

**Village of Justice
Zoning Board of Appeals
Minutes of Monthly Meeting
November 17, 2017**

.CALL TO ORDER:

Meeting was called to order at 7:08pm by Chairman John Bruce.

ROLL CALL:

Present at meeting were: Rich Berkowicz, Jim Brock, Albert Perez, Chairman John Bruce, and Secretary Shirley Shilka.

Bogdon Ogorek: Excused

John Bruce: Welcome to Albert Perez as new board member to the Zoning Board of Appeals.

John Bruce: I would like to entertain a **MOTION** to table minutes from November 10, 2017, covering Petition 2017-01, to our next meeting.

Jim Brock: **SO MOVED**

SECOND: Rich Berkowicz

VOTE: All Ayes

John Bruce: Presented Petition 2017-02, notice type in Public Notice, says Zoning and Planning Commission should say Zoning Board of Appeals.

The Petition was submitted by Mohamed Eldibany and B & D Investment Group with David Griffin as their Attorney.

The Legal Description is rather long, I will not read it since it has been published.

The purpose is to subdivide the property into two parcels, properties commonly known as:

8507 to 8531 S. 88th Avenue, Justice, Illinois 60458. The Property Tax ID # is 18-35-302-006-0000, & owned by B & D Investment Group LLC. The Notice was published on November 3, 2017 in the Daily Southtown. You have a copy of the Public Notice and the Legal Description as placed in the paper.

John Bruce: Swore in Mohamed Eldibany and Attorney David Griffin.

John Bruce: Please explain to us what you wish to do with this property.

Attorney David Griffin: We would like to just divide the building into 2 lots, so that the Daycare Center is one lot and the rest of the building is another lot. As for the financing I will let Mr. Eldibany address that issue. They want to get the Daycare Center as a separate facility with loans for each separate property.

Mohamed Eldibany: I am doing this for mostly economic reasons the Plaza as you know is struggling these days and we are trying our best to make it successful. There is one loan right now and it is a very large loan and is difficult to refinance the property. If we divide it into two Tax ID numbers, my plan is to get a small business administration loan which has favorable terms and the other parcel would have a much smaller loan which would be easier to handle. That is the main reason for this request; to make it more financially viable in the future.

John Bruce: Based on this plat the short part of the plat, the T section, is this part of the Day Care also. So this entire building, which was an old theatre, is part of the Day Care.

Mohamed Eldibany: Yes

Jim Brock: I am looking at this plat; when you subdivide this, how are you going to get to the back lot.

Mohamed Eldibany: There will be an easement to be filed.

Jim Brock: It is not landlocked?

Mohamed Eldibany: No

John Bruce: It is not marked on the plat of survey as far as a dedicated easement all the way back and around. I see you have the Com Ed easement and towards the front you have a Ni Cor easement up to the transformer.

Attorney David Griffin: We needed an easement agreement, a deceleration of reciprocal easement so we can allocate the expenses.

John Bruce: Petitioner was given an extra copy of the deceleration. Have you had conversations with the Village Attorney about this, to see if this is acceptable with him?

Attorney David Griffin: We have not heard from him.

John Bruce: Was this submitted to the Village?

Attorney David Griffin: Yes.

John Bruce: My concern is access to the utilities, plus I believe there are some wall improvements that have to be done based on code. Mr. Shilka.

Ed Shilka: I have not heard from the Village Attorney, I am listening to what they have to say and will rely on the gentlemen as to what he knows.

John Bruce: This “Deceleration of Reciprocal Agreement” is the document that we were talking about earlier that you had gone thru.

Ed Shilka: That is the one that I had gone thru.

John Bruce: I had tried to contact Mr. Cainkar today but have not heard back from him.

Attorney David Griffin: We set out on the easements there is part egress and ingress so that each lot will be traveled to the other part of the lot, maintenance repair will also be able to keep the snow off, or to repaint the place. We have the maintenance repair portion of this, it goes thru the responsibilities. It spells out the utility room which we need on lot 1, all the utilities come into that room and then they spread out from there. We have made provisions that both lot owners will be able to use that utility room, and will be able to take care of the utilities because we can't have lot 1 blocking lot 2.

Mohamed Eldibany: The meters are separate.

Jim Brock: So you say the egress to the property; that would be on both sides of the building, for a fire concern.

Attorney David Griffin: Yes

Jim Brock: Say lot 1 gets sold off and the new owner puts up a barricade and say's, hey that is my lot and I am going to put up a barricade but I would allow an easement on the South side.

Mohamed Eldibany: He cannot. That is in the declaration.

Attorney David Griffin: That is a common area and we have to have the vehicles come all the way around, we cannot have lot 1 blocking lot 2. There will be definite access for both parties.

John Bruce: Will that easement include parking?

Mohamed Eldibany: Yes.

Attorney David Griffin: We had to work that out also, we just tried to keep it similar to the way it is now but with the potential that you might have two owners. We want everyone to be able to drive around it and to have access to the utilities.

Jim Brock: With the Day Care would the Fire Protection be able to drive around.

Mohamed Eldibany: Yes absolutely, that whole area is clear, nothing is going to change.

The only thing that would change is that there will be two different tax id numbers. Nobody is going to know the difference otherwise.

Ed Shilka to Mohamed Eldibany: Except for the owner, are you going to own both buildings?

Mohamed Eldibany: I am going to own both buildings at this point.

Ed Shilka: What if down the road you decide to sell one of the buildings and it goes into foreclosure.

Mohamed Eldibany: This is going to run with the property.

Could not hear this part

Ed Shilka: So the subdivision of this property is strictly financial?

Mohamed Eldibany: Yes, it would make it easier to manage; right now the loan is too big for the time line. Right now the Day Care has started to do better but it has been a struggle the past few years.

John Bruce to Ed Shilka: Do you have any other questions?

Ed Shilka: Right now I have nothing else, I glanced at my copy of the report to Joe Cainkar and unless he has something else to advise that would hinder this I do not see a problem.

John Bruce: What is separating the two lots, meaning the walls?

Ed Shilka: This is only a financial situation, you can't make him put in a shaft wall in there because you are splitting the building. The way they are presenting this is no different than someone having two lots and building a house right in the middle of the lots. So he is doing this in reverse for whatever his financial reasons are.

John Bruce: What happens if you sell off lot 1; for sake of discussion, and as discussed previously, that is where all the utilities are, what happens if lot 1 gets the power shut

off and there is no heat in lot 1? What is going to happen to all the utilities going into lot 1?

Mohamed Eldibany: There are separate meters.

Ed Shilka: They are all separate meters, all the utilities for each store, all the water for each store front are all separate, so if somebody didn't pay their water bill they will only shut off that unit.

John Bruce: So they would not shut the whole building off. Just lot 1.

Ed Shilka: As for the meter room, that's what it is, all the electric is in there, the fire equipment is in there, all water meters are in there.

John Bruce: What is providing heat to that room?

Mohamed Eldibany: There is a heater for that room. Each has a separate meter.

Ed Shilka: This is hooked to all the common areas.

John Bruce: How are you going to guarantee that whoever owns the other lot comes up with the costs for maintenance for everything?

Attorney David Griffin: Under agreement that will be filed they will share the expenses; and will provide for legal remedies if they don't; like a condominium.

John Kapecki: There are 2 lots, one building under the same ownership currently, (could not hear the question clearly) was questioning a demising wall and that is where the lot line divides the building.

Mohamed Eldibany: That wall is the day care wall. The day care on the east side and the laundromat on the west side.

Trustee Rich Sparr: As Trustee I feel better knowing that you are still going to own both lots.

We had some concern over fire suppression; one fire suppression system for the whole complex.

Mohamed Eldibany: If there is a fire in one unit that is the unit that the fire system would activate.

Trustee Rich Sparr: It still has to be maintained, if for some reason there was no heat in the front part or heat in the back part, and you break a pipe it is going to set the system off. We can't have a system freeze in the front and children in the back

Trustee Rich Sparr: So this is basically a financial sub division?

Mohamed Eldibany: That is correct; I want to be more secure. I want to get a business loan for the day care and another loan for the rest of the building. The loans would be much smaller and much more secure.

Trustee Rich Sparr: You have been in the village a long time and the village would never do anything to hurt anyone that's been here, we just have to make sure everything is in order.

Trustee Henry Osak000000: Lot 2 will not be landlocked?

Mohamed Eldibany: No, absolutely not, I own the day care and I want to continue to own the day care. The beauty supply store and hair salon are both vacant, there is a new tenant which is a grocery store.

Trustee Melanie Kuban: My only concern is what the attorney will say.

Ed Shilka: We will check with him on Monday, however, I see no problem but this is up to the board.

John Bruce: Trustee Sparr what would you be comfortable with; us making a decision this evening, then you reviewing it again at committee and then make a decision whether to kick it back to us or not?

Trustee Rich Sparr: I'll discuss this at committee on the same day as Petition 2017-01.

Trustee Melanie Kuban: How can you make a decision when you do not have anything from the attorney? How can you make a recommendation when you do not have all the evidence?

John Bruce: Our recommendation would be yay or nay on the subdivision. The easement issues and that would be a matter that would be resolved prior to it being recorded. Where it would be done with the Village Board and the Building Department and any additional questions that the board might have. As to what needed to be recorded and then it could be kicked back to us or we continue. I don't have a problem looking at it either way, whether Trustee Sparr would like a recommendation this evening or whether he would have us continue it.

Ed Shilka: I would recommend it depending on the paper work from the attorney on Monday or Tuesday. That gives us plenty of time to straighten it out.

John Bruce: The other question I have is, do those easements need to be recorded on the plat?

Ed Shilka: They probably will be there will be a couple of drawings on there and it will all be recorded. That way it is all legal, whether he decides to sell or which ever.

Trustee Rich Sparr to Mohamed Eldibany: Mr. Eldibany are you pressed for time or can we wait a few weeks to get a recommendation from our attorney.

Mohamed Eldibany: The loan is due May 7, 2018, there is a huge balloon coming due.

Ed Shilka: We would be able to address this problem, Joe is coming back this Monday, and then we can take it to the committee meeting/board meeting at the next scheduled meeting. This is just a matter of legality and if Joe approves it, this is a done deal.

I would recommend to the board, pending a notation from the village attorney and if there is no problem, we can take a vote right after that. If you have a jumbo loan like this gentlemen is talking about, you're not going for 30 days for financing, it could take you up to 6 months to get your financing, if he misses his due date the fines are probably half of his mortgage and he cannot afford that.

Mohamed Eldibany: I thought this was probably the most intelligent solution, as the day care as a separate entity the taxes would also be much less.

John Bruce: So basically what we are looking at is a simple sub-division, with easement agreements and subject to the approval of the village attorney, which we will have an idea next week and in the meantime Trustee Sparr can schedule for committee meeting in December. We can make our recommendation now and the village and these gentlemen will know where they are at and then it will depend on the village attorney.

Jim Brock: We can make our recommendation and this will expedite it faster?

John Bruce: Yes.

John Bruce: Who would like to make the **MOTION**?

Jim Brock: I would like to make the **MOTION** that with the approval of the attorney, and a note to the attorney to make sure that the paper work includes the easements and fire prevention, and any utilities, and building up grades and anything that needs to be done.

SECOND: Rich Berkowicz

ROLL CALL: Albert Perez Yes

Rich Berkowicz Yes

Jim Brock Yes

John Bruce Yes

John Bruce: Understand that we are a recommending body; it is up to the Village Board to make the final decision. Contact from now on will be with Trustee Sparr, I will make sure that Mr. Shilka has the extra copy to review again, and he can go over it with Trustee Sparr for their committee meeting, Trustee Sparr will let you know the date of this meeting.

John Bruce: If there are no questions at this time, the chair would entertain a MOTION to adjourn.

Time approximately 7:50PM.

Albert Perez: So moved.

SECOND: Rich Berkowicz

All Ayes

Respectfully submitted

Shirley Shilka, Secretary

John W. Bruce

John W. Bruce, Chairman