

MERRILLVILLE BOARD OF ZONING APPEALS
September 24, 2014
6:30 PM

The Board of Zoning Appeals meeting of September 24, 2014 was called to order by Chairman John Minchuk at 6:30pm and led the group in the Pledge of Allegiance.

ROLL CALL

Members in attendance were Mr. Fortier here, Ric Holtz here, Sylvia Krafft here, Chuck Stojakovich here and Mr. Minchuk here. Staff in attendance was Dorinda Gregor, Attorney Touchette and Sedrick Green of Robinson Engineers.

MINUTES: None

COMMUNICATIONS:

Chairman Minchuk asked if we are going to read this communications now or with the case.

Mrs. Gregor replied with the case

COMMENTS FROM CHAIRMAN:

Chairman Minchuk stated I 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 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 devises, cell phones or pagers. We will appreciate it. Thank you.

OLD BUSINESS

None

NEW BUSINESS

Z26E13-0914 VERSA DEVELOPMENT, PETITIONER

MEIJER STORES, L.P. OWNER, Located at 725 West 81st Avenue for a Special exception approval in a C-3, Highway Commercial zoning district on 0.93 acres for a restaurant with a drive thru to be known as Starbucks Coffee.

Chairman Minchuk asked if there is any representation.

The gentlemen said I am

Chairman Minchuk asked them to state their name and address.

Good Evening I am Nicole Jeffries I am with Versa Development we are located at 25900 Eleven Mile, in Southfield, Michigan. We are a developer we do specialize in commercial development all over the Midwest and we do a lot of work for Starbucks and Meijer's. This is a project that we are very excited about. We are looking at building a drive thru Starbucks in a lot in front of Meijer over on 81st Avenue and I am here tonight to answer any questions related to the project. We brought some material boards so you guys could take a look at it along with some colored elevations for the buildings and let you guys ask any questions that you would like.

Mrs. Gregor read her staff report. I also at the time that I send out the staff report in the packets I needed some additional information but I did get a response about the hours of operation. The hours of operations will be 5:00am until 10:00pm Monday through Saturday and 6:00am through 9:00pm on Sunday. Number of seats will be 45 seats, number of employees during the largest shift will be 6 employees. Condition is approved for this petitioner only at this location only for this use only.

Chairman Minchuk asked if there are any questions.

Mr., Stojakovich said Mr. Chairman at this time I would like to read our correspondence. Ladies and Gentlemen we were given a letter here dated September 19, 2014. It is addressed to John Minchuk Chairman of the Merrillville Board of Zoning Appeals. It is in regards to the Starbucks addition to the Meijer store complex.

Dear Mr. Minchuk

Please be advised that I am Representating William Fairchild owner of Art Hill an adjacent landowner to the proposed Starbucks construction on the Meijer's property. On behalf of Mr. Fairchild we must respectfully decline consent to such a project for the following reasons:

Ever since the service road on the south side of route 30 between Art Hill property and the Route 30 itself was opened drivers heading east bound on Route 30 and heavy traffic would utilize this service road in order to bypass congested route 30. We believe that additional outlet such as a proposed Starbucks outlet would only add to the already congested traffic at the stop sign and stop light just east of it at the east end of the Art Hill property. Unless the Town can take some steps to reduce drivers taking advantage of the service road during congestion on Route 30 we must respectfully decline to approve this request.

If you have any questions or comments feel free to contact me at the number listed above. I will not be attending the meeting but I did want to get our position before you well in advance of the meeting.

Yours truly
Attorney Alexander Woloshansky

Mr. Fortier said in regards to the letter can I ask a question. What are access roads for?

Attorney Touchette replied driving on.

Mr. Fortier said ok I just wanted to make sure

Mrs. Gregor said those and to relive the congestion on Route 30.

Mr. Fortier said I just wanted to understand why we went thought the expense of putting that roadway in so it is serving its purpose.

Mrs. Krafft said they call it a service road.

Mr. Fortier said it reduces the number of people getting T-Boned trying to pull out on Route 30 when they are trying to get to the businesses on the either side of the road. So the road is a success.

Chairman Minchuk said because when you come off for Art Hill it goes into the Meijer's parking lot and towing. I don't see how it would interfere with this.

Mrs. Gregor said here are some pictures I didn't put in to the packets. I thought that I would just passed them out if you would like to review that area in through there.

Mr. Fortier said from the drawings I was confused about the drawings exactly where we were looking at. You have a diagram there can you kind of distinguish from the access road to some a screaming success to where your building will be.

Ms. Jeffries said so Route 30 is right up here and the road right here is the access road that you have been talking about and this is the drive into Meijer's so we are proposing that at this point one point on the access road and another access point further south on the road going back toward Meijer's. I think that originally we had two access points are were not going into neither one now. We feel this will work completely adequately for the traffic that is expected to the site. I don't know how familiar you are with this is the Ford dealership it is just a grassy area right now so you can see the Meijer road and the dealership.

Mr. Touchette replied I think that it is shown in these photographs.

Mr. Fortier asked if IDEM has already approved the cut on to the service road.

Mrs. Gregor said well that is part of the Town they cut.

Mrs. Krafft said it looks quite spacious in the pictures that we have

Ms. Jeffries replied yes there is plenty of room to get a drive thru Starbucks in this location.

Mr. Touchette asked if it would be in the grassy area then in front of the body shop for the

Ms. Jeffries said yes I can show you this right here is the body shop for the (turned away from the microphone to work with the photographs). Right here is the body shop.

Mrs. Gregor said that is where they probably park their vehicles for sale.

Ms. Jeffries said that is where they park their cars for the dealership.

Mr. Touchette said so that is the problem.

Mr. Fortier said you will actually be pasted where the turn only lane is on the Meijer's entrance.

Ms. Jeffries said the turn only right here is that what you are talking about.

Mr. Fortier said correct

Ms. Jeffries said we are kind of right at the corner where the access road meet into that.

Mr. Fortier said further up to where it T's to the left that is a left turn only lane that comes up in

Ms. Jeffries said here

Mr. Fortier said no keep going

Ms. Jeffries said here

Mr. Fortier said keep going there.

Ms. Jeffries said oh down here so we are kind of the building follows directly across or connects to that where that.

Chairman Minchuk said the Ford dealership was talking about the east bound entrance cause there is no exit just and entrance not an exit is that what they are talking about.

Ms. Jeffries said I am not exactly sure which

Chairman Minchuk said coming east bound just before you hit Steak & Shake you have a driveway coming in it is an entrance only not an exit and then this grassy area here in front of where the maintenance shop is that is where you are going to set your Starbucks.

Mr. Touchette said you are right across from the Steak & Shake.

Mrs. Gregor said yes they are.

Mr. Holtz said what about the drainage that is there Sedrick.

Mr. Green said what was that

Mr. Holtz said there is a drainage pipe underneath the service road that is almost right where the entrance is going to be.

Ms. Jeffries said that is part of the engineering that we are working with the Town Engineer right now on that. That would be part of our drainage plan for the site. It would be brought into the drainage man hole right there where you see that green.

Mr. Green said well actually he won't be able to dump directly into there. That is one of the things that we are working with..

Ms. Jeffries said our engineer told me that if we do that. So we are working on the drainage right now. That drainage structure right there will remain. It will continue to operate.

Mr. Green said that will remain. That drain was put in when the Town extended the service road to meet with the Meijer's access drive and at the point in time Meijer's pretty much had that low lying area there it was just naturally emptying into the ground but when the Town put the road in and bought the property now we have to do something with the property and now that they are going to develop that site needs to discharge into the Meijer's pond.

Mr. Touchette asked will you monitor that and make sure that the drainage all is approved.

Mrs. Gregor said the building permit

Ms. Jeffries said the underground detention will be going to the Meijer's pond or going to the right way it will be going in at a restricted rate from the detention.

Mrs. Gregor said it won't go into that.

Mr. Touchette said where ever it goes it is going to be cool with the Town.

Mrs. Gregor said we would not issue the building permit until all the drain issues have been worked out.

Mr. Green said they are proposing to do underground storage tanks so that is going to be a good thing.

Mr. Fortier said can I ask you to step in front of the microphone so that I can get you on tape. Thank you. Can you show me is there going to be a dedicated entrance and dedicated exit?

Ms. Jeffries said both are entrance and exit there is one up here off the access road that we have been talking about and then there is one further down as you go toward Meijer down off of this drive that is going back toward Meijer's. So both of these are wide enough that they would be entrance and exits. This is somebody is going in and going to the drive thru and they come in here they would come back around and most likely come out here because of the way this is laid out for the drive thru. If somebody goes into the store and then they could easily pull out this way or come back up this way on the northern part of the excess drive there.

Mr. Fortier said the acuteness of that angle won't impede traffic coming from the other direction.

Ms. Jeffries replied no this is and your engineer could probably speak to it but we are our engineers have looked at it and it is a no issue traffic wise. I believe that the Planning Commission meeting they asked for an auto turn study which we did complete using to make sure the Fire trucks could get in an access the site properly I have that. Dorinda I don't know if you have seen it but I can certainly give this to you and

Mrs. Krafft said actually it would probably add to the business of both facilities Meijer's and the Starbucks. Problem might be entering and exits if you can work that out.

Chairman Minchuk said there is plenty of room there. There is a lot yes

Mr. Green said we requested that they check with the fire department to make sure the largest vehicles could make the turns.

Ms. Jeffries said we got the actual dimension of the fire truck from the fire department so we made sure that the Merrillville Fire Truck can make the turns in and out of the site.

Chairman Minchuk asked would they use the ladder truck too.

Mrs. Gregor said yes they used the largest truck. The aerial

Chairman Minchuk said a 102 foot aerial.

Mr. Green said if you have the copies going around.

Mrs. Gregor said I need that back because it is my only copy. There is a visual of the truck

Mr. Holtz asked would it be a problem to make the north an entrance only.

Ms. Jeffries said I think that it would because of the way we have the drive thru set up we are the drive thru cars are coming out right up there on that or near that northern entrance so I think that if we said it was an entrance only you will still have people trying to go out that way because that is the way we are spitting them out.

Mr. Holtz said I know I see that I know at least under Art Hill concern is when I have seen traffic cutting through the Meijer's parking lot there that side road there. Is there I mean could you eventually I mean the cars being backed up trying to get out of the drive thru was I guess is what my concern is. Is there ok as they exit out the drive thru can it be wider than wider for them to be able to make a left hand turn if the traffic gets back.

Ms. Jeffries said we could widen that entrance I mean I also feel like after they get their order we do have quite a bite of road way here coming back up to the entrance so there is room there but if you wanted that entrance to be wider

Mr. Holtz said no the entrance into but the exit of your drive thru.

Mr. Green said I think what you are saying is that you would like to have a 3 lane driveway. One in a dedicated left and dedicated right that way people are coming out of the store they would go straight to

turn left and people coming out of the drive thru if they wanted to turn right they could just turn right and come around.

Mr. Holtz said as far as the drive thru you could potentially have a backup as far as the exit of the drive thru. All I am saying is it wide enough the drive thru where you can't have a car turn left and a car turn right.

Ms. Jeffries said a car turn and a car turn right up here.

Mr. Holtz said out of the drive thru

Mrs. Gregor said the drive thru is next to the building

Mr. Touchette said I think that what Sedrick was talking about was a good idea

Mrs. Gregor said why don't you get up and show us on the plans

Ms. Jeffries said I am not quite sure what you are asking. The drive thru is sitting out back of this main drive thru I don't know if you are talking about a separate drive out ok

Mr. Holtz said you have quite a bit of congestion at this point. Is there enough room for a car to get around here if they want to turn left instead of being backed up?

Ms. Jeffries said oh if they want to turn left there. There is enough room for them to turn and go back to the south.

Mr. Holtz said saying you have 4 or 5 cars backed up

Ms. Jeffries said this is not wide enough for 2 cars to pass. This right here that is not wide enough if that is what you are saying for 1 car to be next to each other.

Mr. Green said I think what he is saying is if people are pursuing to exit them blocking the driveway exit I guess you can put signs saying to not block driveway. You would have to que them at the nose of the island between the parking and the driveway so if people wanted to come out of the drive thru make a left Turn and then they would

Mrs. Krafft said people look for convenience especially when there are a lot of drive in for food. They want to go somewhere it will be convenient for them and good.

Ms. Jeffries said from what I understand you were against doing the separate out for the drive thru is that correct. I mean that is another option.

Mrs. Gregor said they didn't want a second curb cut. How long is the time from the time that they place their order till the time that they get up to the window to receive their coffee. What is that time?

Ms. Jeffries replied I would have to talk to Starbucks and get back with you.

Mrs. Gregor said that is what I would like to know.

Mr. Green said the que time for the traffic as they are coming in and out of the drive thru you may not have the same stacking as if you were placing your order or going the way that you exit out.

Mr. Touchette said I think that Sedrick had a good comment about the north exit there if you have one lane coming in and a center lane for left turn only and then a right turn lane only that would keep traffic from backing up waiting the left hand turn. Art Hill was saying there is a lot of traffic coming thru there so you could really back up with somebody doing a left hand turn there so that might be a good addition on your part.

Ms. Jeffries said that would only be widening the driveway addition 12 feet. I don't think that is a bad idea at all it gives a person a dedicated turn lane so they are not blocking the others trying to turn right.

Mr. Fortier said with both exists on the east side of Meijer's has the same configuration. There are 3 lanes 1 in and 2 out.

Ms. Jeffries said I think that there is room there to get that done. So that would not be an issue if that's what you guys felt comfortable with.

Chairman Minchuk said Art Hill is talking about 2's. Route 30 is packed east bound 30 is packed. People take that short cut to get into Meijer's and if they take that short cut to get coffee it could eventually start backing up. That is what he is believing.

Mr. Touchette said I don't think that you can blame the traffic congestion and people trying to get around things on U.S. 30 on one Starbucks I mean that it is a lot bigger problem than that.

Mr. Fortier said they can look at his new cars and figure out how they can own one.

Chairman Minchuk asked if there is anyone in the audience that would like to speak for or against this. Please come up at this time. Seeing none anymore questions from our board.

Mr. Green asked if you are all ok with the possible 3 lane on just the north or the south east

Mr. Fortier said we would have a dedicated left lane turn lane.

Mr. Touchette said if you could make that a condition of a motion if you were

Mrs. Krafft said good idea

Mr. Holtz said the other question on the elevation that you have provided for us will it change.

Ms. Jeffries said Starbucks has seen it and they are good with it. So I don't foresee it changing right know. Obviously this doesn't show this doesn't show the proposed signs that will go on the building that is a separate thing but I don't foresee the elevations changing no.

Chairman Minchuk said any others.

Mr. Holtz said there are so many people that come and say here this is what we are going to build and then it ends up that's not what they build.

Mr. Touchette said yes we have seen that plenty of times.

Mr. Green said if you would like to put on a condition that if they change what you have approved here that they will have to come back.

Mrs. Gregor said a Special exception is will you allow us to do this use nothing to do with the appearance of the building. That goes through our office we review the commercial guideline standards we want the buildings to be ecstatically pleasing we want them to have some architecturally elements. This board should not be concerned about it they should be concerned about the Special Exception use.

Mr. Holtz said yes but they show us something that looks fantastic and we say ok everything looks good and I realize that it's not something that we are going to approve but they turn around and build something entirely different.

Mrs. Gregor said generally I have not seen that. I have not seen that happen.

Mrs. Krafft said they can't do that

Mrs. Gregor said yes they can.

Mr. Holtz said Stormwater Management was one. They came in put on a show for us then they built something a lot smaller.

Mrs. Gregor said for financial reasons.

Mr. Holtz said I understand that but I am just saying they are presenting something that is super nice.

Mrs. Gregor said if you see any of their other photo type stores their basically beautiful they are basically nice so I think

Mr. Fortier said they have corporate guidelines that they have to follow just like every other

Ms. Jeffries said yes they are picky about the way things look so we are not going to come in and throw a much worse looking building at you. Starbucks won't go for it anyway.

Chairman Minchuk said seeing or hearing no other questions could I please get a motion.

Mr. Touchette said you may have another piece of correspondence regarding this.

Mrs. Gregor asked where was that at.

Mr. Touchette said it is from Meijer's.

Mrs. Gregor said no that was mine it had something else to do with me. Those are my stuff.

Mr. Fortier said I would like to make a motion that we except that we provide the Special Exception approval for case number Z26E13-0914 with the condition that the northern entrance have a dedicated left and right turn lane for this petitioner only, at this location only for this use only.

Mr. Holtz said I will seconded it.

Chairman Minchuk asked for a roll call vote.

Mr. Fortier yes, Ric Holtz yes, Sylvia Krafft yes, Chuck Stojakovich yes and Mr. Minchuk yes.
Motion carries 5-0

Mrs. Gregor said this will move to the Town Council for review and I will be in contact with Jason.

Ms. Jeffries asked if they would like for her to leave the boards.

Mrs. Gregor replied no but you can bring them for the next meeting.

Z27V11-0914 LANDMARK SIGN GROUP, PETITIONER

BONE AND JOINT SPECIALIST, OWNER, Located at 9001 Broadway for a Variance from Sec.21-193 (f) to increase the size of a proposed electronic message center on an existing freestanding sign from 40 square feet to 55 square feet in a C-3, Highway Commercial zoning district for better visibility of vehicular traffic on Broadway

Shawn O'Brien I am with Landmark Sign Group 7424 Industrial Avenue in Chesterton.

I am Jessica Motros I am the Practice Administrator for Bone & Joint Specialist. Our business address is 9001 Broadway in Merrillville. My homes address is 1266 Medlee and that is in Hobart.

Mr. O'Brien said the property that just got mentioned is 9001 Broadway. We are the east side of Broadway just south of 90th Drive. The sign is located approximately 75 feet east of Broadway and is also east of the frontage road that runs north and south along Broadway. The sign is about 300 feet south of 90th Drive and the sign was originally installed in 2009. This is an existing sign that has been in place. What we would like to ask for today is a Variance on the code 21-193 which allows for a 40 square foot led sign. We are requesting to increase the size to 55 square feet. We have taken couple of things in consideration when we were putting together this package for the Bone and Joint and one of them is the distance from the road. Like I mentioned to her 75 feet from the closest portion of the road and probably over 100 feet if you are considering the south bound lanes. There is no really there are no buildings that are right on top of this location. Actually there is vacant property on the west side of Broadway and on the south side of this location and there really isn't anybody close. The nearest person on the north is on the north side of 90th Drive about 330 feet away. I think that the ecstatic's of how this LED fits much better the way and I think that you guys have the prints of it are the way that the size fits in. It fits in very nicely it looks like it was meant to be there. The proportion of the size actually fits in perfectly where there was already existing faces of the same size. If you have been by there lately you will see that they have taken the faces out but we did have some information on hereabout what the practice handles so these faces are gone but we would like to fit it in the same section and it will fit it very nicely in the existing sign. Besides that if there are any questions.

Mr. Fortier said that was the questions that I had. You stated that the new LED that you weren't making the current sign any larger so it is that section of the sign that is going to be larger than what our zoning allows for.

Mr. O'Brien said the sign is not growing at all we are just taking out the actual point that is in there and we are going to put in the LED sign and then we will come back and fill in the extra space so there is no light leaks.

Mr. Fortier said so you are just modernizing the existing structure.

Mr. O'Brien we are putting it into an existing structure correct.

Mrs. Krafft asked if the sign will be lighted.

Mr. O'Brien said yes it is lite with LED's it is almost exactly like your sign that you have in front here

Chairman Minchuk asked does it follow all of our ordinances.

Mrs. Gregor said yes that is part of the conditions yes it will have too.

Mr. Holtz said I drove by there and saw it was empty so if it is going in the exact same spot that is already existing I don't see a problem with it.

Chairman Minchuk said I see it every day I live right across from there.

Mr. O'Brien said that is one of the reasons why we have been holding off replacing those panels is because we wanted to have this meeting and find out the direction we head in and

Chairman Minchuk said have you looked over our ordinances before the sign.

Mrs. Gregor said Landmark Sign is familiar with our ordinance yes. In fact they're the ones they are the one the petitioned for the sign out in front.

Mr. Holtz asked how big of an area is it I know you are going I know we are going 15 feet over the ordinance but what is the existing empty spot.

Mr. O'Brien said oh the empty spot.

Chairman Minchuk said Dorinda why don't you go through it.

Mrs. Gregor read the staff report.

Chairman Minchuk said they know what the codes are.

Mrs. Gregor said they know what the codes are.

Mr. O'Brien said so to answer your question it is about 67 square feet that is open right now.

Mrs. Gregor said the actual size of the electronic center is 11 x 5 feet.

Chairman Minchuk asked if there are any other questions. Anybody in the audience for or against. Seeing none. Could I have a motion please?

Mr. Holtz said I would like to make a motion to approve Z27V11-0914 for this petitioner only for this use only.

Mr. Stojakovich said Mr. Chairman I would like to second that.

Mr. Holtz added to his motion that must follow all code requirements regarding the display of an Electronic Messages.

Mr. Fortier said I will second that.

Chairman Minchuk called for a roll call vote please.

Mr. Fortier yes, Ric Holtz yes, Sylvia Krafft said may I ask a question before how far from the highway is the sign.

Mr. O'Brien said it is 75 feet to the closest edge of the north bound.

Chairman Minchuk said and then you have another road right between it.

Mrs. Krafft said sometimes it can be very distracting to

Mr. O'Brien said it is pretty far off the road.

Mrs. Krafft said them I vote yes.

Chairman Minchuk said roll call vote again.

Mr. Stojakovich said we will start all over again.

Mr. Fortier yes, Ric Holtz yes, Sylvia Kraft yes, Chuck Stojakovich yes and Mr. Minchuk yes.
Motion carries

Chairman Minchuk said Dorinda will take care of you.

Z28V12-0914 ROSE AND RONALD KUBE, PETITIONER AND OWNER, Located at 7376 Gable Road for a Variance from Sec. 21-77a)(3) to allow for a second garage (detached) in a R-2, Single Family Residential zoning district on 3.25 acres for additional storage of personal vehicles, lawn equipment and other items.

Good Evening my name is Ron Kube I live at 7376 Gable Road. We have 3 and a quarter acres and we do have an attached garage. We are looking for permission to build a secondary garage. I lost my Dad and I would like to bring his wood working tools home so I am looking for a garage to bring a boat back home that is stored up in Michigan now. Personal items that I can store safely outside. Vandalism in my area is an issue. So to be able to keep them inside to be safe. I have not been able to bring outside stuff home. With the acreage I am not going closer to anybody's property just going deeper on my property casue I am almost 900 feet deep. So I am not going closer to a road actually going in my woods. Looking to build a secondary garage right now I am looking at a 24 x 36 but I may go shorter it may go closer to a straight 24 x 24 but the largest I would go would be 24 x 36. Looking for permission to build.

I am Rose Kube his wife I live at 7376 Gable Road Merrillville and he forgot to add that we have grandchildren and we want to keep everything in doors so they don't get hurt climbing and playing on them

Mrs. Gregor read the staff report. Conditions if approved for this petitioner only at this location only for this use only and no business to be operated from either garages.

Mrs. Krafft asked do you have neighbor close by.

Mr. Kube said yes we are at the end of the street I do have neighbors north of me but nothing south of me.

Mrs. Krafft said so the building you are proposing will not be close

Mr. Kube said it will be farther away from any neighbor.

Mrs. Gregor showed Mrs. Krafft where the garage will be located.

Mr. Kube said it is a real deep parcel.

Mr. Fortier said I have never been down that road before today it is a nice road.

Mrs. Kube said a small piece of the country right smack dab in the city.

Mr. Touchette said I grew up on Iddings Court back there and they are out in a wooded area there isn't much out

Mr. Fortier said I think having equipment stored inside is much more pleasing.

Mr. Kube said right now I have my John Deere sitting outside and all my stuff. Then like I said I've got a boat and stuff like that up north of my Dad's that I have to get home.

Mr. Fortier said it looks nicer inside a nice garage that it does parked alongside of the drive.

Mr. Holtz said so it is just going to be close to the house

Mr. Kube said I am just going south of the house essentially

Mr. Holtz said I guess my one concern is for whatever reason you could always sell a ride of way if somebody wanted

Mr. Kube said I have already been told from Planning that I have to maintain my clearance from the imaginable ride a way. So I can't get any closer.

Mrs. Krafft asked so where is the dog's house.

Mr. Kube said I have an invisible sign around the whole acreage.

Mr. Holtz said it was a Great Dane wasn't it.

Mr. Kube replied yes.

Chairman Minchuk asked if anyone in the audience is for or against this petitioner. Any questions from the board. Seeing none could I get a motion please.

Mr. Holtz said I would make a motion to accept case number Z28V12-0914 for this petitioner only at this location only for this use only and no business to be operated from either garage.

Mr. Stojakovich good and well I would like to second that.

Chairman Minchuk asked for a roll call vote please.

Mr. Fortier yes, Mr. Holtz yes, Sylvia Krafft yes, Chuck Stojakovich yes and Mr. Minchuk yes.
Motion Carries

Chairman Minchuk said see Dorinda and she will help you with that.

Mrs. Gregor said you can apply for your building permit whenever you are ready.

Mrs. Kube said thank you ladies and gentlemen.

OTHER BUSINESS

- 1. DELTA RESTAURANT- 7602 BROADWAY-update and clarify BZA approval of Z5E3-01114 expansion of an existing restaurant.**

Good Evening ladies and gentlemen my name is Angelo Sabato I am from Crown Point Indiana. I am here on behalf of Delta Restaurant. I had sent a letter in after my meeting with Dorinda I believe you have a copy of it which basically outlines some issues I believe may come up in the future and come up as a result of what was listed as an expansion of the restaurant itself solely as a result of that there were 3 things that I became aware of and I have asked that they be considered by you to either secretarially. Didn't realize I was so winded (changed the tape)

I have written out 3 main areas that I became aware of when I did the research. Basically the first one was for whatever reason and I am not sure I think possible done because the architect or engineer they didn't hire counsel to fill out the application and places the applications in both cases in the name of Michael who is president and one of the major stockholders of the corporation but it is a corporation that owns and operates the business and that needs to be corrected. The corporation is actually MGK Delta Family Restaurant Inc. and I have indicated that in issue one. Issue 2 is the current restaurant based on what is going on is presently restricted to breakfast and lunch and that is not that they didn't ask for that they did originally and they basically didn't realize that it may cause a problem. Mr. Badger continued that position when he came in and said that this was for the use as an expansion of the existing restaurant. That was his mistake this has never been intended and can't be built and is a sole structure. I brought in the drawings of the restaurant to prove that is the case that it has a separate lease on it. It is not a lease that goes on both for one unit. It is a lease for 2 units and has a fire wall that goes down the center of it required to have fire doors between the two and it was basically an expansion that would give them the ability to do specific things mainly provide for fraternally type meetings and like. Parties, showers that type of thing and private dining and a small conference type room and the like that was the design. He was told that over and over again in party and unfortunately when he walked in everybody talked about the one portion of it which was the fact that it was a possible that it would give them the ability to expand the use on busy days and what not just on Sundays or whatever to take overflow after church that type of thing or to possible allow them to go to a brunch situation. That considered they only talked again about the possibility of the issue of it being a breakfast and lunch operation. When I explained the statement of fraternally, parties and what not they basically you understand that those would possible go past that 4:00 deadline or 3:00 close for them although it was discussed at you last meeting according to the minutes that I read that talked about here and would not be an issued but the truth of the matter is it is a potential problem for the corporation because this is a business if they were to take on business like dinner for Elks or whatever they are taking on a dinner meeting for Rotary. Right now they try and do the breakfast/dinner for Kiwanis is one and the like but those would all be possibilities but when it happens it they basically have to wipe out the use of the restaurant for anything else or becomes very difficult to handle that inside the other portion. There are fire doors in this location if you look at the drawings and want not that was what was presented before I realized that when it was brought before you the last time it was brought to you without complete drawings essentially of what was actually intended to done. It was a discussion of what was in conceptual that we tried to overcome. The other thing that he did was he

basically walked in and based on what he thought was going to basically happen extended to 74 people inside that section of the restaurant inside that section of the private dining area. The truth of the matter is and you finish it out what to have room we are maxed at 64 to fill every seat that was in there. Although you have checked the parking and what not based on the 74 that he had proposed it actually reduced down to 74 when I talked to him and ran the numbers and looked at the actual sizes and what not so we would have room to move between the tables and fire purposes and the like I believe 56 was the actual number that should have been and that is what we respected here so the 3rd thing we would like to do is to bring and to show that there are only going to be 50 to 60 person range and what the gatherings are going to be for. I don't know and I wrote this letter specifically because I was trying to make sure of how we would handle this under your C-3 Zoning which where the property is located a hall is an acceptable use which would be served by the kitchen alike. When Mr. Badger was here originally on this matter and I reviewed it in the minutes and verbatim and I am not going to deny the fact he main the misstatement that they were going to increase the size of the kitchen and that has not happened it never was intended to happen as I have understood from Mike when I talked to him, but that was his statement before he had done the actual drawings. That being the case there has not been an increase in the kitchen this was basically to facilitate additional use for the kitchen in the adjacent property and I wanted you to understand that and although the construction has been completed and I guess today they got the final on the fire inspection which was the only thing that was lacking correction not the only thing. In the beginning I remember talking to MCD because he did not follow up as requested by Chuck and go down and review the plans and prints with him because he didn't have them done at that time to review what the actual what was going to be required for the sewage requirements sewage permit. I have come back in and I asked to meet with Chuck and with Mr. Touchette and I have a letter from them at the present time that I am responding to I presented to them what I thought was our consensus but I guess I over stated that at the moment so I can't say that I have a total agreement. We are going to have to go back and revisit it I guess. That will be taken care of. Anyway that was what we had asked these 3 things that will have to be considered. Dorinda asked that I write a letter because she wasn't I don't know that she wasn't sure as well how we would handle this as an application before you those are the 3 things that we are bringing to you. It is up to you and your pleasure as to how you want me to proceed as to that as far as the present use and the present for the overflow for the restaurant I would expect that is a possibility at the present time. As far as extending beyond the hours situation and what not I believe that's got to come back or if you are going to require it unless you believe it belongs in a C-3 zone. That is my only argument I have as to that. I guess I am asking what is your pleasure and how you want to go through this.

Chairman Minchuk asked any questions.

Mrs. Krafft said from what you explained to us any different from the information that we had had previously.

Mr. Sabato replied yes.

Mr. Touchette said when this was brought to the BZA the first time there was a petition for special application for Special Exception filed and that report said that the current seating was for 84 customers in the original Delta and that the expansion would add 86 seats. Your letter says something like 74 seats or something like that was discussed it was not 74 it was 86 ok. And the application was for expanding the restaurant service ok there was not a mention of banquet facilities and the building permit that was issued was for an expansion of a restaurant facility not for banquets now that being said I don't think it matters if it is a banquet or a restaurant because if it is a restaurant if you can do the restaurants you can do the banquets so I don't think that we really need to get into some big discussion about banquets.

Mr. Sabato said the only question that I have at that point is when we go to hall or whatever that is a permitted use according to your C-3 zoning.

Mrs. Gregor said no the idea is if the owners would like to allow for an organization to go in there and have a breakfast or luncheon or if he wants to have a baby shower or utilize that area they can do that. That is what we are saying a restaurant is a restaurant and he has that authority to do that.

Mr. Sabato said the actual sitting capacity is how I am sorry about the number on the front end I did mistake the original restaurant he talked about from 84 but the original drawings that went down state and what not were 74. A count of the space that is actually available and seating capacity that is actually in the main section at the present time is only 64. It is down below that even though it was asked for more than once and I am not disagreeing with Mr. Touchette you're accurate to the inaccuracy that happen before. I am just trying to say that the actual numbers that are involved here were actually substantially less. This gives them the ability with the kitchen and the size that they had before and what they had put in to basically use it for a catering type of other facilities and programs and what not things that they didn't have available to them in the restaurant because if they did they would have normally shut out there normal customers that depended on them and use them on a daily basis.

Mrs. Krafft said I think the question of how many involves a lot of safety factors in case there was a fire or something so that the tables would not be too close together people could exit more easily.

Mr. Sabato said they maxed out the numbers they could put next to one another and when I looked at it because of the State Fire Codes says based on approximately 12 feet was what I was told. I am not quoting the ordinance because I don't have the number but I can go back and get it.

Mr. Touchette said 15 square feet because he was there today.

Mr. Sabato said that was what the Fire Marshall said we are under the 15 we are substantially over the 15 as far as the space between it. When I looked at the drawings and my history with restaurant in Merrillville was not but knowing the table spacing and the rest of it I looked at what he had laid out there and what he had on the original drawing I said there is no way and I walked into the restaurant and sure enough the original restaurant was not laid out the way it was shown on the drawing ok they had gotten rid of the bench seats and the booths down the center and what not because you didn't have the traffic patterns and the ability to move. The same thing basically when we looked at the second set of drawings it was like I grant you you could put 5 lbs. or 10 lbs. possible in a 5 lb. bag but that is not what anybody is going to make it work and have the public enjoy the restaurant and the rest of it is going to use and they didn't do that and I think that those of you that are familiar with how they run the business and this size and the rest of it and the service that the like it provides exactly for that type of thing. So we are trying to come back to make sure that we don't have the same mistakes happen and what not so I can go in and correct the other problems.

Mr. Fortier said I wasn't aware that was a fire wall between the two.

Mr. Sabato said absolutely that is a block wall that is required to be between it. The one thing is because it is a preexisting building it didn't require an area separation wall which would require separate but from what I have been able to see and I did check the joist in it and what not the joist and the beams basically are falling to the center anyway so it is not a support wall for either side. That being the case basically it wouldn't have the requirements of independence separation walls.

Someone stated double block walls

Mr. Fortier said so those will be for automatic fire doors.

Mr. Sabato said the two fire doors that are in right now there are 3 fire doors they have rated R automatic fire doors they have electric panels in the thing that automatically release when the fire.

Mr. Fortier said I thought that there were two double doors in the middle.

Mr. Sabato said that one only opens if you need to go to the office and it automatically closes. But the other two are on automatic and there is no duct work crossing across either of the two buildings.

Mr. Touchette said my main concern prior to this meeting tonight was that we did not have a set of plans that showed what was going what was to be here and the appliances were radically different. What you were saying was radically different than what we had in the file here. We just got a set of plans that we have had barely had been able to look at here at this meeting ok and looking at this and my question after listening to you is you said that this could now seat 64 maximum.

Mr. Sabato said 64 is what is set up at the present time if you take every seat and fill every seat in the present restaurant it is 64. That was the existing restaurant the new one was supposed to be set up at 54 there is approximately 4 or 5 tables that are 4 tops that could sit 4 were supposed to be reduced to 2 when we set down and talked about it what I want to do. The Fire Marshall didn't find any problem with it. This drawing I presented to Chuck when we had talked about before that is the one.

Mr. Stojakovich said this drawing has never been seen

Mr. Sabato said that is the new drawing that I brought when I came into talk with you and Bill.

Mr. Stojakovich said I have never seen this drawing because when I looked in the restaurant. Are there booths on the new side?

Mr. Sabato asked the owner did you put booths on the new side no the bench. There is no booth. On the outside perimeter instead of chairs.

Mr. Stojakovich said that is seating only on one side of a table right.

Mr. Sabato said right

Mr. Stojakovich said it isn't shown in your drawings.

Mr. Sabato said it should be there. He shown then benches as opposed they were benches installed as to opposed to seats but the table top is only 6 along one side.

Mr. Stojakovich said Dorinda doesn't the Town Engineer aren't they supposed to be looking at these drawings when they are presented with enough time to

Mrs. Gregor said we are supposed to have a set

They were rustling the maps around could not here verbiage.

Mr. Stojakovich said I believe it would be the south wall isn't it would be a whole wall benched

Mr. Sabato replied yes

Mr. Stojakovich said this one here does not reflect this whatsoever.

Mr. Sabato said no they don't have seats they have benches. The original one had it and when he went down State for the Fire for the State Fire Marshall I asked Badger when we did these drawings for us I asked him specifically whether he believed we had to go down state or not with the drawings. He said based on the occupancy number and square footage which was required by the State Fire Marshall for the determination in the light that he had in this one because he had put a higher number on it he did not believe and he called down and said no you would not have to come back in so the amendment was made and that is on the drawing.

Mr. Stojakovich said so with that bench there you are 56 on these new drawings is incorrect.

Mr. Sabato replied it shouldn't be it is the same table tops the tables in front of them is what creates the seating.

Mr. Stojakovich said you are saying the bench along this whole south wall that is installed already nobody is going to sit in that.

Mr. Sabato replied yes but if it's got tables there are no set of chairs inside the bench. The bench and the tables are out on the side. If I sit on this side of the table and I have got a bench there opposed to 3 chairs I have 3 seating locations.

Mr. Stojakovich said I don't want to get into the seats if the Fire Marshall said that

Chairman Minchuk said we don't get into all of that.

Mr. Stojakovich said

Mr. Touchette said we had a member talking tonight about things that are being built that are not reflective by plans that they saw ok and this came to mind not this is way closer than what we were talking about before ok. When you were here in January we were told 84 seats and we got a set of plans that showed 84 seats and then. I am not speaking as this is your baby ok. The plans that we got that were approved that the building permit was issued for was very different than want we have here tonight.

Mr. Sabato said the reasoning for me putting the bench there is you have more space for aisle way just so you guys know why I switched it to bench so if a person has a wheelchair it added an extra 16 inches for the aisle.

Mr. Stojakovich said it is the logical thing to do

Mr. Touchette said I ve been plenty of places where they have the benches set up like you are talking but this came up and this was funny that it came up tonight about this is something different and it is like where has this ever happened.

Mr. Sabato said I am used to hearing it all the time you walk in and make this a statement what are you going to do I have always been one that believes that you are absolutely correct plan your work before you build planning the rest of it and I have watched.

Mr. Touchette said there is also a provision in the building permit that says there is an affidavit that is toward the building and structure that says this is what is going to be built and if this is not what is build all the permits can be revoked. I am not saying that should be done I am just saying that this is not

something that is just haphazard it is good that you are coming into correct this ok but this stuff does happen.

Mr. Sabato said we actually reduced the number substantially from the building permit that is what I said when I looked at it this isn't fly alright it didn't make any sense to me when I looked at the drawing and then they asked me to walk in and take a look at and to sit down and go through it. I said what are you doing and they said you can't get there it won't happen and he looked at me and he said oh yes this is what Badger calculated. I said there is no way you can fit this many table tops in here and move between the tables and I was standing in the restaurant I said looking in here and try to put this same space over there it won't work.

Mr. Stojakovich said Mr. Sabato the reason why I am harping on this because the number of seats here are going to directly affect the number of parking that you have here and the restaurant right now is set up more seats that this so that means you are going to need more parking. The numbers are all off.

Mr. Sabato said I agree this number of seats is less than the existing or original and what is set up for so the parking that you had original approved and I indicate that in here really doesn't become an issue because there was actually sufficient parking under it.

Mr. Touchette said I don't know that we have opened up the parking issue here because that was the question.

Mrs. Gregor said let's talk about the parking. They have an access agreement with Off Track Betting. There is sufficient parking so that really does not become an issue. There is adequate parking at Off Track Betting as well as to compliment this facility.

Mr. Touchette said I understand that ok I don't think what we are doing here tonight changes the parking at all. Mr. Sabato's letter said that they need nine fewer spaces. I don't think that we get to that issue tonight.

Mr. Sabato said no and I thought that I said that at the end of this it wasn't relevant because it has already been discussed. All I was trying to say is that we are actually even though the parking is actual physical parking is the same we are not going to be using it based on the real numbers that are going to be used are.

Mr. Fortier said so if this addition or modification is used as a banquet facility you still will not exceed 60 because they have the right to move those tables out.

Mr. Touchette said you were approved already for 84 ok so they are only lowering the number of seats so.

Mr. Fortier said so it is a plus

Mr. Touchette said there was some discussion about the parking to begin with ok and I know that when I have had the chance to review the file now from the original Delta went in and there was even a board member that voted against this restaurant because he thought there would be a parking problem and there was talk about these parking spaces not being set up properly with that traffic lane that goes right down in front of the buildings so there was discussion about the parking and we are not opening that up here .

Mr. Sabato said I didn't believe it was necessary that's all I thought. I thought that it had been gone over before.

Chairman Minchuk said if he were to open it up I could tell you that I absolutely seen it and Chuck seen it before he paved all of that. It was all dirt and grime it was terrible. The man dumped a lot of money to make sure he had ample and nice parking. So that is what I say I don't think that we need to get into that because I remember that from the first time. He had showed us what he had dumped into it

Mr. Touchette replied from the original Delta which I wasn't around for that but I did read the minutes and I know that there was quite a bit of discussion

Mr. Stojakovich said there is one other question that I have if this side gets used as a banquet facility will there be alcohol served.

Mr. Sabato replied at the present time there is no allowance for alcohol period. If it were a private facility and the catering came in that had a alcohol license they could base on a state permit license and what not it would still come under ATF.

Mr. Stojakovich said they can use their alcohol license.

Mr. Sabato said they could use their alcohol catering license to that extend for that purpose there at that facility their insurance and everything else would need to be done as well. It's not something that Delta has no alcohol license and would not be serving alcohol in any way shape or form.

Mr. Stojakovich said for no other reasons why we are here is you expanded this restaurant to expand your hours. Right because you are restricted right now in your hours. What kind of hours would you suggest that you would like to hold at this restaurant? You are down in the books you are supposed to be closed at 3:00pm or 4:00pm

Mr. Sabato said the doors where closed at 3:00pm but basically we would be done at 4:00pm. That was the old one. It was brought up again at the last meeting and because they were only asking for the expansion and Mr. Badger specially said breakfast and lunch which wasn't accurate and for the life of me I wasn't here I don't know. It is water under the dam I am here to correct those mistakes.

Delta owner said I am at 7:00am now and I thinking one day going to 6:00 the latest in the evening would be 10:00pm and that would be on the weekends and during the week probably 9:00pm.

Mr. Fortier asked now will this interfere with your agreement with the Off Track Betting for parking.

Mr. Sabato replied no

Mr. Fortier said I thought that was part of the reason they gave you that because your hours of operations did not interfere with theirs...

Mr. Sabato said they are open at lunch time too and then on Derby day we don't have any customers that day. I might as well close the restaurant.

Mr. Fortier said I just wanted to make sure that wasn't going to be an issue on Sunday you guys are fighting for parking spots.

Mr. Touchette said so would you be good with 6:00am to 10:00pm.

Mrs. Gregor said to clarify 6:00am to 10:00pm Monday through Sunday.

Mr. Touchette said the issue addressed in Attorney Sabato's letter about retro acting changing the applications and the Special Exception to the entity name of MGK Delta Restaurant Inc. That shouldn't be a problem. What happen was one of the shareholders came in and applied for the paper work and signed his personal name rather than doing it in the name of the corporation and there are several shareholders here and if the gentlemen who signed the documents quits being involved with the restaurant now with this petitioner only, at this location only you have a problem so I would just go ahead and allow the substitution of the name MGK Delta Restaurant Inc.

Mr. Fortier said I think that was the first issue

Mr. Touchette said that was number 1. I think that Attorney Sabato has gone over. We have gone over most of it and that was number 1 in the letter changing the entity name to MGK Delta Restaurant Inc. Number 2 was changing the hours from 6:00am to 10:00pm and that wouldn't prelude your staff from coming in early before 6:00 to do what they need to do. The last thing was talking about the banquet hall and I really don't think that we need to do anything about that.

Mr. Sabato said that was main thing.

Mr. Touchette said you could have an organization in there that should not be a problem, but I think that is all you need to act on here tonight then. We have a copy of the plans there not exactly but they are pretty close

Mr. Sabato said the point that had to be made on this is the electrical, the fire inspection the information as far as the notice they are all basically the same. The biggest question was the traffic pattern were and the numbers of people that are actually involved. I would say that has to be changed if it is wrong. Ok you said you can't do it. We sat down and did it he gave me these things back. They didn't do anything structurally to the actual design that went down State that was approved for the permits and things like that. That was the reason it was no major issue I had them done so I could hand them both to you and MCD so you could see the actual numbers are really involved as opposed to what was really going on. One of the questions that came up today, yesterday and today with the Fire Marshall here from Merrillville. Well does this change what was going on will down State know because we were approved for much more ok and that takes on the square footage actually the layer inches the number of people for purpose of fire exits. Now the one question is none of the fire door exits between the two structures can

be used as additional exits form ingress/egress points for fire protection purposes or fire protection purposes. Each one of these sides based on the size exits that are there could actually according to State can handle 100 people and that is why they didn't request it. That is why it didn't go back through because they said it wasn't necessary but I want to say that this is what is real as far as the actual number of people that we are going to be capacity that is really sitting down and service them and what not and prepared for what we are doing here.

Mr. Touchette said there is one other thing that we should talk about we have touched upon it. It is not in your letter or maybe it was. When you were here in January Chuck Stojakovich mentioned you needed to go to MCD and discuss sewer issues. That wasn't done so the sewer tap in fee that needs to be paid. Now we have engaged with some correspondence with Mr. Sabato and MCD (ok back on the record) so that issue needs to be cleaned up before you can get an occupancy permit from the Town. Now you haven't had an occupancy permit and it is our understanding that you have been using this new part of the restaurant without an occupancy.

Delta Owner said I have.

Mr. Touchette said so you can't do that anymore.

Delta owner said no problem I stopped when Dorinda called me.

Mrs. Gregor said no the building inspector called you.

The building inspector came and then I called you sorry.

Mr. Touchette said that is all that needs to be done to get your occupancy permit.

Mrs. Gregor said so everything has been approved for the building department on inspection. If you could just take care of that promptly then you can open up that side and do your business.

Mrs. Krafft stated your food is great.

Thank you

Mr. Fortier said so do we need to accept these request for changes.

Mr. Touchette said I would do a motion and list the points that we discussed here.

Chairman Minchuk said I am a little mixed up here MCD dictates how we vote here. I am not understanding this.

Mrs. Gregor said it has nothing to do with it.

Mr. Fortier said we are just voting on the name change and the hour change.

Chairman Minchuk said they can't get any occupancy until they square away with MCD. How does it tie into the town that is all I am asking?

Mr. Sabata said the Town has an ordinance that specifically says we must provide sewer capacity or sewer capacity for any building that you are going to maintain. You have that requirement both under the state, the county and the city and I understand that without any problem with the health code deregulation. And it must be maintained ok the only question is what that capacity is that they are going to be involved in and what not and I came and that is when I got involved I told them without a doubt that this had to be done. There is a prior existing capacity that was there before and it was approved as far as the structure was concerned so the only question is what do we have to do on the upgrade portion of what is going on and that's where there has been some changes in MCD's rules and over time it changes over time it changes as well and because this had been intact we are in the process of discussing that and negotiating it out at this point and time I would prefer not to get into that discussion until I have all the facts and Mr. Touchette knows that I have asked for some additional resolutions so that I could determine what the real position my advised to my clients would be. That is not a problem we will get that taken care of.

Mr. Touchette said we made our position known to them. I mean they wouldn't have hung out here this long if you would have come seen us back in January when we discussed this ok. That is how it becomes an issue now because it didn't get done.

Mr. Sabato replied but I wasn't here then

Mr. Touchette said we are not blaming you that is how it got here. Ok this happens on everything that is built in Town they have got to go to MCD and get clearance for sewers or IHCD.

Chairman Minchuk said I remember when Chuck mentioned that. I agree with that

Mr. Sabato said no doubt about it was definitely in there and

Chairman Minchuk said as set up on this as Chairman I thought that I would be set up with what is going on here. I came in here kinda blind when I looked at the letter I didn't know what heck was going on.

Mr. Touchette said I know that Mr. Sabato's letter says September 9th on it but it wasn't delivered to Dorinda until September 19th ok she didn't have it in her file.

Mr. Sabato said I explained that to her and you had a major issue here in town and you are still flying the black banners outside ok and I backed off completely and then I was gone for 3 days at the end.

Mr. Touchette said we just got this last Friday and I sent a letter to Mr. Sabato September 19th too so this stuff

Chairman Minchuk said so you can see where I am coming from.

Mr. Touchette said well yeh and I talked to Dorinda today and I said and I didn't think about it earlier and I apologize but I did say we need to make clear that this letter wasn't delivered until the 19th because otherwise Dorinda their going to think that you sat on this letter and didn't give it out to people which did not happen.

Mr. Sabato said that was not the case it wasn't delivered and I made that decision after talking with them because we both didn't want to cause problems with a lot of the grief that was going on here at the city.

Chairman Minchuk said satisfied motion. There is a lot of reading whoever makes the motion.

Mr. Fortier said I would like to make the motion the we accept the clarification presented by Delta Restaurant that the application and approvals need to be put in the name of the corporations name of MGK Delta Restaurants Incorporated and I would also like to recommend that we accept their hours of operations being changed to 6:00am to 10:00pm Monday thru Sunday.

Mr. Holtz seconded the motion.

Mrs. Gregor said can I ask one thing can we place some type of condition that the restaurant work through the sewer availability issue however that we would be allowed then to continue the use. I think that would be reasonable if they work something out with MCD that they will come down there work out that issue and we will get.

Mr. Touchette said the outstanding issues with MCD be resolved.

Mr. Holtz said why you would need that if though we approve these they're not going to get an occupancy

Mrs. Gregor said that is what we want we want to be able to say they can use that side of the building with an occupancy permit a valid occupancy permit.

Mr. Touchette said without settling with MCD.

Mrs. Gregor said oh no no with settling

Mr. Touchette said issues of an occupancy permit they can use it and I think you understand

Mrs. Gregor said that is not what I am saying I am saying that they agree to come down there and settle the issues with MCD.

Mr. Sabata said I am able to use it until then correct am I understanding correctly.

Mr. Fortier said I feel that by October 1st these issues should be rectified. Is that a reasonable estimation by October 1st and that point you can receive occupancy.

Mr. Holtz said you think that there is still going to be an issue with MCD

Mr. Sabata said you are asking me in the dark this is the honest to God truth and Bill understands what I am saying I understand what 20-12 says ok what 20-12-02 says ok and I can go through that but as I indicated before there is an issue of the possibility of the actual restaurant itself which and some timing issues that didn't weren't involved in this one that are now being played into it and I don't want to get there except from here we have some legal issues to discuss and I think that is basically and I need documentation before I can do that. That may cause some

Mr. Fortier said so there is no way we can give them occupancy until this is corrected so there is no way

Mr. Touchette said no occupancy permit until this is resolved. I mean it is in your power to resolve it.

Mr. Holtz said I still don't see why it needs to be and accept or addition.

Mr. Fortier said I don't either

Mr. Touchette said I don't think that it has to be

Mr. Fortier said I don't think it needs to be

Mr. Stojakovich said we are just here for these hours of operation, the names getting changed into the right stuff. We are not here to make them settle up with MCD but with those conditions there won't be no occupancy permit. Give them until it is settled.

Mr. Fortier said so we have a motion on the floor with a second.

Chairman Minchuk said that doesn't have anything to do with MCD.

Mr. Stojakovich replied right. If you want to give them their hours and the paper work straight.

Mr. Sabato said which we have done.

Mr. Touchette with no banquet hall issue.

Mr. Sabato said there is one issue that is located in number 3 and that is that 3 is a separate structure and building from 7600 ok and the occupancy of 7602 is not in question.

Mr. Touchette and the commission no that is not in question.

Mr. Sabato said I just wanted to make sure that 7602 is a banquet hall that could be used as an additional part of the restaurant. I don't want a problem

Mr. Touchette said there has been an occupancy permit issued for 7600

Mr. Sabato said we are talking strictly about 7602

They replied right

Mr. Holtz said now I have a question now that the bathrooms are in 7602

Chairman Minchuk said since he has a question I would like for both of you to hear it please

Mr. Sabato said originally the restrooms where in what was on the other side of the fire wall and then there was a continuous firewall that went around the 2 bathrooms that were there. There is still the 1 bathroom that is in that quadrant that actually extended into 7602 from the original lease and floor space that was rented to them when they created this new one and it shows up on these drawings you will be specifically see that the new restrooms the one restroom is still there as it was before. It is a unisex so if there is someday in the restaurant that needs to use the restrooms and they were using the conference facility or whatever they would have the separate restrooms that are over on that side but you ae right there is no firewall now that protects that single restaurant it doesn't extend all the way around that has been removed. If you look on the prints you will see that is clear.

Mr. Holtz said I guess since there is not occupancy for 7602 you still have access to restrooms on 7600 right.

Mr. Sabata said 7600 restrooms were always on the 7602 on that side of the firewall because they were encased in a separate firewall that is no longer there.

Mr. Touchette said so you are going to keep using the same bathrooms

Mr. Holtz said I guess my question is if they don't have an occupancy can they still access to

Mrs. Gregor said no they have always had the use of the bathrooms on 7602

Mr. Holtz said ok I just didn't I just wanted to make sure that since they don't have an occupancy

Chairman Minchuk said ok are we done making our motion.

Mr. Fortier said motion has been made and seconded Mr. Chairman.

Chairman Minchuk called for a roll call vote

Mr. Fortier yes, Mr. Holtz yes, Mrs. Krafft yes, Stojakovich yes and Mr. Minchuk yes.

Motion carries

Chairman Minchuk said straighten out I hope. Motion to adjourn

Mr. Holtz made a motion to adjourn second by Mr. Fortier.

Voice vote was unanimous

Meeting adjourned at 8:10pm

Respectfully submitted

Janet Rosko