

**City of Prospect Heights
Plan/Zoning Board of Appeals
January 24, 2013**

The regular meeting of the Plan/Zoning Board of Appeals was called to order at 7:00 pm by Chairman Weidman, at City Hall, 8 N. Elmhurst Road, in Prospect Heights, Illinois.

ROLL CALL:

Present: Commissioners Frank-Watson, Dash, Jones, Roscoe, Tammen and
Chairman Weidman

Absent: Commissioner Wyatt (Absent by prior notice)

A Quorum was present. Also present at the meeting: Director of Building and Zoning Steve Skiber, City Attorney Jeff Stein, and Recording Secretary Robert Sabo.

APPROVAL OF NOVEMBER 15, 2012 MINUTES

Motion made by Commissioner Tammen, seconded by Commissioner Roscoe, to approve the meeting minutes from November 15, 2012 as amended. The motion was approved by a roll call vote.

ROLL CALL VOTE:

AYES: Commissioners Dash, Frank-Watson, Roscoe, Tammen, and
Chairman Weidman

NAYS: None

ABSENT: Commissioner Wyatt

ABSTAIN: Commissioners Jones

Motion carried.

Case No. ZBA-13-01/SU

Applicant: Blackhawk Restaurant Group, LLC (represented by Midge Hough,
Director of Operations)

Address: 694 North Milwaukee Avenue (Pin #03-24-200-009-0000)

Requesting a Special Use Permit to allow for a sit down restaurant in the B-2
General Commercial District.

Chairman Weidman entered the following exhibits into the record:

ZBA Exhibit 1: Application

ZBA Exhibit 2: Assignment to the agenda

ZBA Exhibit 3: Business plan

ZBA Exhibit 4: Certificate of publication

ZBA Exhibit 5: List of property owners

ZBA Exhibit 6: Notice to property owners

ZBA Exhibit 7: Legal notice

Ms. Hough presented the green cards from the notices to Chairman Weidman.

Chairman Weidman swore in Ms. Midge Hough, 14325 S. Naperville Road, Plainfield, IL.
and Mr. Mike Thiessen, 3920 Central Avenue, Western Springs, IL.

Mr. Thiessen explained that Blackhawk Restaurant Group is looking to have a sit down restaurant at 694 North Milwaukee Avenue which would hold roughly twenty people. The parent company has approximately sixty plus units in four different states including Idaho, California, Washington, and Oregon. Illinois would be the fifth state. Their goal is to have twenty five or thirty bistros in the State of Illinois.

Director of Building and Zoning Skiber commented that this is a special use permit for a sit down restaurant in the B-2 general commercial district at Palwaukee Plaza. The proposed location is a vacant space which previously housed Hemisphere Travel. The space is two thousand two hundred and eighty (2,280) square feet and the parking class is sixteen (16). There is adequate and ample parking. Even with the area used for storage, the requirement nets to twenty one (21) compliant parking spaces. Based on the petition, the plans, the layout, the location, and the zoning district, he found no negative aspects to the petition.

Commissioner Jones asked what the hours of operation would be.

Mr. Thiessen commented that the hours would be 8:00am to 11:00pm but will be adjusted as necessary based on the business activity.

Chairman Weidman asked if there was anyone in the audience that wanted to address the proposal. He commented that he thinks it is a great plan.

Motion made by Commissioner Tammen, seconded by Commissioner Dash, to approve case ZBA-13-01/SU as presented. The motion was approved by a roll call vote.

ROLL CALL VOTE:

AYES: Commissioners Dash, Frank-Watson, Jones, Roscoe, Tammen, and Chairman Weidman

NAYS: None

ABSENT: Commissioner Wyatt

Motion carried.

Chairman Weidman explained that the Plan/Zoning Board of Appeals is a recommending body and the case will go to the City Council for final approval.

Case No. ZBA-13-02/SU

Applicant: Blackhawk Restaurant Group, LLC (represented by Midge Hough, Director of Operations)

Address: 7B East Camp McDonald Road (Pin #03-27-200-004-0000)

Requesting a Special Use Permit to allow for a sit down restaurant in the B-1 Retail Business District.

Chairman Weidman entered the following exhibits into the record:

ZBA Exhibit 1: Application

ZBA Exhibit 2: Assignment to the agenda

ZBA Exhibit 3: Business plan

ZBA Exhibit 4: Certificate of publication

ZBA Exhibit 5: List of property owners

ZBA Exhibit 6: Notice to property owners

ZBA Exhibit 7: Legal notice

Ms. Hough presented the green cards from the notices to Chairman Weidman.

Mr. Midge Hough and Mr. Mike Thiessen were already sworn in on the previous case.

Mr. Thiessen commented that this proposal is the same concept as the previous case but at a different location. They like to be located in grocery anchored malls due to the traffic and convenience to the customers.

Commissioner Tammen commented that the only concern he has with the proposal is parking at the shopping center as it is very crowded with the current tenants.

Director of Building and Zoning Skiber commented that the shopping center is legal existing, non-conforming because it was built prior to City incorporation sometime in the late 1940's. It does not meet current setbacks and it does not meet the City's current requirements for required parking. Nevertheless, the City has made sure there is as much available parking as can be allowed. The direction of travel is counter clockwise. There has been signage put up behind the center to go easterly down Marberry Drive and northerly down Maple Lane. The police do enforce that direction of traffic and have written tickets for violating that. The City added three parking spaces to the rear, along the island on the City Marberry Drive so there are a total available parking spaces existing of one hundred four (104). If the City takes the code requirement for all the tenant spaces by gross square foot area, the requirement would be one hundred fifty five (155) parking spaces and we would be significantly under the parking requirement. However, per the definitions in the Zoning Ordinance for floor area for determining off street parking, you are allowed to deduct that area dedicated to storage for each of the tenant spaces. He did that exercise for each space and he was able to deduct forty two (42) parking spaces. There is one hundred four (104) parking spaces available and per Zoning Ordinance, by definition one hundred thirteen (113) required spaces including Penny's Bistro. If the City utilizes the fifteen spaces across the street that the City owns, which the City has given permission for off street parking for employees from the shopping center, that puts the parking at one hundred nineteen (119) spaces which could be said to give a semblance of compliance. Notwithstanding, he is aware that on certain hours on Fridays, Saturdays and on holidays, there is a chance that one could not find a parking space. That does happen. However, if the City asks the tenants of Deli 4 You and Penny's Bistro to have their employees park off site at the City owned property behind the Fire Station, that would open up fifteen (15) parking spaces and that will help the situation significantly. The center will never be conforming unless the center is torn down and completely rebuilt.

Commissioner Frank-Watson asked if a business can enforce utilizing off sight parking for employees or if it has to be part of a lease agreement.

City Attorney Stein commented that the question would be if the City could enforce that. The City does not have any kind of interest in enforcing the business. The businesses themselves can have their own employees park off sight. From a business aspect, that would definitely benefit them. It is very common to have that kind of policy within a business. As far as a lease agreement between the owner and a tenant business, the owner can enforce that through the lease agreement or any kind of addendum however it benefits the businesses as well so there is usually very little push back.

Commissioner Frank-Watson asked if there was any liability if an employee were injured when crossing the street.

City Attorney Stein commented that the street is a county road. The City would have tort immunity. As far as liability to the business, he can't answer that. As far as if someone is inside the parking lot and there is some injury that happens, then that is a possibility on the City but it is a very unlikely possibility. The City would have to have notice that there was some sort of defect and not cured that defect within a significant amount of time. It is his understanding that the parking lot is in very good condition, is well lit, and is next to a fire station.

Director of Building and Zoning Skiber commented that he did meet with the owner of the shopping center and he advised him of the possibility of the discussion of off street parking at the City's location and if he would be willing to assist in enforcing that or including it in a lease as an addendum as necessary. The shopping center owner commented that he would do whatever is necessary to create the best situation for the customers and for the tenants.

Chairman Weidman commented that this is a vacant storefront and something is going in there. This is a very good proposal in that space.

Commissioner Jones asked if there would be any deep fat frying or any odor coming out of exhaust fans, or if there would be any loud live music. He asked if the hours of operation would be the same of 8:00am to 11:00pm.

Mr. Thiessen commented that there would be no deep fat frying. The hours of operation would be 8:00am to 11:00pm. They will not be blasting music loudly. They will use a turbo chef to cook their food. They finish cooking food on site. There is a commissary which begins the cooking process. It is similar to Panera. Food will come in to the space and they will finish it on site. There will be no venting fans or odors.

Commissioner Roscoe commented that he thinks that the parking at the location is poor and the traffic flow around the building is difficult but is being managed. Something is going into a vacant site and the idea of a sandwich shop or bistro is good. That is a popular location in the City and he hopes the applicant does well there.

Chairman Weidman asked if there was anyone in the audience that wanted to comment.

Chairman Weidman swore in Will Wagner, 8 W. Camp McDonald Road, Prospect Heights, IL.

Mr. Wagner asked if the business would be applying for a liquor license.

Chairman Weidman commented that liquor licenses are not a part of the Plan/Zoning Board of Appeals and is a matter to be addressed by the City Council.

Motion made by Commissioner Jones, seconded by Commissioner Frank-Watson, to approve case ZBA-13-02/SU as presented. The motion was approved by a roll call vote.

ROLL CALL VOTE:

AYES: Commissioners Dash, Frank-Watson, Jones, Roscoe, Tammen, and Chairman Weidman

NAYS: None

ABSENT: Commissioner Wyatt

Motion carried.

Chairman Weidman commented that the Plan/Zoning Board of Appeals is a recommending body and the case will move onto the City Council for final approval.

COMMUNICATIONS

Director of Building and Zoning Skiber reported that he expects to have a meeting in February.

OLD BUSINESS

There was none.

NEW BUSINESS

There was none.

ADJOURNMENT

The January 24, 2013 Plan/Zoning Board of Appeals meeting was adjourned by unanimous voice vote, at 7:20 pm with a motion by Commissioner Tammen, seconded by Commissioner Roscoe.

Respectfully Submitted,

Robert Sabo, Recording Secretary