

NAPERVILLE
ZONING BOARD OF APPEALS MINUTES
July 13, 2010 - 7:00 P.M.
COUNCIL CHAMBERS

Call to Order	<u>Time:</u> (7: 02 pm)		
A. Roll Call Commissioners:	<u>Present:</u> Karl Fry, Chairman Carl Pelzer, Ann Mele Robert Hedrich Bhavani Prasad Vemuri Gina Terrano Koscal Robert Williams	<u>Yes</u> X X X X X X	<u>No</u> X X
Staff Present:	Katie Forystek – Community Planner Jason Zawila – Community Planner Turde Terryberry – Code Enforcement Officer Samula McCarthy – Administrative Assistant		
B. Approve Minutes	<u>June 8, 2010</u> Motion to Approve as amended by: Williams Seconded by: Hedrich The Board requested that in future meeting minutes that staff itemize the vote for each agenda item indicating each Board Members vote.	Approved (5 to 0)	
C. Old Business	None		
D. Public Hearing			
ZBA - 10-1-04 City Gate Centre	<u>Petitioner:</u> CityGate Centre Monument Sign <u>Location</u> 2075 Calamos Real Estate LLC, Naperville Road <i>Petitioner requests continuance of ZBA 10-1-04 until August 10, 2010.</i> <ul style="list-style-type: none"> • Chairman Fry appealed the continuation of ZBA 10-1-04 with a recommendation that the petitioner re-submit their application after obtaining I.D.O.T's response for the variance request. <u>Request:</u> The petitioner requests a recommendation		

	<p>for approval of four variances – two from Section 5-4-5:2 (Commercial Signs, Monument Signs) to install a monument sign that is larger than 90 square feet and taller than 10 feet in height, and two from Section 5-4-6:1 to allow for streaming video (non-static messages) on a changeable-copy sign that exceed 50 percent of the permitted area of a monument sign.</p> <p>(Public hearing notice published in the Naperville Sun Sunday, January 25, 2010)</p>	
<p>ZBA #10-1-053 280 Shuman Boulevard</p>	<p><u>Petitioner:</u> Prime Group Realty Trust <u>Location:</u> 280 Shuman Boulevard</p> <p>(Public hearing notice published in the Naperville Sun Sunday April 25, 2010)</p> <p><i>Petitioner requests continuance of ZBA 10-1-04 until August 10, 2010.</i></p> <p><u>Request:</u> The petitioner requests a recommendation for approval of a variance from Section 6-8B7:1 (ORI Yard Requirements, Section 6-9-2:4,9 yard requirements for Off-Street Parking Facilities) of the Naperville Municipal Code to reduce the front and interior side yard setbacks for the purposes of constructing parking stalls.</p>	
<p>ZBA #10-1-056 Ogden Mall</p>	<p><u>Petitioner:</u> Kenneth Smallwood, Mid-America Asset Management <u>Location:</u> 1199-1295 E. Ogden Avenue</p> <p>(Public hearing notice published in the Naperville Sun Sunday June 27, 2010)</p> <p><u>Request:</u> The petitioner proposes to install a 19-foot-tall, 140-square-foot monument sign with a 30-square-foot electronic message center (EMC) along Ogden Avenue. In order to install the sign, the petitioner requests approval of the following variances. Section 5-4-5:2.1 (Permitted Monument Signage), Section 5-4-5:2.2 (Monument Sign Area), Section 5-4-5:2.4 (Monument Sign Height) and Section 5-4-6:1 (Changeable Signage).</p>	

	<p>Petitioners Presentation: Karen Dodge of Municipal Resolutions Inc. provided an overview of the request for the four variances answering and illustrating all details from the 6 questions on the variance application.</p>	
	<p>Zoning Board of Appeals Discussion: Upon conclusion of the petitioner’s presentation, the Board discussed the petitioner’s request; in which, several of the Board members expressed the following concerns:</p> <p>The changeable signage and the tenants who will utilize it for identification only</p> <ul style="list-style-type: none"> • The comparison in size and structure with the existing sign • The visibility of the sign because of the sloped grading of the lot • Staff’s decision on their recommendation not to support any of the variances requested • The regulations of the brightness and distractions of the changeable-message signs • Recommendation to vote separately on each of the four variances. <p>During discussion, the ZBA requested an overview of staff’s recommendation. Staff responded that they agreed on the hardship of the layout of the buildings, however the petitioner is requesting so much more than is allowed by our Municipal Code it was not possible to support any of the requests.</p>	
	<p>Motion: Move to recommend approval of the requested variances for ZBA Case 10-1-056 and adopting the petitioner’s findings of fact.</p>	

	<p>Motion by: Mele Seconded by: Williams</p> <table border="1" data-bbox="500 359 1075 590"> <thead> <tr> <th>Board Member</th> <th>Aye</th> <th>Nay</th> </tr> </thead> <tbody> <tr> <td>Hedrich</td> <td></td> <td>X</td> </tr> <tr> <td>Koscal</td> <td>X</td> <td></td> </tr> <tr> <td>Williams</td> <td>X</td> <td></td> </tr> <tr> <td>Mele</td> <td>X</td> <td></td> </tr> <tr> <td>Chairman Fry</td> <td>X</td> <td></td> </tr> </tbody> </table>	Board Member	Aye	Nay	Hedrich		X	Koscal	X		Williams	X		Mele	X		Chairman Fry	X		<p>Approved (4 to 1)</p>
Board Member	Aye	Nay																		
Hedrich		X																		
Koscal	X																			
Williams	X																			
Mele	X																			
Chairman Fry	X																			
<p>ZBA #10-1-084 Mike Baker Co., Bakker Properties, LLC</p>	<p><u>Petitioner:</u> Dutchman Heating and Cooling, Inc. <u>Location:</u> 400 East Ogden Avenue</p> <p>(Public hearing notice published in the Naperville Sun Sunday June 27, 2010)</p> <p><u>Request:</u> The petitioner proposes to install a 45-square-foot monument sign on the property. In order to install the proposed sign, the petitioner requests approval of a variance from Section 5-4-5:2.5 (Commercial Signs, Monument Sign Setback, Front Property Line) of the Naperville Municipal Code, to place the sign four feet from the front property line instead of the required ten feet.</p>																			
	<p>Petitioners Presentation: The petitioner, Mike Bakker, 1509 Fender Road, Naperville, provided an overview of the requested variance indicating the need to use the foundation of the existing monument sign in order to not disrupt the landscaping, sidewalk and parking lot that already exists on the property. The petitioner also stated that the requested sign meets all other sign-code requirements and the only variance that is needed is the front-property-line setback.</p>																			
	<p>Zoning Board of Appeals Discussion:</p> <ul style="list-style-type: none"> The Zoning Board of Appeals verified that staff would support the recommendation to approve the requested variance. 																			

	<p>Chairman Fry Closed the Public Hearing</p> <p>Motion to Approve by: Williams Seconded by: Mele</p>	<p>Approved (5 to 0)</p>																		
	<p><u>Motion:</u></p> <p>Move to recommend approval of the requested variance for ZBA Case 10-1-084 and adopting the staff's findings of fact.</p> <p>Motion by: Williams Seconded by: Hedrich</p> <table border="1" data-bbox="500 724 1075 955"> <thead> <tr> <th>Board Member</th> <th>Aye</th> <th>Nay</th> </tr> </thead> <tbody> <tr> <td>Hedrich</td> <td>X</td> <td></td> </tr> <tr> <td>Koscal</td> <td>X</td> <td></td> </tr> <tr> <td>Williams</td> <td>X</td> <td></td> </tr> <tr> <td>Mele</td> <td>X</td> <td></td> </tr> <tr> <td>Chairman Fry</td> <td>X</td> <td></td> </tr> </tbody> </table>	Board Member	Aye	Nay	Hedrich	X		Koscal	X		Williams	X		Mele	X		Chairman Fry	X		<p>Approved (5 to 0)</p>
Board Member	Aye	Nay																		
Hedrich	X																			
Koscal	X																			
Williams	X																			
Mele	X																			
Chairman Fry	X																			
<p>ZBA #10-1-085 604 Rock Spring Road</p>	<p><u>Petitioner:</u> Kim R. Widup and Lynell K. Odenbach <u>Location:</u> 604 Rock Spring Road, Naperville, IL</p> <p>(Public hearing notice published in the Naperville Sun Sunday June 27, 2010)</p> <p><u>Request:</u> The petitioner requests a variance from Section 6-2-12 (Fences) of the Naperville Municipal Code to increase the maximum height for a privacy fence in the required corner side yard setback.</p>																			
	<p>Petitioners Presentation:</p> <p>The petitioner, Lynell K. Odenbach provided an overview of the request indicating that they are requesting a variance to replace the existing fence in the same location and the same height. The petitioner explained that the original fence was constructed with a permit, but since that time, the zoning code has changed; making approval of a variance necessary in order to reconstruct the existing fence.</p>																			
	<p>Zoning Board of Appeals Discussion:</p> <p>Board Member Williams requested clarification from staff on why a variance is required. Staff responded that the existing 6 ft. privacy fence is legal non-conforming. When the original fence was</p>																			

	<p>constructed, a six foot privacy fence was permitted 10 feet from the corner side yard property line. In 1999, the city amended the Zoning Ordinance prohibiting six foot privacy fences in the required corner side yard setback; therefore, a variance is required.</p> <p>Chairman Fry asked for clarification on staff's recommendation. Staff stated support for the requested variance noting that the original fence was constructed with the permit as well as the existing accessory structures in the rear yard. Requiring the petitioner to setback the fence would result in the sport court being outside the fenced area which could potentially pose negative visual impacts.</p> <p>Board Member Mele stated that the replacement fence will not change the structure, size, height or location of the existing fence; therefore, she would support the fence</p>																			
	<p>Motioned to close the Public Hearing</p> <p>Motion by: Williams Seconded by: Mele</p>	<p>Approved (5 to 0)</p>																		
	<p>Motion: Move to recommend approval of a variance for a six foot privacy fence in the required corner side yard setback at 604 Rock Spring Road, adopting staff's findings of fact.</p> <p>Motion by: Williams Seconded by: Hedrich</p> <table border="1" data-bbox="570 1461 1003 1692"> <thead> <tr> <th>Board Member</th> <th>Aye</th> <th>Nay</th> </tr> </thead> <tbody> <tr> <td>Hedrich</td> <td>X</td> <td></td> </tr> <tr> <td>Koscal</td> <td>X</td> <td></td> </tr> <tr> <td>Williams</td> <td>X</td> <td></td> </tr> <tr> <td>Mele</td> <td>X</td> <td></td> </tr> <tr> <td>Chairman Fry</td> <td>X</td> <td></td> </tr> </tbody> </table>	Board Member	Aye	Nay	Hedrich	X		Koscal	X		Williams	X		Mele	X		Chairman Fry	X		<p>Approved (5 to 0)</p>
Board Member	Aye	Nay																		
Hedrich	X																			
Koscal	X																			
Williams	X																			
Mele	X																			
Chairman Fry	X																			
<p>ZBA 10-1-089 Portillo's Hot Dog Inc.</p>	<p><u>Petitioner:</u> Portillo's Hot Dog Inc. Vito Dipietra, Property Project Manager <u>Location:</u> 905 E. Ogden Avenue, Naperville, IL</p> <p>(Public hearing notice published in the Naperville Sun</p>																			

	<p>Sunday June 27, 2010)</p> <p><u>Request:</u> The petitioner requests approval of variances from Section 6-2-14 (Major Arterial Setback Requirements) and Section 6-9-6 (Supplemental Standards for Drive-through Stacking Lanes) for the purposes of constructing an additional drive-through lane on the subject property located at 905 E. Ogden Ave.</p>	
	<p>Petitioners Presentation:</p> <p>Mr. Vito Dipietra, Project Manager presented a summary of the variances requested. The approval of the variances will allow Portillo’s to make a more efficient drive through and address the safety issues that are of current concern based on the amount of traffic that is on Ogden Avenue.</p> <p>The drive-through lane will increase the stacking of cars entering the drive through from 18 – 20 cars to 29-30 cars. The improvement will allow two lanes that will permit more staff serving and alleviate some of the long standing congestion in the parking lot.</p>	
	<p>Zoning Board of Appeals Discussion:</p> <ul style="list-style-type: none"> • The Board confirmed with the petitioner that having more staff will move the cars forward more quickly. It will be similar to other Portillo’s that have been similarly fabricated and proved to operate much more efficiently. • The petitioner mentioned that the project is costly because of the new curbs, asphalt, landscaping and sewer, however the safety and the benefits of this project is well worth it. • The Board noted that the length of the drive through seems very long without a by-pass lane. However the Jefferson and Ogden location is similar in design and operates much more efficient. The petitioner also noted that cars are entering and exiting from Ogden Avenue and that cars that are stacked heading east bound is now obstructing the entrance to Ogden Avenue. The entire parking lot is filtering through the Ogden Avenue exit. No one goes out the on the other 	

	side. The proposed variance will allocate 9 more cars to move and alleviate some of the safety concerns entering and exiting Ogden Avenue.																			
	Chairman Fry Closed the Public Hearing Motion to Approve by: Williams Seconded by: Hedrich	Approved (5 to 0)																		
	<u>Motion:</u> Move to recommend approval of the requested variances for ZBA Case 10-1-089 and adopting the staff's findings of fact. Motion by: Williams Seconded by: Hedrich <table border="1" data-bbox="565 835 1008 1066"> <thead> <tr> <th>Board Member</th> <th>Aye</th> <th>Nay</th> </tr> </thead> <tbody> <tr> <td>Hedrich</td> <td>X</td> <td></td> </tr> <tr> <td>Koscal</td> <td>X</td> <td></td> </tr> <tr> <td>Williams</td> <td>X</td> <td></td> </tr> <tr> <td>Mele</td> <td></td> <td>X</td> </tr> <tr> <td>Chairman Fry</td> <td>X</td> <td></td> </tr> </tbody> </table> A staff support change was introduced to the board. Katie Forystek has been temporally reassigned and Jason Zawila is now be assigned to the Zoning Board of Appeals.	Board Member	Aye	Nay	Hedrich	X		Koscal	X		Williams	X		Mele		X	Chairman Fry	X		Approved (5 to 0)
Board Member	Aye	Nay																		
Hedrich	X																			
Koscal	X																			
Williams	X																			
Mele		X																		
Chairman Fry	X																			
	Motion to adjourn by: Williams Seconded by: Hedrich	Approved (5 to 0)																		
Adjournment	Time:	7:50 pm																		