

MERRILLVILLE BOARD OF ZONING APPEALS

July 23, 2014

6:30 PM

The Board of Zoning Appeals meeting of July 23, 2014 was called to order by Chairman John Minchuk at 6:30pm and led the group in the Pledge of Allegiance. Members in attendance were Mr. Ric Holtz present, Mr. Tim Fortier absent. Mrs. Gregor said the he stated he could not be here due to work. Sylvia Krafft here, Chuck Stojakovich is here and Mr. Minchuk here. Staff in attendance was Dorinda Gregor, Attorney Touchette and Sedrick Green of Robinson Engineers.

Mr. Stojakovich said let the records show that we do have 4 of us available here tonight

MINTUES: May 28, 2014

Chairman Minchuk asked if there are any additions to corrections to the minutes.

Mr. Holtz stated other than a few minor spelling errors but other than that I would like to make a motion to approve the minutes from May 28, 2014. Mr. Stojakovich said I will second that Mr. Chairman.

Chairman Minchuk asked all in favor aye. Motion carries

COMMUNICATIONS:

None

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 wish you. After that we will have the open the case for further comment. If you are desirous of speaking please sign the sheet in the middle 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

Z17V6-0714 TRACY D. TAPE, PETITIONER & OWNER, Located at 401 West 56th Place for a Variance approval from Sec. 21-12 (20) to allow an above ground pool to be located in a side yard (corner lot), in a R-2, Single Family Residential zoning district for a family's personal enjoyment.

Good Evening, Tracy Tape located at 401 West 56th Place. That is correct my family would love to have a swimming pool installed in the back yard. I feel that our yard is largest enough with the pictures that were displayed and everything if you guys have seen them. We have a fairly decent size yard that would allow for a pool to be installed in it if you guys approve.

Chairman Minchuk asked Dorinda to read her staff report.

Mrs. Gregor read the report.

Chairman Minchuk said questions. Will there be a fence around the pool. That is my biggest question.

Mrs. Gregor replied yes it is already fenced in.

Chairman Minchuk said you already have that taken care of but I still have to ask to make sure it is.

Mrs. Krafft asked if the fence is around the pool or the yard.

Mr. Tape replied around the yard. We were planning if we got approved to put a fence around the actual pool itself.

Chairman Minchuk replied I can understand that. Do we have a motion.

Mr. Holtz said I would like to approve case number Z17V6-0714 for petitioner only and this use only and this location only.

Mrs. Tape replied yes sir.

Chairman Minchuk said no if is ok what they are saying is it is just for you if some else moves in they will also have to get a permit for a pool. It is for your use only. You can have anybody come over just for your use on that property. I need a second.

Mr. Stojakovich said I will second that Mr. Chairman

Chairman Minchuk said we have got a second any other questions before I ask for roll call vote. Anybody for or against that would like to come up and speak. Nothing roll call vote

Mr. Holtz yes, Mrs. Krafft yes, Chuck Stojakovich yes and Mr. John Minchuk yes.

Chairman Minchuk said approved see Dorinda when you get your permit.

Mrs. Gregor said so when you are ready to pull your permit come in.

Mrs. Tape replied ok Thank you.

Z18E10-0714 LEWIS AND LEWIS INC., PETITIONER

ED MALONE, OWNER, located at 1506 East 83rd Avenue for a Special Exception approval in a C-3, Highway Commercial zoning district for a restaurant to be known as Gaucho's Brazilian Steakhouse.

Good Evening my name is Kenneth Lewis Sr. me and my son Keith sitting down. It is surely a pleasure to be here and what to say Thank you to all the Council members.

Chairman Minchuk asked do you have a member with you.

Ed Malone located at 1500 E 83rd Street building and I am the owner of the building and involved with this.

Mr. Lewis said we purchased the rights to a Brazilian Steakhouse that was formerly in Valparaiso we are looking to put it at this location there we think it improves our ability to be there and be profitable. I do have experience in restaurant industries as a matter of fact this is our 30th year of my Kenny's Rib brand and I also have had banquets facilities. I think that after we get started it would be ideal to expand into the rest of the building and we would be able to market to the whole region. That would be the plan and I think that would be a plan that would last for a very long time and would complement the community.

Chairman Minchuk asked Mr. Malone has any more for us.

Mr. Malone replied no I use to run night clubs out of the building and stuff. I think that we are moving in the right direction for this to be a better building and facility in the area for Merrillville.

Mrs. Gregor read her staff report. If approved for this petition only at this location only for this use only.

Attorney Touchette said I have a question. Are we just here for the restaurant but we are not here for the banquet facility.

Chairman Minchuk said that is correct.

Mrs. Krafft asked if they are going to have a dance area.

Mr. Malone said that is already on the other side. This is just going to be a restaurant.

Mr. Lewis replied that is on the other side. This side will be the restaurant.

Mrs. Gregor said it is already in existence.

Mrs. Krafft asked if he will be promoting dancing.

Mrs. Gregor said not this owner but the petitioner.

Mr. Touchette said so if you want to go to later on and have the banquet facility they will need to come back to the BZA so we are just talking about the 6,000 square foot portion.

Mrs. Gregor said on the east side of the building.

Chairman Minchuk asked what happened to the one in Valparaiso is it still in business.

Mr. Lewis replied no it is not in business and the owner had some circumstances that would not allow him to continue to do business. He was actually out of St. Louis. He had another facility in St. Louis and I think that it was very challenging for him to kind of control both here and in Indiana and also in St. Louis so he thought it would be better for him to shut that one down and focus on the one in St. Louis if he is going to survive.

Chairman Minchuk asked if you are going to have alcohol there

Mr. Lewis replied yes.

Chairman Minchuk asked if there is anybody else.

Mr. Holtz said I was just going to ask if there is going to be a bar in both sides.

Mr. Malone said yes there is a bar in the restaurant also.

Mr. Stojakovich asked do you have an architect working with you. Do you have plans drawn up?

Mr. Lewis said Action Fire has submitted all the plans to Indianapolis and he did that approximately 4 or 5 days ago and it is my understanding that everything is in order and when I go his E Mail 2 days ago he said now we have to go through the waiting process.

Mr. Stojakovich said would you please bring a copy of those plans to 6251 Broadway to the Merrillville Conservancy District and be looked at and approved so we can sit down and talk about your adjustment on your tap in fee.

Mr. Lewis said we should have that within the next couple of days.

Mr. Stojakovich said that would be great.

Chairman Minchuk asked if Dorinda if the State Fire Marshall has been there I mean our Town Fire Marshall.

Mrs. Gregor said there is no reason for him to be there they haven't started the remodel and it is not open yet.

Chairman Minchuk said if they do he will be.

Mrs. Gregor replied of course.

Mr. Malone said he has been through this. We just had the sprinkling system upgraded with any changes that they wanted made and we did it and they went through the other side at the same time and they said it is not worth us trying to approve it right now because we have to put the plans in to put new hood system in and put a kitchen area in and we were waiting on that then Homeland Security and the Fire department will come back through.

Mrs. Gregor said they will have to do that to meet their business license requirement.

Chairman Minchuk said if you try and open without that some business have in the past.

Mr. Lewis replied no, no. We want to have a good relationship with the community

Mr. Stojakovich said you guys have a good concept there. I have been through numerous restaurants of that type and you need to bring an appetite.

Mr. Lewis said we appreciate it and we think that it will really complement the community and we would be able to market through the whole region.

Chairman Minchuk said I have been to the Valpo one many times. Anybody else

Mr. Lewis said most of the employees are waiting for the day that we can open.

Mr. Holtz said the one drawing in your package is that a stage in the middle of the drawing

Mr. Malone said that used to be a dance floor that is going to be used for raised seating in there. It will all be seating and there are drink rails around the outside those will be taken off and it will just be raised seating in that certain area.

Chairman Minchuk said I was familiar with the old one kind of the same concept as the one in Valpo.

Mr. Lewis replied that is correct.

Mr. Malone said this side that he is going into on that side of the restaurant was just remodeled about a year and a half ago.

Chairman Minchuk asked if there are any other questions.

Mr. Stojakovich asked what ever happened to the last what was the name of the place.

Mr. Malone said it is still on the one side called Club Rain.

Mr. Stojakovich said but they are still operating out of the one side

Mrs. Gregor said this is the side that Voltage was.

Mr. Lewis said it is that side that we would like to turn into a banquet hall in the future so this is a step in this direction.

Mr. Stojakovich said you have a perfect location there with the hotels, businesses, offices.

Mr. Malone said it is a work in progress. Right now everything cost so much money you have to do it a stage at a time.

Chairman Minchuk asked anyone else.

Mr. Holtz said no I like it so.

Chairman Minchuk asked for a motion.

Mr. Holtz said I would like to approve case number Z18E10-0714 for this petitioner only at this location only for this use only.

Mr. Stojakovich seconded the motion

Chairman Minchuk called for a roll call vote.

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

Chairman Minchuk said see Dorinda and she will take care of you.

Mr. Lewis said I really want to say Thank you to everyone this is a very, very great birthday present. Today is my birthday.

Mrs. Gregor said this will be forward to the Town Council. Your next meeting will be sometime in August. I will get a hold of you.

Z19E11-0714 BRAVO PROPERTIES LLC. PETITIONER

CHICAGO TRUST COMPANY NA AS TRUSTEE, OWNER, Located approximately at 343 East 90th Drive for a Special Exception approval in a C-3, Highway Commercial zoning district on 3.99 acres for a supportive assisted living facility for seniors.

Good Evening members my name is Zach Leonard I am with Bravo Properties. My address is 311 South Wacker Drive, Suite 5555 Chicago Ill. I am here before you seeking Special Exception to proceed with a development of a supportive living facility designed to serve frail and elderly of all ages in assistant setting promoting a max independence for these individuals who need some assistance with daily living but also having that safety net of 24 hour nursing assistance in the building. The building is equipped with several amenities that promote activity, socializing and growth. It is a 3 story building it has 2 elevators a main dining room a private dining for friends and family to visit the residence. It is equipped with a library it is fully Wi-Fi operational, computer lab, café, exercise facility with plenty of outdoor space with raised planter boxes outside for wheel chair assessable gardening and as I said designed to suit this population. We have put a lot of work into the design and have a building much like the one in Lansing, Ill that is operational right now and is about 75 percent occupied. Our architect did an excellent job designing the facility to suit this population.

Mrs. Gregor read the staff report. Condition if approved approval of the resubdivision by the Plan Commission for this petitioner only at this location only, for this use only and to allow for the reduction of room sizes and parking spaces due to the Special Exception use.

Attorney Touchette asked if your residences do any of them drive.

Mr. Leonard replied almost zero I don't want to say 100% but at the facility that we have in Lansing that parking lot is a lot of pavement and no cars really. It is really for the employees and visitors.

Mr. Touchette said I was just curious cause I heard 130 some parking spaces and 125-1 bedroom apartments. Wondering if they have cars or not.

Mr. Leonard said it is designed for some people that need to assistance with daily living most of them can't drive and a lot of them don't wish to drive because there is the van. I think that the 132 spaces make sense for visitors and making sure that people are able to visit their loved ones there.

Chairman Minchuk asked about the reduction of room sizes. Is that against code or what's the deal?

Mrs. Gregor said code requires room sizes to be larger.

Chairman Minchuk asked what is your reason for reduction.

Mr. Leonard replied the room sizes that we have of the 525 square foot they are all one bedrooms there are not studios in this facility and I think that Dorinda and I went through some of the different requirements under different zoning codes but I think that this might be a little smaller than for what would be for multi-family the reason being is that over half of the building is common area and that is the intend in the design in 10 years to make sure that first of all. They are very spacious when you go in them but on the second level the building is designed so that you are in the recreation facility so you are going to the movies facility, you are going to the library and a lot of the residences spend a lot of time in the dining facility so it promotes more of a social interactive experience rather than people being shut in to their apartments and that was a deliberate design consideration that we followed through with. A lot of it came from our architect and sort of the programs that is in place in Illinois where we have built 2 of these already. Those perimeters are what they found worked really well for the population and we kind of matched them here and are asking for that variance for those reasons.

Mr. Touchette asked if the residences generally dine together.

Mr. Leonard replied yes there are 3 meals a day that are included in the entire program and the residence can choose to go the meals or not. There is also a kitchenette in each of the apartments but there is also a room where there is a full stove and sink and basically a kitchen so if residence do what to cook they can do it there and there would be supervision but generally speaking the 3 meals of the day is really the social event. You see a packed room at all 3 sittings according to our Chief.

Chairman Minchuk said I have a question for our Attorney why do we have a code.

Mr. Touchette said why do we have a code because the law says you are supposed to have a code.

Chairman Minchuk said that is what I was wondering do we have to enforce the code unless we can say

Mr. Touchette said they are here that is what the BZA is for is to have exceptions to the code.

Chairman Minchuk said there has to be a reason why or a hardship. I don't see a hardship unless you can tell me what the hardship is. I don't see a hardship.

Mrs. Gregor said once again when you get to the age where you need assisted living you don't need as much space you are starting to down size and if you go to any of the other areas assistant living like Towne Center they were all granted the same thing as a Special Exception. So the policy has been set to go on ahead to make sure the rooms are adequately sized for the individual that is going to be residing in those units and 525 square feet is probable large for an individual who is needing assistance. Once again they want them to more socialize.

Chairman Minchuk said I don't think the petitioner would live in one of his own places. It would be too small. I just wanted an explanation of that I know we had a code for a reason and I just wanted to know if we extended that privilege to anyone else

Mr. Holtz said the exemption is because of the size of the building if it is more treated as more like an apartment building where you would have multi-family you would have to have a bigger

Mrs. Gregor said oh of course if it were a multi-family but this is an assisted living facility.

Mr. Holtz said I guess my biggest question and I know in other areas we have had there is no access to the back of the building for fire.

Mrs. Gregor said I think that our fire inspector will look at that when it comes to that stage. This is just for the special use of the property. Would you allow this type of use is it adequate for this area and during the review of the plans etc. then the Fire Inspector will review to make sure yes our town inspector our fire inspector

Mr. Holtz said even at this process we can yes and then the fire inspector can turn around and say Mrs. Gregor said we need more room to maneuver our equipment around the building if that is what they need.

Mrs. Krafft asked how many floors are planned in this building.

Mr. Leonard replied 3

Mrs. Krafft said and you have stairways of course and elevators also

Mr. Leonard said each of the corners have emergency stair ways at the end of them and then there are 2 elevators in the main core of the building and with regards to the fire lane we did 2 buildings like this one in which we had a turnabout where it didn't go all the way around the building and one in which it did go all the way around the building so I think that we can find ways to make it work for the fire department.

Chairman Minchuk asked what is the age requirement.

Mr. Leonard replied the age requirement is 65 and over but we think that the majority of the residence will be 70 and over range.

Chairman Minchuk said I just need to know what the requirement was. 65 and older

Mr. Leonard replied yes.

Chairman Minchuk asked if there are any other questions.

Mrs. Krafft said she was just wondering about a fire alarm system in the building.

Mr. Leonard said it will be fully sprinkled with fire alarm and each residence will have their own emergency call system which is a separate emergency system. The nurses are wired for all the alerts wherever they are at in the building.

Mr. Touchette said I would note for the record that this has been in front of the Plan Commission for a workshop meeting and Councilman Pettit (Shawn Pettit) this is in his area and he thought that this use was a good use for this area the only thing is there will still be more proceedings in the Plan Commission for the resubdivision and Councilman Pettit was also concerned that the drainage any drainage issues be resolved to the satisfaction of the Town engineer and the Storm Water Utility.

Mr. Leonard said I think that our engineer has been working with Sedrick. He was on vacation after that.

Sedrick Greene yes we just had a meeting today and there is more information that needs to be gathered from our meeting today as far as the drainage review that is still under way.

Chairman Minchuk said what we are here for is just the exemption for the rooms

Mr. Touchette said right and for the use

Mrs. Gregor said for the rooms and the use.

Mr. Touchette said I just wanted to make it clear that this is one thing that needs to be done but the rest also has to be done too.

Mr. Greene said I just have a question. Is this the proposed lay out for this facility.

Mr. Leonard replied yes.

Chairman Minchuk asked if there are any other questions.

Mr. Stojakovich said the only thing I need to add is please come see the Merrillville Conservancy District so that we can go through the plans and get you guys hooked up with the pretreatment program that is mandatory by IDEM now because you will be servicing meals and to make sure your grease traps are in order. Make sure that the sewer line that you will be hooking up to is going to be adequate for the facility and we can have a pretty good meeting with you by looking at the plans.

Mr. Leonard said I think I recognize your name now from Don Torrenge mentioned that he had spoken to you.

Chairman Minchuk asked if there is anyone for or against. Does the Times have anything to say?

Mr. Holtz said I have another question you said you have other facilities in Lansing is it also 3 stories.

Mr. Leonard replied yes it is essentially the same design in Lansing.

Mr. Holtz said I was just concerned that there are 3 stories for assistant living. I have dealt with people in Towne Centre so if there was an emergency it is kind of difficult to get them up and out of a 3 story building.

Mrs. Gregor said we will also make sure the elevator is sized correctly for the ambulance service to access with their gurneys and everything.

Mr. Leonard said I think that we have two sized elevators. The 2 buildings that we did in Illinois last year one serves with the younger population with a lot more wheelchairs so we have an extra-large elevator there. Here we have a similar thing that is not as large as the younger population this was all done in consultation with the management company that knows these buildings and knows how to get people in and out so it seems to be working pretty well so far.

Mr. Holtz replied that like she said if you need to get a gurney in there.

Mr. Leonard said one elevator is designed for a gurney.

Chairman Minchuk said if there are no other comments can we get a motion.

Mr. Holtz said I would like to make a motion for approval Z19E11-0714 for this petitioner only, for this location only and this use only.

Mrs. Gregor said there are some other things you want to include approval at the resubdivision by the Plan Commission and allow for the reduction for the room sizes and parking spaces.

Mr. Holtz said we are allowing for the reduction of the room sizes and the number of parking spaces.

Mrs. Gregor said if this is approved when do you anticipate beginning construction.

Mr. Leonard replied we are aiming for somewhere between October and December is weather permits.

Mr. Touchette said the sooner you get into MCD the better in case the sewer line is not adequate upgrade.

Chairman Minchuk said ok I need a second.

Mrs. Krafft seconded the motion.

Mr. Ric Holtz yes, Sylvia Krafft yes, Chuck Stojakovich yes and Mr. John Minchuk yes Motion carries

Mrs. Gregor said ok this will move to the Town Council next month so I will let you know when those dates are.

Mr. Leonard thanked everyone.

Mr. Holtz made a motion to adjourn, second by Chuck Stojakovich.

Meeting adjourned at 7:10PM
Respectfully submitted
Janet Rosko