we are amending that.

Mr. Bigelow seconded the motion.

Mr. Minchuk yes, Mr. Fortier yes, Mr. Holtz yes and Mr. Bigelow yes.
Motion carries 4-0

Mr. Lang Thanked the board.

Mr. Fortier made a motion to be adjourn, second by Ric Holtz

Chairman Minchuk asked for a voice vote which was unanimous.

Meeting adjourned at 8:45PM

Respectfully submitted
Janet Rosko