

CITY OF WAYNE
ZONING BOARD OF APPEALS
REGULAR MEETING
JUNE 11, 2009

A regular meeting of the Zoning Board of Appeals was held at 7:30 p.m., Thursday, June 11, 2009, at Wayne City Hall, 3355 South Wayne Road.

The meeting was called to order by Chairman Robert Boyles at 7:30 p.m.

Members Present: Jay Armstrong, Stephen Becher, Margaret Harlow, Dennis Hermatz, Michael Hurley, Alternate Don Quarles, Alternate Terry Shenk, Vice Chairman Bruce Foulk, Chairman Robert Boyles

Members Absent: Tricia Nault, Quentin York, both excused (personal business)

Also Present: Building Official Patrick Ostrosky, City Clerk Mary E. Carney

ITEM I

Motion by Harlow, seconded by Hurley and unanimously carried, to approve the minutes of the meeting of May 14, 2009, as printed.

ITEM II

The minutes of the Planning Commission Meeting of May 12, 2009, were received and filed.

ITEM III #55-003-10-0017-000

Mr. Scott Gocaj, U.S. 12 Restaurant, 34824 Michigan Avenue West, had reapplied in writing, as per City Ordinance, for permission to conduct outdoor sales at the business location as he had been denied by the Board at the May meeting and wanted to present additional information. The property is located in a B-4, Business Intensive District Zone. Section 1260.04(a) of the Planning and Zoning Code lists as one of the uses requiring a Special Exception Permit:

"Outdoor sales by temporary permit for a six-month period or less. When after a consecutive two-year period of operation has occurred, without any violation of the original conditions of approval, the temporary permit may be extended to an eight-month period."

Notice of Public Hearing had been sent to owners of property within three hundred feet

(300') of the subject premises prior to the meeting. There was one opinion expressed by mail prior to the meeting and one opinion expressed by email prior to the meeting. There were no opinions expressed at the meeting.

Chairman Boyles read aloud the Section 1234.13 (I) of the Codified Ordinances which states:

“No appeal to the Board which has been denied wholly or in part shall be resubmitted for one year from the effective date of an order of denial, except on the grounds of new evidence or proof of a change of conditions found to be valid by the Board. An application for a rehearing shall be in writing and subject to the same rules as an original hearing.”

Mr. Gocaj stated that he was absent from the April meeting as he was involved in an automobile accident in Florida and was unable to return home on schedule. He further stated that he arrived for the May meeting at 7:00 p.m. and found the doors locked. He returned at 8:00 p.m. and again found that no one was in the building. He stated that he overlooked his letter informing him that the meeting was scheduled for 7:30 p.m. and that he has never disrespected the Zoning Board and its members, or the City Council. He further stated that he has always tried to follow the rules and has only thing he has ever done is have a few banners.

Mr. Gocaj further stated that if he loses his outdoor sales during the summer it would greatly hurt his business.

Chairman Boyles stated that Mr. Gocaj has been operating illegally as he has been operating the outdoor patio since the first of the month. Mr. Gocaj replied by saying that if he was operating illegally, he would have had staff in the outdoor area. Mr. Gocaj further stated that beginning around March 17, the weather turned unseasonably warm and patrons wanted to sit outdoors. He stated that he called the Clerk's Office and while the Clerk was looking into the issue, he called the Police Department and the Building Department and was informed that he could not sell in the outside area, but that if patrons just wanted to sit and eat and drink, there it was not a problem. Building Official Ostrosky agreed with Mr. Gocaj.

Vice Chairperson Foulk stated that maybe the word “sales” in the ordinance might be interpreted differently by the Board. He continued by saying that the issue of the banners has been an issue for some time and that he is short on patience.

Mr. Gocaj stated that he is a second generation business owner and considers himself and his business a vital part of the City. He continued by saying that as an example, the signs for the Farmer's Market shows the importance of advertising and also that he has always tried to bring positive things to the City. Vice Chairman Foulk stated that in his opinion, signs advertising various types of beer are not promoting the City. Mr. Gocaj stated that many times it is the vendor who provides the banner promoting some type of event and they of course want to promote their product. He stated he will speak

to his vendors regarding the issue.

Chairman Boyles listed various violations received by the business. Mr. Gocaj stated that if the City is declining, then so goes his business and the business supports three separate families.

Chairman Boyles stated that the Board only wants compliance with the ordinances.

Mr. Hermatz asked Mr. Gocaj if he would assure the Board that he will comply with the sign ordinances and he stated that he would.

Mrs. Harlow asked Mr. Gocaj why he isn't more careful with following the rules regarding his permit with regards to attending the required meetings.

Motion by Hermatz, seconded by Armstrong and unanimously carried, to approve a Special Exception Permit for outdoor sales for Scott Gocaj on behalf of the US-12 Restaurant for a six-month period of time beginning May 14 through November 14, 2009.

APPEAL GRANTED

Chairman Boyles stated that the Board needs clarification of the legal opinion written by the City Attorney regarding outdoor sales.

Following the appeal, the City Clerk informed the Board that the City Council had adopted an Ethics Policy on June 2, 2009, and also distributed a Disclosure Form which must be filed with the City Clerk under Policy circumstances.

Motion by Becher, seconded by Shenk and unanimously carried, to adjourn the meeting at 8:08 p.m.

Mary E. Carney
City Clerk