

**VILLAGE of SUGAR GROVE
PLAN COMMISSION/ZONING BOARD of APPEALS
MINUTES of June 27, 2012**

1. **CALL TO ORDER**

The meeting of the Sugar Grove Plan Commission / Zoning Board of Appeals (ZBA) was called to order at 7:00 p.m. by Chairman Irv Ochsenschlager in the Village Hall Board meeting room.

2. **ROLL CALL**

Plan Commission/ZBA members present:

Irv Ochsenschlager, John Guddendorf, Mary Heineman, Rebecca Sabo, Jim Eckert and Don Meisinger

Absent: Ryan Reuland

Also present: Mike Ferencak, Village Planner and Richard Young, Community Development Director; Attorney Dan Kramer; Gayle Deja-Schultz; Residents: Sandra Gaston, Julia Galvan, Clark and Karin Vilmin.

3. **APPROVAL OF MINUTES of the May 16, 2012 MEETING**

Motion made by **Commissioner Guddendorf** and seconded by **Commissioner Meisinger** to approve the minutes of the May 16, 2012 Plan Commission meeting as corrected. Small typo on page 2 paragraph b, remove small 'm'.

The motion carried by unanimous voice vote.

4. **PUBLIC HEARINGS**

a. **Petition 12-007: 26-46 Terry Drive / Wine Shops – Special Use and Variances, Text Amendment (Gayle Deja-Schultz / Village of Sugar Grove)**

Chairman Ochsenschlager opened this public hearing. He then swore in those persons in attendance planning to testify.

Petitioners' Request:

Mr. Ferencak presented an overview of the request. This property is located on the southeast corner of Route 47 and Route 56 and is vacant space in a multi tenant building with commercial on the bottom floor and residential up above. The proposed tenant is a wine shop and the Village's current B-3 district does not list wine shops as an approved use. Staff is proposing to add wine shop (with or without service) as a Special Use in several of the districts. This petitioner is requesting a Special Use in this location and several Variances, mostly in relation to the proposed outdoor dining. This property is located in a mixed use area surrounded with residential and commercial. The proposed unit is where the old flower shop was. The property has three front / corner yards. The Variances being requested include reduction in parking from 22 spaces to zero spaces; increase in lot coverage from 70% to as much as 85% (property is currently at 82%); setback variance for the patio; fence height variance for a corner side yard from 3'

maximum to 6' requested height; and reduction of the landscape requirement. Staff has provided responses to the Zoning Ordinance standards in the report.

Staff is recommending approval of the Text Amendment to the Zoning Ordinance by adding Wine Shops as a Special Use so they can be reviewed on a case by case basis. Staff is recommending approval of the Special Use for this location. Staff has the following recommendations for the Variances requested:

- Parking – staff is recommending that the parking requirement be met by an agreement with the bank located to the south of the property location. Staff suggested the applicant ask the bank for permission to use up to 19 parking spaces. The bank only approved 10 spaces. The patio size does affect the parking requirement and therefore the Variance. However, 10 spaces is not enough for any of the proposed patio sizes.
- Lot coverage – staff is recommending granting the variance , but only to 84%, consistent with the 18' x 36' patio;
- Setback – staff is recommending no setback Variance since consistent with the 18' x 36' patio no setback Variance would be necessary.
- Fence and landscape – staff is recommending approving the fence height reduction from 6' to 3' and the landscape reduction along the north and east sides of the patio, but not approving the reduction of landscaping required along the west, Route 47 side.

Petitioner Presentation:

Mr. Young requested that the applicant, **Gayle Deja-Schultz**, give an overview for the Commission and public present. She is proposing a specialty wine store with retail sales and a tasting area. She will also offer a few specialty micro-brewed beers and locally prepared bistro meals – nothing you could get at Jewel. It would start out with only offering a glass of wine for tasting or bottles of wine available for purchase. At a later time it would expand into the microbrews and bistro meal options. She's been looking into this idea for Sugar Grove for approximately six years. There are shops similar to this in Geneva, Naperville and St. Charles. She clarified that Illinois law allows pouring of up to one ounce of up to six wines for each patron for tasting.

Public Comments/Questions:

Mark Vilmin, 60 Terry Drive, asked questions clarifying the business plan and type of establishment. He stated that the building should be held to the code for setbacks, no Variances granted.

Karin Vilmin, 60 Terry Drive, asked about lighting and the proximity of the fence / patio to the on ramp. She stated she doesn't like the idea of extra traffic in the neighborhood and drinking and then driving home. **The Petitioner** stated that it's not a bar, they will restrict sales to one bottle per couple and that IDOT is planning to change Frontage Rd to a one-way street going out to Route 47 so there shouldn't be much traffic through the neighborhood.

Sandra Gaston, 52 Neil Road, stated she does not want a liquor establishment in her neighborhood. There's no sidewalk on Richard Street, will it be added?

Patrons will drink and drive, she does not want it. She doesn't like it opening at 11 am, it's too early and she is 110% against it completely. Open liquor shouldn't be on site in a neighborhood.

Julia Galvan, 59 Terry Drive, spoke about her main concern of parking. It's a wonderful business idea but it shouldn't be in a neighborhood, it needs to be located somewhere else.

Staff clarified that the parking variance proposed is just for this proposed use. The building is already short on required parking but with the proposed patio size and what the bank has committed to share, it would be further short of the requirement.

Staff clarified that the original building was built to the codes adopted at the time it was built and the codes now make it a legal nonconforming structure. The proposed request does extend the nonconformity slightly, but the property currently has no variances or special uses. It's likely only the update and changes made to the Zoning Code since the building was built that makes the property legal nonconforming. The current Zoning Code allows for 75% lot coverage, this variance would take it to 84% coverage; it's currently at 82%. **Mr. Vilmin** stated that the code is the code and should be adhered to as is, no variances.

The Petitioner pointed out that a full service bar is right across Route 47. This would be different. This is more of an educational situation.

Chairman Ochsenschlager closed the public hearing.

5. **OLD BUSINESS**

None

6. **NEW BUSINESS**

a. **Petition 12-006: College Corner – Minor PUD Amendment (Castle Bank as Trustee under Trust #2751)**

Mr. Dan Kramer, Attorney at Law, representative for the petitioner was in attendance. **Mr. Ferencak** gave an overview of the proposed amendment. This project was approved by the Village Board in 2010 for the northwest corner of Waubensee Drive / Heartland Drive and Route 47 with many conditions and these conditions need to be addressed to record the project. The petitioner has made some effort to handle the outstanding items. Two of the conditions, numbers 22 & 26 are being proposed for minor amendments to the 2010 PUD Ordinance tonight. Condition 22 required metal halide lighting on site. . The petitioner is still requesting high pressure sodium. Staff is recommending this decision be placed on hold and addressed at time of building permit.

Condition 26 determines the timing of posting of the letter of credit, prior to recording the final plat. Village Subdivision Ordinance requires the letter of credit to be 120% of the engineer's estimate and to be in effect for a period of 2 ½ years from the date of recording of the final plat. Due to the uncertainty of the timeframe of this development the petitioner is requesting and staff is

recommending that the posting of the letter of credit be delayed to on or before June 15, 2015 and be effective for 2 ½ years beyond the date of the recording of the plat. The plat is not currently ready to be recorded and that recording will be delayed.

Mr. Kramer added that at the time this development was started the petitioner had a restaurant and a gas station interested in locating within it. The restaurant, Legends in Yorkville, is doing well, as is the gas station by Plano, but neither are ready to take on another location at this time. Banks are not as willing as they were in prior years to back the retail commercial industry. They need time to heal before investing with a letter of credit. The petitioner still has every intention of moving forward with this development as when it was originally passed.

Commissioner Heineman clarified with him that they are ok with the staff's recommendation. They are.

Commissioner Heineman made a motion seconded by Commissioner Eckert to delay action of the Minor PUD Amendment to condition 22 until the property owner is ready to start the development of the property at which time condition 22 will be re-evaluated and a recommendation made to the Plan Commission and the Village Board and for the Minor PUD Amendment to condition 26, delaying the posting of the letter of credit until on or before June 15, 2015 with it being effective for 2 ½ years beyond the date of the recording of the plat.

The motion carried unanimously by voice vote.

- b. Petition 12-007: 26-46 Terry Drive / Wine Shops – Special Use and Variances, Text Amendment (Gayle Deja-Schultz / Village of Sugar Grove)**
Commissioner Eckert asked how many spaces are currently vacant in the building. **Mr. Ferencak** clarified that there are currently two vacant spaces in this building, the flower shop and one by Cutz 'n Stylz. This space is approximately 800 s.f. **Commissioner Eckert** was ok with the hours of operation. **Commissioner Eckert** also questioned whether large semis or box trucks would be making deliveries to this operation. The applicant stated box trucks or vans would make most deliveries. Some deliveries may be done with bigger trucks and product wheeled in on a dolly performed only during regular daytime hours. A resident stated that large trucks don't fit in those streets and turns. Stop signs and a light pole have been knocked down before. Both the insurance owner and realtor are aware of it and are supportive. Signage will be 'as is' with a face change planned. The existing signs are legal non-conforming. There are two and face changes can be done, but they can't be increased in size.

The site is land locked. The only option for additional parking is auxiliary parking at the bank. The parking requirement for a restaurant (which is the closest allowable use in the code) is 13 spaces per 1,000 s.f. and retail space is 5 spaces per 1,000 s.f. This space is 1,720 s.f. with the interior and patio space combined (assuming a 23' x 40' patio). The Building Inspector advised that the patio space

be handicap accessible, so a minimum of 3' additional space will be needed for a concrete ramp out to the asphalt parking area. **Commissioner Guddendorf** asked about access to the patio only being from the inside of the building. **The Petitioner** stated it will depend on what the liquor license says but she will look into it further. The patio will be locked but handicap accessibility and emergency exit can be used when needed to the parking area. 6 tables are planned for the patio. The location of the existing handicap parking spots was discussed. Staff is recommending 19 parking spaces be made available from Old Second Bank; a commitment of 10 was given.

Several of the requests for Variance depend on the size of the patio. The drawing shows a 20x35' patio, discussions have been held regarding an 18x36' patio, and a 23x40' patio. The patio size constructed will determine exactly how many parking spaces are required and therefore the exact Variance needed. The patios larger than 18'x36' require a few more parking spaces than the 18' x 36' patio. Street parking is legal, if not overnight, but it can't be used for the required parking count. If the 18'x36' patio is used the amount of tables would need to be reduced. **Mr. Young** stated that the ramp really doesn't have much to do with the parking requirement. The parking space requirement flexes with the square footage. The lot coverage is already at 82%, 85% is only 3% more, not a super impact. The setback Variance is what will dictate the patio size because then it can be placed within 5' from the lot line of the property. The bank property could always be sold, the letter isn't an agreement with the property owner.

Staff is recommending waiving the landscape requirement on the outside of the fence of the outside seating area at the north and east sides, but requesting minimal landscaping on the west side. The Petitioner is requesting to waive it all.

Commissioner Eckert made a motion seconded by Commissioner Guddendorf to recommend approval of the Text Amendment to add Wine Shops (with or without service) as a Special Use to Section 11-8-4-D B-1 Community Shopping District, Section 11-8-5-D B-2 General Business District, and Section 11-8-6-D B-3 Regional Business District of the Sugar Grove Zoning Ordinance.

The motion carried unanimously by voice vote.

Commissioner Heineman made a motion seconded by Commissioner Meisinger to recommend approval of the Special Use to allow a proposed Wine Shop with service in the B-3 Regional Business District, pursuant to Section 11-8-6-D of the Sugar Grove Zoning Ordinance (as amended), subject to the following conditions: that the Special Use is limited to the space at 34 Terry Drive, as long as it is used as a wine shop with service and that any expansion of the use will require a Special Use Amendment review.

The motion carried unanimously by voice vote.

Commissioner Eckert made a motion seconded by Commissioner Guddendorf to recommend denial of the Variance to reduce by 100% the parking space quantity

requirement for this use from 22 parking spaces to 0 parking spaces, pursuant to Section 11-12-5 of the Sugar Grove Zoning Ordinance and rather recommends use of a parking agreement with Old Second National Bank to provide for the 19 available parking spaces on their site with a reduction in the size of the proposed patio on this site to 648 square feet (the size that only 19 parking spaces are required for the wine shop use).

The motion carried unanimously by voice vote.

Commissioner Guddendorf made a motion seconded by Commissioner Meisinger to recommend approval of the Variance to increase the maximum lot coverage from the required 70% (82 % currently) to a maximum of 85%, pursuant to Section 11-8-6-G of the Sugar Grove Zoning Ordinance.

The motion carried unanimously by voice vote.

Commissioner Sabo made a motion seconded by Commissioner Eckert to recommend denial of the Variance to allow construction of an accessory structure (patio) within five (5) feet of the property line, within an easement, pursuant to Section 11-4-7-G of the Sugar Grove Zoning Ordinance. Patio would be setback zero (0) feet from the property line.

The motion carried by voice vote 3 ayes and 2 nays.

Commissioner Heineman made a motion seconded by Commissioner Eckert to recommend approval of the Variance to increase the maximum fence height from the required three (3) feet in the corner side yard to a maximum six (6) feet, pursuant to Section 11-4-13-B of the Sugar Grove Zoning Ordinance.

The motion carried unanimously by voice vote.

Commissioner Heineman made a motion seconded by Commissioner Guddendorf to recommend approval of the Variance to waive the requirement for landscape screening around the north and east sides of the outdoor dining area and denial of the Variance to waive the requirement for landscape screening around the west side of the outdoor dining area, pursuant to Section 11-4-7-K of the Sugar Grove Zoning Ordinance.

The motion carried unanimously by voice vote.

7. PLAN COMMISSIONER COMMENTS, PROJECTS UPDATES and MISCELLANEOUS INFORMATION

Settlers Ridge NW, Triangle and Commercial Subdivisions there is no update.

Commissioner Guddendorf asked how soon the binder will be capped with surface in Settlers Ridge. **Mr. Young** explained the history with the bond company and that the majority of it has not been put in. The Village has sued the bond company to get the money to finish it, but it's been retracted and continued with legal maneuvering. Then the bond company sued the previous land owners and that case was just recently dismissed in favor of the current

owners. So, the bond company is still in the position of responsibility of the improvements. The binder is getting worse each winter. There are funds in the bonds to deal with the majority of the cost for the binder but when it will be released is yet to be determined.

Settlers Ridge Amendment is still being worked on by the applicant.

Hampstead Court was discussed by the Village Board but was tabled due to the developer's concerns with the annexation agreement. The developer's attorney said they had some concerns with the recommendations that were being made. The Village is waiting to see their version of what they think the agreement should be and then the Village can respond.

Sidewalks and Paths will be coming to the next Committee meeting.

Walgreens is moving along and is ahead of schedule.

Landings Lot 3 where Jimmy John's and the nail salon is has 8 units remaining and 5 of them should be occupied by the end of the year by Delnor.

Galena and 47 has some interest but it hasn't been finalized yet so no announcement can be made at this time.

8. **ADJOURNMENT**

A motion was made by Commissioner Eckert and seconded by Commissioner Meisinger that the meeting be adjourned at 8:20 pm.

The motion carried unanimously by voice vote.

Respectfully submitted,
Holly Baker
Substitute Recording Secretary