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**VILLAGE OF HINSDALE
ZONING BOARD OF APPEALS
MINUTES OF THE SPECIAL MEETING
November 9, 2015**

1. CALL TO ORDER

Chairman Bob Neiman called the specially scheduled meeting of the Zoning Board of Appeals to order on Monday, November 9, 2015 at 6:32 p.m. in Memorial Hall of the Memorial Building, 19 E. Chicago Avenue, Hinsdale, Illinois.

2. ROLL CALL

Present: Members Marc Connelly, Gary Moberly, Keith Giltner, Rody Biggert, John Podliska and Chairman Bob Neiman

Absent: Member Kathryn Engel

Also Present: Director of Community Development/Building Commissioner Robb McGinnis and Village Clerk Christine Bruton

3. RECEIPT OF APPEARANCES – None

4. RECEIPT OF REQUESTS, MOTIONS, PLEADINGS, OR REQUESTS TO MAKE PUBLIC COMMENT OF A GENERAL NATURE – None

5. PUBLIC HEARINGS

a) **MIH v Anglin –Remand from Circuit Court of DuPage County**

Mr. Mark Daniel, representing MIH, and Mr. Lance Malina, representing the Village Manager, approached the Board.

Chairman Neiman stated that the Board, at their meeting of October 28th, voted to give themselves extra time to review the record. He expressed his frustration with further review of the record inasmuch as he can't find some of the exhibits that were referenced in the opening briefs as evidence of intent or no intent to abandon, because of the way the record was reproduced. Additionally, in reviewing the briefs, neither of the attorneys attached the records to which they cited. He suggested the attorneys take the existing briefs, find the documents that are cited in the record, and resubmit the briefs with numbered exhibits and highlighting the relevant portions of those exhibits as would be done if the briefs were being submitted to a court. He pointed out there are also some passages in both briefs where it is asserted that the record is clear that it says x,y or z, but there are no citations to the record at all. He feels this would be helpful to the Board members to decide the matter before them.

In response to a question from Member Connelly, Chairman Neiman clarified that the Board is clearer on standard of proof than the burden of

1 proof. Although, if the Board accepts the standard of proof as outlined in
2 the code, he believes that either the level of proof is shown or it's not, on
3 the question of intent to abandon in the record. The ZBA required both
4 parties to submit briefs with highlighted exhibits attached.

5 Discussion followed between Mr. Malina and Mr. Daniel with respect to a
6 mutually agreeable date to meet at Village Hall to review the condition of
7 the record. They believe they can get the requested revisions to their
8 materials completed in ten days. They agreed to resubmit to the ZBA on
9 November 19th.

10 In response to a question from Member Biggert, discussion followed
11 regarding what is intent to abandon, various scenarios were posed
12 involving property maintenance, applications for re-zoning (a map
13 amendment) and whether or not the property is occupied by the non-
14 conforming use at that time. Mr. Malina stated these things would be
15 addressed by him in detail during arguments, but did state that timing alone
16 isn't enough; it is the totality of circumstances.

17 It was also confirmed that the Cassim rug business was allowed to operate
18 at that location because it was part of the home furnishings portion of the
19 special uses that were originally authorized in 1966. Mr. Malina stated the
20 interpretation of the code to date states that if the non-conforming structure
21 is destroyed, it cannot be rebuilt because the only structure that can be
22 rebuilt there, as of right, is an R-4 structure. Mr. Daniel believes the owner
23 could reduce the size of the building, and tenants with the uses as outlined
24 in 1966 would be allowed. Discussion followed regarding changes to the
25 existing structure.

26 Member Biggert asked about the parking lot on the site being used by
27 Hinsdale Orthopedics and Manor Care. Mr. Malina said permission for use
28 of the parking lot as described is part of a settlement; the Village and MIH
29 agree the parking lot can be used by these businesses until such time as
30 the other matter is settled. Member Podliska confirmed this parking issue
31 has no impact on the remand. Director of Community Development Robb
32 McGinnis said that both of the businesses parking in that lot are conforming
33 uses for their respective zoning lots.

34 Discussion followed as to whether or not advertising the special use
35 property for a non-conforming use only is indicative of intent to abandon.
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37 **6. NEW BUSINESS – None**

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39 **7. OTHER BUSINESS – None**

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41 **8. ADJOURNMENT**

42 With no further business before the Zoning Board of Appeals, Member Biggert
43 made a motion to **adjourn the meeting of the Zoning Board of Appeals of**
44 **November 9, 2015.** Member Podliska seconded the motion.

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46 **AYES:** Members Connelly, Moberly, Giltner, Biggert, Podliska and Chairman

1 Neiman

2 **NAYS:** None

3 **ABSTAIN:** None

4 **ABSENT:** Member Engel

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6 Motion carried.

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8 Chairman Neiman declared the meeting adjourned at 7:18 p.m.

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Christine M. Bruton
Village Clerk

Approved: _____