

*Village of Barrington
Zoning Board of Appeals
Minutes Summary*

Date: January 5, 2016

Location: Village Board Room
200 South Hough Street
Barrington, Illinois

In Attendance: Victoria Perille, Commissioner
William Fitzpatrick, Commissioner
David Holtermann, Commissioner
Kate Duncan, Commissioner
Kevin Connolly, Commissioner
Ryan Julian, Vice-Chairperson
Patricia Pokorski, Chairperson

Staff Members: Natalie Ossowski
Jean Emerick

Call to Order

Chairperson Pokorski called the meeting to order at 7:00 p.m.

Chairperson's Remarks

Chairperson Pokorski gave the order of business and explained the process and duties of the ZBA. She swore in those members of the audience that may speak during the meeting.

Roll Call noted the following: Victoria Perille, present; William Fitzpatrick, present; David Holtermann, present; Kevin Connolly, present; Kate Duncan, present Vice-Chairperson Ryan Julian, present; Chairperson Patricia Pokorski, present.

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New Business

ZBA 16-01: 220 S. Cook Street - Public Hearing

Applicant: Allison Mall
440 June Terrace
Barrington, IL 60010

Owner: Michael G. Ward & Kevin Carter
220 Cook LLC
6676 Lincoln Avenue
Lincolnwood, IL 60712

The Petitioner (Allison Mall) seeks approval of a Special Use to open and operate a Massage Establishment at 220 S. Cook Street (Chapter 7, Section 5-E). The property is zoned B-4 Village Center District.

Commissioner Fitzpatrick said he did not think they could consider ZBA 16-01 because the petition is flawed. Page 3 of the petition was signed by Allison Mall, the applicant, and Kevin Carter, one of the owners. Mr. Carter notarized his own signature, which he cannot do. It violates the Notary Act. In addition, on the verification document, Mr. Carter also notarized that document, but Ms. Mall did not sign it. The petition cannot proceed. The ZBA will need to make a motion to postpone consideration until the documents are corrected.

Mr. Dave Mall said it is unfortunate. They made a business plan to obtain a license and worked on rental agreements. The process that was posted on the website had changed. Staff has been cooperative in walking them through the process.

Chairperson Pokorski said it is not the intention of the Commission to make it more difficult for the petitioner but they have to follow the letter of the law.

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ZBA 15-02: 115 E. Station Street - Public Hearing

Applicant/Owner: Raynette Boshell
358 Old Sutton Road
Barrington, IL 60010

The Petitioner (Raynette Boshell) seeks approval of a Special Use to allow a Professional Office at 115 E. Station Street (Chapter 7, Section 5-D). The property is zoned B-4 Village Center District.

Ms. Raynette Boshell, the owner and landlord of 115 E. Station Street, said she has owned the building for 40 years. She has had difficulty renting. She has had empty spaces throughout the years and lost income because of first floor retail. The space in question is only 500 square feet. She is asking the Board to consider that these types of spaces should not be designated only

retail. She is seeking to have a 500 square foot variance. She has a tenant interested in using this space as an office. Her contention is that something is better than nothing in this space.

Mr. Ken Rusin, who is the possible tenant if the variance is approved, said that he lives in Barrington. He has been a real estate broker for 23 years. He has no employees and this 500 square foot space would be ideal for his business.

Ms. Natalie Ossowski, said the word retail is used a lot in the Staff Report. Retail is a blanket term, which references all permitted uses in the B-4 District, shops and stores, restaurants, nail and hair salons. The subject property is a 500 square foot space within a larger multi-tenant building. The special use is for a professional office, which is not permitted on the first floor. That use is permitted above and below. There are several other multi-tenant buildings in the area that are also zoned B-4: Cook Street Plaza and the Barrington Village Center. These two developments were approved through the planned development process and have exceptions for having non-retail spaces in 15% of their total allowable square footage. Currently there is 22.8% non-retail uses in the subject property and if this variance is approved it would go up to 27.3%, which is almost double what was allowed for the other developments. In 2007, this property was granted a special use to use 2,500 square feet of their 5,000 square feet space to include more uses, which included professional office. The Village Staff and Board see the need for professional offices. In August of 2015, a portion of the B-4 District was rezoned (B-5 Village Center East District) to serve offices uses on all floors to stimulate the downtown economy.

Ms. Ossowski went over the standards for a special use. Offices should not be on the first floor, which is prime retail space. Offices do not fit with the intended character of the surroundings. Six standards of the first ten have been met. Office uses are present in the area, but only above and below the first floor. Staff believes the proposed special use is not compatible with the surrounding zoning. The intent of the B-4 District is to strengthen and encourage economic development. This goal is achieved through retail uses. The property has been vacant for 6 months. Based on the 18 Special Use Standards, Staff does not recommend approval. This special use would be precedent setting to others that have similar uses.

Chairperson Pokorski reminded the petitioner that they cannot consider subjective factors. Size is not something the Commission can consider. She thought in the third standard, "harmonious and appropriate in appearance," that Staff only considered "character" in this standard.

Ms. Ossowski said that a large storefront could be perceived as affecting the appearance. It could be interpreted both ways. If it is an office, it is not in character with the surroundings.

Chairperson Pokorski does not understand the standards versus the considerations in the Staff Report.

Ms. Ossowski said the 10 main standards are what the Board should consider. The eight considerations were intended to flesh out the 10 standards.

Commissioner Fitzpatrick said he is troubled by Staff's findings. The buildings were built before the rules changed. He does not think that an owner can sustain a business with only 500 square feet. At what point is there an exception? It is not right for the Village to impose on retail use only owner. The Village should be encouraging and assisting this owner to lease her building.

Chairperson Pokorski said she does not disagree with Commissioner Fitzpatrick, but it is the Commission's job to apply the standards.

Commissioner Holtermann agrees with Commissioner Fitzpatrick in substance. Looking at the standards, there are a few that are subjective.

Chairperson Pokorski said that the Commission has to say if they think the standards are met.

Commissioner Duncan said she struggled with Standard #2. It says that offices are allowed as a special use in the B-4 District.

Commissioner Perille said Standard #2 does not leave any room for debate. She thinks that the real estate office would generate some traffic into the downtown. It falls into a different category than other offices.

Chairperson Pokorski questioned whether this special use would only apply to this tenant. Would another office tenant need a new special use?

Ms. Ossowski said yes, it would have to stay the same business; it is not transferrable.

Vice-Chairperson Julian said a new business, even if it were the same type, would need to come before the Commission again. It troubles him that landlords are challenged to get retail in their space. The challenge is he would like to see all of the spaces filled. He would like it to be retail, but it has been difficult for the landlords. The standards do involve an element of judgment. This space could allow the Commission to grant a variance. The Commission can exercise judgment and agree this is a place that allows for a special use.

Chairperson Pokorski said the way to do that is to refute the Staff Report. To approve this, the Commission needs to say that they think the 10 standards are met because . . .

Commissioner Perille stated Standard #2 says no first floor office space, but questions if it is consistent with the objective. The objective is to get tenants in the space and traffic in the area.

Chairperson Pokorski said the point of having a variance is this type of situation.

Commissioner Julian said to keep in mind that this is for a particular business in a particular circumstance. One of the compelling elements is the turnover in this space. How long has it been vacant and what kind of tenants are they able to get? The Commission should look at the standards that Staff does not think are met. The Commission can state an alternative to the Staff's opinion.

Chairperson Pokorski argued that the Board could find that Standard #3 is met because the appearance is not changing. Furthermore, Standard #4 is met because the proposed business will not diminish safety, use, and enjoyment of the surrounding property. Standard #6 is met because the concept of a viable rented space is better for the community than a high turnover of tenants in this space.

Vice-Chairperson Julian said a real estate office would generate more traffic than another type of office. It has been vacant for a while and there has been a high turnover of retail tenants. He argued that Standard #16 is met because the space has been vacant, and based on the owner's testimony, she is experiencing economic difficulties.

Commissioner Holtermann moved to approve ZBA 16-02, a Special Use to allow a Professional Office at 115A E. Station Street, Provincial Realty, LLC (Chapter 7, Section 5-D). Commissioner Fitzpatrick seconded the motion.

Roll Call Vote: Ms. Perille, aye; Mr. Fitzpatrick, aye; Mr. Julian, aye; Mr. Holtermann, aye; Mr. Connolly, aye; Ms. Duncan, aye; Ms. Pokorski, aye; the vote was 7 to 0. Chairperson Pokorski declared the motion approved.

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Minutes

2016 Meeting Schedule

Commissioner Fitzpatrick moved to approve the 2016 Meeting Schedule and Commissioner Duncan seconded. A voice vote recorded all ayes to approve the schedule. Chairperson Pokorski declared the Schedule approved.

November 3, 2015

Commissioner Fitzpatrick moved to approve the November 3, 2015 meeting minutes as amended and Commissioner Holtermann seconded. A voice vote recorded all ayes to approve the minutes. Chairperson Pokorski declared the minutes approved.

Planners Report

ZBA 16-01 will be coming back to the February meeting. 2015 had more PC cases than we have had in the past. 124 Walton Street is under construction. As to Alley 59, the permit is closed and the tavern is open to the public. David Holtermann's garage is completed. 518 E. Russell,

the permits were issued and the project is underway. The petitioner for 317 E. Lake Street withdrew and did not go before the Village Board. They will need to wait a year to petition again.

Adjournment

Commissioner Fitzpatrick moved to adjourn the meeting and Commissioner Perille seconded. Chairperson Pokorski adjourned the meeting at 8:26 p.m.

Respectfully submitted,

Jean M. Emerick
Recording Secretary

Approval Date: February 7, 2016