

**DOWNERS GROVE LIQUOR COMMISSION
VILLAGE HALL COUNCIL CHAMBERS
801 BURLINGTON AVENUE**

Thursday, April 4, 2013

I. CALL TO ORDER

Chairman Strelau called the April 4, 2013 Liquor Commission meeting to order at 6:30 p.m.

II. ROLL CALL

PRESENT: Mr. Austin (6:37), Ms. Fregeau, Ms. King, Mr. Krusenoski, Chairman Strelau

ABSENT: Mr. Clary, Mr. Jacobson

STAFF: Liaison to the Liquor Commission Carol Kuchynka, Staff Attorney Dawn Didier, Village Attorney Enza Petrarca

OTHERS: Bob Johnson, Yusu Wang, Diana Johnson, Kam Fung, Albert Fung, Porfiria Piedra, Anahis Salgado, Jennifer Telitz, Nick Telitz, Christopher Peckat, Elias Nehra, Rob St.Clair, Dawn Rhodes, Amanda Luevano, Court Reporter

III. APPROVAL OF MINUTES

Chairman Strelau asked for approval of the minutes for the March 7, 2013 Liquor Commission meeting and asked members if there were any corrections, changes or additions.

With minor typographical errors corrected, the March 7, 2013 minutes of the Liquor Commission meeting were approved as written.

Chairman Strelau reminded those present that this evening's meeting was being recorded on Village-owned equipment. Staff was present to keep minutes for the record and a court reporter was present taking the minutes verbatim.

IV. APPLICATION FOR LIQUOR LICENSE

Chairman Strelau made the following statements:

"The first order of business is to conduct a public hearing for a liquor license application. For the benefit of all present, I would like to state that this Commission does not determine the granting or denial of the issuance of any license. We may at the end of each hearing, make a finding or recommendation with respect to the application. If necessary, the Commission may adjourn a hearing to a later date in order to have benefit of further information."

"At the conclusion of the hearing, the Commission will summarize its findings and determine any recommendations it wishes to make to the Liquor Commissioner."

"The Liquor Commissioner, who is the Mayor of Downers Grove, will, pursuant to Section 3-12 of the Ordinance, render decisions regarding issuance of available licenses within 60 days in order to consult the Plan Commission for its recommendations."

"Hearings by this Commission are held according to the following format: 1) reading of information pertinent to the application, 2) comments from the applicant, 3) comments from the public, 4) discussion by the Commission, and 5) motion and finding by the Commission."

Sushi House DG, Ltd. d/b/a Sushi House

Chairman Strelau stated that the next order of business was an application hearing for Sushi House DG, Ltd. d/b/a Sushi House located at 950 Warren Avenue. She stated that the applicant was seeking a Class "R-2", beer and wine only, on-premise consumption liquor license and a Class "O" outdoor liquor license.

Chairman Strelau asked that any individual(s) representing the applicant step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. Bob Johnson was sworn in by the court reporter. Mr. Johnson introduced himself as the business manager of Sushi House.

Chairman Strelau asked the applicant to present its case.

Mr. Johnson stated that they were seeking a beer and wine on-premise license for a sushi restaurant at 950 Warren Avenue which was the former Toot Toots. He stated that the restaurant is 1,700 square feet with 47 dining seats and a 10-seat sushi bar. He stated that they would also like an outdoor license.

Mr. Johnson stated that they expect to generate 8% in alcohol sales. Mr. Johnson advised that it is their management philosophy to have food service and that they do not allow patrons to just drink alcohol. Mr. Johnson stated that they will concentrate on serving premium sushi dishes and meals that are successful at the other locations.

Mr. Johnson advised the Commission that they educate their staff in proper service of alcohol and that all servers will be TIPS certified. Mr. Johnson stated that they have five other locations with food and liquor service and have been in business for 19 years.

Mr. Johnson stated that Mr. Wang will be the liquor manager at the location. He stated that his wife, Diana Johnson, will also be working at this location.

Ms. Fregeau asked if the liquor manager was present. Mr. Johnson stated yes. Ms. Fregeau asked if Diana was present. Mr. Johnson replied yes. Ms. Fregeau asked if he would like to have them sworn in or if he would speak on their behalf. Mr. Johnson replied that he is the business manager and would answer any questions on behalf of the restaurant, but they could be sworn in if the Commission had direct questions for them.

Ms. Fregeau asked about Mr. Wang's experience and noted that the application indicated he has experience from the Westmont location since 2003. Ms. Fregeau asked if Mr. Wang was BASSETT certified. Mr. Johnson replied yes. Ms. Fregeau asked if Mr. Wang had liquor handling responsibilities at the other location. Mr. Johnson replied yes.

Ms. Fregeau asked how many employees they plan to hire. Mr. Johnson replied 12-15. He stated that figure includes full and part time wait staff, cooks, sushi chefs and dishwashers.

Ms. Fregeau noted that they hold other liquor licenses and asked Mr. Johnson if they have had any violations in the past. Mr. Johnson replied that they had one violation in the past 10 years where a waitress served an underage person in the Village of Westmont. He stated that they had a violation hearing and took appropriate steps to revisit their policies from that incident. He stated that they revised their policy, retrained staff and revised their carding procedures. He recalled that happened to be about the time when the minor's license went to the vertical format.

Ms. Fregeau stated that the manual was thorough. She stated that the monthly meeting requirements were good and she liked the fact that they included provisions that they will not serve patrons drinks only.

Ms. Fregeau asked if the outdoor café photograph contained in the application materials depicted what they plan in Downers Grove. Mr. Johnson replied yes. He stated that was a picture of their Oak Park location. He noted that there are concrete planters which will provide screening in addition to the stanchions that he plans to put up at the Downers Grove location. He advised that the landlord did not want a permanent structure in the concrete. He stated they could add planters.

Ms. Fregeau stated that the passing of alcohol is a concern and cautioned them that might be easily possible with the use of the stanchions. She asked that they discuss other enclosure options with staff.

Mr. Austin stated that he was pleased that they will be locating to the downtown area. He echoed the concern of the outdoor set up. He stated it was common in Oak Park for the use of stanchions to designate café areas. He stated that the planters could be an additional barrier to the café. Mr. Johnson agreed.

Mr. Krusenoski asked about the address of the Westmont location. Mr. Johnson replied near Ogden and Route 83, on Pasquenelli Drive.

Mr. Krusenoski stated that Scarletti's has an outdoor enclosure that seems a more permanent and secure barrier in nature and asked Mr. Johnson to look at what they have installed.

Mr. Krusenoski stated that the Police Department conducts control buys. He stated that management sets the tone for proper liquor service. He stated that as they will have only 8% in alcohol sales, fines and fees could substantially outweigh the benefits of alcohol sales if they are caught for a violation. He hoped that they would be extra vigilant in training staff to ensure that minors with a vertical license are not served.

Ms. King stated that she was pleased that a sushi restaurant would occupy the space.

Ms. King stated that she did not see samples of identifications in the manual. She suggested that they add pictures of the Illinois driver's license to their manual as a visual aid.

Ms. King noticed that the manual contained information about Village fines and suspension for a violation and asked what the consequences would be to the employee if they serve a minor. Mr. Johnson replied that they do not have a set policy. He stated that they have only had one violation in the past 19 years. Ms. King suggested that they add a provision to the manual about the consequences of serving a minor. Mr. Johnson agreed.

Ms. King asked the age of servers. Mr. Johnson replied that all servers would be 21 and older.

Chairman Strelau noted the lack of sushi restaurants in Downers Grove and stated that she was pleased that an established business was coming to town.

Chairman Strelau advised that there were two disciplinary hearings following their application hearing. She encouraged them to safeguard their business and be sure they emphasize the value of the license upon their employees.

Chairman Strelau stated that she was concerned about the outdoor enclosure. She stated that outdoor service presents another set of difficulties to a license holder. She stated that the operation only lasts a few months and it is easy for things to happen if not monitored properly.

Ms. Fregeau stated that she liked the management plan contained in the manual and their procedures for over service intervention.

Chairman Strelau asked if there were any additional staff recommendations or comments pertinent to this application. Ms. Kuchynka replied that issuance of the license is contingent upon receipt of a Certificate of Occupancy, receipt of the annual fee, satisfactory background checks and dram shop insurance.

Hearing the testimony given in this case, Chairman Strelau asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to their Class "R-2" liquor license application.

MS. FREGEAU MOVED TO FIND SUSHI HOUSE DG, LTD. D/B/A SUSHI HOUSE LOCATED AT 950 WARREN AVENUE, QUALIFIED FOR A CLASS "R-2", BEER AND WINE, ON-PREMISE CONSUMPTION LIQUOR LICENSE. MS. KING SECONDED.

VOTE: **Aye:** Ms. Fregeau, Ms. King, Mr. Austin, Mr. Krusenoski, Chairman Strelau
 Nay: None
 Abstain: None

MOTION CARRIED: 5:0:0

Hearing the testimony given in this case, Chairman Strelau asked for a recommendation from the Commission concerning its finding of "qualified" or "not qualified" with respect to the applicant with regard to their Class "O" liquor license application.

MS. KING MOVED TO FIND SUSHI HOUSE DG, LTD. D/B/A SUSHI HOUSE LOCATED AT 950 WARREN AVENUE, QUALIFIED FOR A CLASS "O", OUTDOOR LIQUOR LICENSE. MR. KRUSENOSKI SECONDED.

VOTE: **Aye:** Ms. King, Mr. Krusenoski, Ms. Fregeau, Mr. Austin, Chairman Strelau
 Nay: None
 Abstain: None

MOTION CARRIED: 5:0:0

Motion carried.

Mr. Krusenoski asked Mr. Johnson when they planned to open. Mr. Johnson replied the end of May or beginning of June.

V. DISCIPLINARY HEARING FOR ALLEGED VIOLATIONS

Chairman Strelau made the following statements:

"Section 3-40 of the Downers Grove Municipal Code provides that the Local Liquor Commissioner may revoke or suspend any license issued if the Commissioner determines that the licensee has violated any of the provisions of this chapter or any State law pertaining to the sale of alcohol. Both under the Section cited above, and under Chapter 235, Section 5/7-5, Illinois Compiled Statutes, the Local Liquor Commissioner is required to hold a public hearing after notice to the licensee, in which the licensee is afforded an opportunity to appear and defend. Pursuant to Section 3-5 of the Downers Grove Municipal Code, this hearing is being conducted by the Local Liquor Commission at the request of the Local Liquor Commissioner."

"The Commissioner has the power to temporarily suspend a license without a hearing if there is reason to believe that continued operation of the licensed business would immediately threaten the welfare of this community. Such was not done in this case. The licensee may be represented by counsel, although he need not be for the purposes of this hearing."

Chairman Strelau asked if there was a signed stipulation in these cases. Ms. Didier replied yes.

Chairman Strelau made the following statements:

"In view of the stipulations, the order of this hearing will be substantially as follows:"

- A. Prosecution will read the signed stipulation into the record with the opportunity for the licensee to register its concurrence or non concurrence for the record.
- B. Prosecution may present any additional evidence in this case with the right of the licensee to cross-examine.
- C. Licensee may present any defense or mitigating evidence with right of prosecution to cross-examine.
- D. Summary of case by prosecution and defense."

"The prosecution should establish that timely notice of this hearing has been provided to the licensee."

"Witnesses shall be sworn."

"Strict rules of evidence will need not be adhered to although the Commission expects to exercise control over the hearing to ensure that irrelevant or repetitive testimony does not unduly prolong the hearing."

"A court reporter is present and will take the proceedings verbatim. Staff is also present for the purpose of summarizing the proceedings."

"The Commission will submit the findings and recommendations to the Local Liquor Commissioner regarding the existence and nature of any violation and the appropriate penalty, if any."

"Upon receipt of the recommendation of the Commission, the Commissioner will render a decision and the licensee will be notified in writing."

Gong Ho Restaurant - 1338 W. 75th Street

Chairman Strelau stated that the next order of business was to conduct a disciplinary hearing for Gong Ho Enterprises, Inc. d/b/a Gong Ho Restaurant located at 1338 W. 75th Street. She stated that the licensee has been charged with a violation of Section 3-25(a) of the Downers Grove Liquor Control Ordinance.

Chairman Strelau asked that any individual(s) representing the licensee step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. Kam Fung and Mr. Albert Fung were sworn in by the court reporter. Kam Fung introduced himself as the owner and manager. Albert Fung was present to represent Gong Ho Restaurant.

Chairman Strelau asked the prosecuting attorney to present her case.

Ms. Didier stated that the parties to this hearing before the Liquor Commission of the Village of Downers Grove by and through their attorneys, if any, hereby stipulate as follows:

1. Gong Ho Enterprises, Inc. d/b/a Gong Ho Restaurant, 1338 W. 75th Street, Downers Grove, Illinois, is the holder of a Class R-1 Liquor License #LQ-000027, issued by the Village of Downers Grove. That said Licensee has held a liquor license for this location from the Village of Downers Grove since December 1, 1998.
2. Notice of this hearing was served upon the Licensee by certified mail to its registered agent and by personal delivery to the manager of the licensed premises.
3. At approximately 5:44 p.m. on Wednesday, March 13, 2013 Downers Grove Police Officer Edwards and Downers Grove Police Officer Rau observed M.G., a special agent of the Downers Grove Police Department under the age of twenty-one (21), whose date of birth is October 2, 1995 (making her 17 years old), enter Gong Ho Restaurant located at 1338 W. 75th Street, Downers Grove.
4. The special agent was seated at a booth in the restaurant and waiter Yi Chao Mai, asked her for her order.
5. The special agent ordered a bottle of Miller Lite beer while Officers Edwards and Rau observed her.
6. That Yi Chao Mai, whose date of birth is February 3, 1978, then asked the special agent for identification.
7. That the special agent produced her valid Illinois driver's license indicating her date of birth as 10-02-1995, and reading "Under 21 until 10-02-2016" on the face of the license.

8. That Yi Chao Mai viewed the special agent's driver's license and then returned the driver's license to the special agent.
9. That Yi Chao Mai went to the bar area, retrieved a bottle of Miller Lite beer, returned to the booth and placed the open bottle of beer in front of the special agent .
10. Officers Edwards and Rau who witnessed the events in the foregoing paragraphs, identified themselves and advised that the delivery of an alcoholic beverage had been made to a minor.
11. Yi Chao Mai was issued a Village ordinance administrative citation for delivering alcohol to a minor in violation of Section 3-25(a) of the Downers Grove Municipal Code.
12. The Officers advised owner Mr. Kam Fung that notice of further action would be forthcoming from the Downers Grove Liquor Commission.

Ms. Didier asked that the signed stipulation be entered into the record as Village's Exhibit #1.

Chairman Strelau accepted the signed stipulation as Village Exhibit #1.

Chairman Strelau asked the licensee to present its case.

Albert Fung stated that Gong Ho has held a liquor license since 1998 without incident. He stated that their server made a mistake. He stated that they had a private meeting with the employee to discuss the incident. He advised that the employee misread the license and said he thought the date of birth was 1985. He added the employee had worked a long shift, however, that was no excuse for the violation.

Albert stated that this was their first violation. He stated that they have met with all employees and have retrained them. He stated that they have a new policy where employees must bring an ID to the manager who will recheck the date of birth.

Mr. Austin stated that Albert mentioned that staff was re-trained and asked what the training entailed. Albert replied that staff was required to re-take the BASSETT four hour on-line certification class. Albert stated that they reviewed the features of the identifications and added that they will no longer accept the Under 21 identification.

Mr. Austin asked if they had a training manual in place at the time of the violation. Albert replied yes and added that they keep a copy of the manual in the office. He stated that employees are given a copy for reference upon hire. Mr. Austin asked if the manual referenced vertical licenses. Albert replied they addressed the vertical identification in the manual but changed the policy not to accept it. Mr. Austin was concerned that the manual referenced the identification but the vertical license was accepted.

Albert advised that they will now be holding monthly meetings to address licenses and make sure that employees do not have any misunderstanding about their policy.

Mr. Austin noted their good record since 1998.

Ms. King asked Albert if they were busy at the time of the violation. Albert replied no. He stated there were three waiters on duty and they were not understaffed. Albert stated that the employee took the license, it did not register, and he thought the date of birth read 1985.

Ms. King asked about the experience of the server. Albert replied that he had been working for them for two years.

Ms. King asked what the consequences were to the employee for selling to the minor. Albert stated that they considered terminating him, but decided not to as this was his first mistake and that he has been a good employee. He stated that he is the provider for his family and they also took that into consideration.

Mr. King also noted their good record.

Mr. Krusenoski asked if Mr. Yi held a BASSETT certification. Albert replied no. Mr. Krusenoski asked how long Mr. Yi had been serving alcohol. Albert replied for the past year. Mr. Krusenoski stated that Mr. Yi should have obtained the certification within four months of beginning his service of alcohol. He stated that the absence of formal training along with employees only being given a copy of the manual was of concern.

Mr. Krusenoski asked what their alcohol sales percentages were. Albert replied less than 7%. Mr. Krusenoski stated that this violation was a costly mistake. He stated that management sets the tone and tenor for responsible liquor service. He stated that the vertical license is an immediate red flag that the person is under 21 and stated that this will be an expensive lesson. He stated that they must continue with the monthly training and that all new employees must receive their BASSETT certification.

Ms. Fregeau stated that they might want to spend time with Village staff to revisit their manual. She asked Albert if they submitted a manual at the last renewal. Albert replied yes. Ms. Fregeau stated that there are materials from the State as well as from Village staff that could assist them with their training program.

Chairman Strelau asked staff if licensees are required to submit BASSETT certifications at the time of renewal. Ms. Kuchynka replied yes. Chairman Strelau asked Albert if they are aware of that requirement. Albert replied yes. Chairman Strelau asked how they account for not supplying Mr. Yi's BASSETT certification. Albert replied that it was an oversight.

Chairman Strelau asked if Gong Ho has applied for renewal. Ms. Kuchynka replied that renewals are not due until June. Ms. Kuchynka confirmed that Mr. Yi's certification was not included with their 2012 submittals. Ms. Kuchynka stated that staff cannot verify the number of employees for every establishment and relies on licensees to submit accurate documentation. Chairman Strelau advised Albert that it is their responsibility to get the proper documents to the Village. She stated that liquor training needs to be taken seriously. She stated that this violation should be kept forefront in their employee's minds and that they need to be more proactive in their liquor training. Albert agreed.

Chairman Strelau asked if the defense had any further testimony. Albert replied no.

Ms. Didier summarized by stating that Gong Ho Enterprises, Inc. d/b/a Gong Ho Restaurant located at 1338 W. 75th Street, stipulated to a violation of Section 3-25 (a) of the Downers Grove Liquor Control Ordinance which prohibits the sale of alcohol to a minor. She recommend that the licensee be found guilty of a violation.

Upon hearing the evidence presented in this case, Chairman Strelau requested a motion as to whether the licensee be found guilty or not guilty of a violation of Section 3-25(a) of the Downers Grove Municipal Code.

MR. KRUSENOSKI MOVED TO FIND GONG HO ENTERPRISES, INC. D/B/A GONG HO RESTAURANT LOCATED AT 1338 W. 75TH STREET, GUILTY OF VIOLATING SECTION 3-25(A) OF THE DOWNERS GROVE LIQUOR CONTROL ORDINANCE. MS. KING SECONDED.

VOTE:

Aye: Mr. Krusenoski, Ms. King, Mr. Austin, Ms. Fregeau, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

Chairman Strelau asked Albert if they would prefer fines or suspension. Albert replied that they would prefer a suspension in lieu of a fine. Chairman Strelau advised that there will be an administrative fee to cover the costs of the hearing.

Playa del Sol - 500 W. 75th Street

Chairman Strelau stated that the next order of business was to conduct a disciplinary hearing for Playa Del Sol Restaurant Incorporated d/b/a Playa del Sol located at 500 W. 75th Street. She stated that the licensee has been charged with a violation of Section 3.25(a) of the Downers Grove Liquor Control Ordinance.

Chairman Strelau asked that any individual(s) representing the licensee step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Ms. Anahis Salgado and Ms. Porfiria Piedra were sworn in by the court reporter. Ms. Piedra introduced herself as part owner and Ms. Salgado introduced herself as part owner and liquor manager.

Chairman Strelau asked the prosecuting attorney to present her case.

Ms. Didier stated that the parties to this hearing before the Liquor Commission of the Village of Downers Grove by and through their attorneys, if any, hereby stipulate as follows:

1. Playa Del Sol Restaurant Incorporated d/b/a Playa del Sol, 500 W. 75th Street, Downers Grove, Illinois, is the holder of a Class R-1 Liquor License #LQ-000157, issued by the Village of Downers Grove. That said Licensee has held a liquor license for this location from the Village of Downers Grove since August 15, 2012.
2. Notice of this hearing was served upon the Licensee by certified mail to its registered agent and by personal delivery to the manager of the licensed premises.
3. At approximately 4:47 p.m. on Wednesday, March 13, 2013, Downers Grove Police Officer Edwards and Downers Grove Police Officer Rau observed M.G., a special agent of the Downers Grove Police Department under the age of twenty-one (21), whose date of birth is October 2,

1995 (making her 17 years old), enter Playa del Sol located at 500 W. 75th Street, Downers Grove.

4. The special agent was seated at the bar in the restaurant and Laura Ruiz-Perez, asked her for her order.
5. The special agent ordered a bottle of Miller Lite beer while Officers Edwards and Rau observed her.
6. That Laura Ruiz-Perez did not ask the special agent for identification.
7. That Laura Ruiz-Perez retrieved a bottle of Miller Lite beer from the cooler, returned to where the special agent was seated, poured the beer into a glass and placed it in front of the special agent.
8. Officers Edwards and Rau who witnessed the events in the foregoing paragraphs, identified themselves and advised that the delivery of an alcoholic beverage had been made to a minor.
9. Laura Ruiz-Perez was issued a Village ordinance administrative citation for delivering alcohol to a minor in violation of Section 3-25(a) of the Downers Grove Municipal Code.
10. The Officers advised manager Israel Salgado that notice of further action would be forthcoming from the Downers Grove Liquor Commission.

Ms. Didier asked that the signed stipulation be entered into the record as Village's Exhibit #1.

Chairman Strelau accepted the signed stipulation as Village Exhibit #1.

Chairman Strelau asked the licensee to present its case.

Ms. Salgado stated that on the day of the violation she and Porfiria were at the accountant's office doing their taxes for the year. She stated that they had asked Ms. Ruiz-Perez to come in early and cover the restaurant in their absence as she was a long-term, trusted employee.

Ms. Salgado stated that they have made changes since the violation occurred. She stated that they mentioned the vertical license in their manual, however, have changed policy that they will no longer accept the vertical identification. Ms. Salgado advised that they have meetings with staff and reinforce liquor service issues regularly.

Ms. Salgado asked that all employees sign a contract that they understand their liquor policy and if they sell to a minor they will be terminated. She stated that they have updated the manual to include the termination policy.

Ms. Salgado advised that she has posted signs throughout the establishment near the server computers where orders are entered and throughout the restaurant.

Ms. Salgado advised that the bar manager will now remind staff and ask if they have checked for identification before drinks are supplied.

Ms. Salgado stated that their manual clearly stated that employees were to card anyone who appeared under the age of 35. She stated that the employee was supposed to ask for identification.

Ms. Salgado confronted her employee about why she did not ask for ID and was given a nasty response and the employee did not seem to care. She stated that Ms. Ruiz-Perez received a fine. She stated that the employee knew the establishment was in trouble. Ms. Salgado stated that Ms. Ruiz-Perez was terminated.

Ms. Fregeau stated that she was encouraged by the changes that they have made. She asked if there were any other instances where one or both of the managers are not at the establishment. Ms. Salgado advised that Porfiria covers the AM shift and she covers the PM shift. She stated that they split shifts to ensure one of them are there at all times. She stated that on that particular day, both of them were not there, as they were preparing their taxes.

Ms. Fregeau asked how many employees they had. Ms. Salgado replied 12, including managers. Ms. Fregeau asked Ms. Salgado how many hours a week she works. Ms. Salgado replied 40.

Ms. Fregeau asked if part-time employees are certified. Ms. Salgado replied yes.

Ms. Fregeau asked Ms. Salgado where she felt the training may have failed. Ms. Salgado stated that she had done everything possible, that she regularly meets with staff and was certain that they understood their serving policies. She stated that Ms. Ruiz-Perez did not seem to care that she received a ticket. She stated the employee's attitude about the violation being the owners' problem clearly showed that she did not care.

Ms. Fregeau stated that management sets the culture of the restaurant. She stated that it has only been seven months since the license was issued.

Ms. Fregeau asked if all part time employees are allowed to serve alcohol. Ms. Salgado replied both full time and part time staff members may serve alcohol.

Ms. Fregeau stated that it is important for staff to accept responsibility for liquor service. She asked Ms. Salgado to review her manual amendments with Village staff. She stated that staff may have additional materials that will help with their training program.

Mr. Krusenoski stated that it seemed they were victim of a rogue employee. He asked about the bartender who will remind employees about the importance of carding and asked if there was a bartender at the time of the incident. Ms. Salgado replied that the bartender was not at the bar at the time of the incident. She added that Ms. Ruiz-Perez directly obtained the beer from the cooler. Mr. Krusenoski stated that they could further protect themselves by not allowing servers to access the alcohol directly from the bar.

Mr. Krusenoski was not sure that their absence would have made a difference to this server.

Ms. Salgado replied that either she or Porfiria seat and greet patrons as they enter. She stated that the bar is across from where they stand and they can see everyone that comes in and regularly monitor the bar area. Ms. Salgado stated that if they notice someone looks underage, they will remind employees to check the identification and also tell employees to check identification of all individuals in a party or group if one appears young. She stated that if employees have a question about an identification, they are encouraged to speak with management.

Ms. King stated that she was concerned that a 17 year old was served at 4 p.m. in the afternoon at a few licensed venues.

Ms. King asked if employees were given the revised manual. Ms. Salgado replied yes and that all employees were called into a meeting and required to sign a contract that they are aware of the new policies, including termination.

Ms. King asked if they have signage posted throughout. Ms. Salgado replied that they have posted additional signage. Ms. Salgado noted that staff was also given sample pictures of the identifications.

Mr. Austin stated that they applied in 2012 and that their manual appeared good. He stated that they told the Commission about their regular training and addressed their policies. He stated that it was unfortunate to have an employee who did not care about the consequences of the violation.

Mr. Austin asked Ms. Salgado and Ms. Piedra if they were former employees of LaMex. Ms. Salgado and Ms. Piedra replied yes. Mr. Austin noted some concern that they were going to bring over existing employees as there was a previous violation. Ms. Salgado stated that Ms. Ruiz-Perez was an employee brought over.

Mr. Austin stated that they did not have the benefit of hearing the previous violation, as the Commission did. He stated that the Commission was told by the former owner of LaMex that employees were retrained and there was a change in policy. He stated that the training collapsed again.

Mr. Austin stated that at their application hearing they told the Commission that in the absence of one manager, another would be present, however, in this case, they were both gone. He stated that there seems to be a breakdown in policy. He felt bad that there was a rogue employee, but management let it happen. He stated that they need to be vigilant from now on.

Mr. Austin asked how often they held training. Ms. Salgado replied that they explain what management expects from employees, go over policy and hold regular meetings.

Chairman Strelau stated that their manual needs to be a living, breathing document. She stated that liquor service is as serious as they make it. She stated that staff can provide them with materials and do an on-site training. She reminded them that they will be tested again and that it was incumbent on management to set the tone and make sure that employees know how important it is to follow the rules. She stated that the one employee they thought they could rely on let them down, however, it is their problem. She stated that going forward, they must be vigilant.

Ms. Didier summarized by stating that Playa Del Sol Restaurant Incorporated d/b/a Playa del Sol located at 500 W. 75th Street, stipulated to a violation of Section 3-25 (a) of the Downers Grove Liquor Control Ordinance which prohibits the sale of alcohol to a minor. She recommend that the licensee be found guilty of a violation.

Upon hearing the evidence presented in this case, Chairman Strelau requested a motion as to whether the licensee be found guilty or not guilty of a violation of Section 3-25(a) of the Downers Grove Municipal Code.

MS. KING MOVED TO FIND PLAYA DEL SOL RESTAURANT INCORPORATED D/B/A PLAYA DEL SOL LOCATED AT 500 W. 75TH STREET, GUILTY OF VIOLATING SECTION 3-25(A) OF THE DOWNERS GROVE LIQUOR CONTROL ORDINANCE. MS. FREGEAU SECONDED.

VOTE:

Aye: Ms. King, Ms. Fregeau, Mr. Austin, Mr. Krusenoski, Chairman Strelau

Nay: None

Abstain: None

MOTION CARRIED: 5:0:0

The Motion carried.

Chairman Strelau asked what type of penalty they preferred. Ms. Salgado replied that they would prefer suspension in lieu of a fine.

The Commission took a five minute break.

V. OLD BUSINESS

Chairman Strelau asked if there was any discussion, update from staff or comments from the Commission regarding any old business.

Ms. Kuchynka included information concerning Gnarly J's and their proposed business plan in the monthly packet. She added that they have also prepared a power point presentation for tonight's meeting.

Ms. Kuchynka stated that tonight's discussion was a continuance from last month's meeting concerning Gnarly J's. She requested that the Commission discuss whether to create a new license classification or amend an existing license classification to accommodate their liquor license request.

Ms. Kuchynka stated that representatives were present to discuss their business proposal.

Mr. Nick Telitz introduced himself as the owner of Gnarly J's. Ms. Jennifer Telitz introduced herself as the manager of Gnarly J's, Mr. Elias Nehra introduced himself as head of security of Gnarly J's and Chris Peckat introduced himself as the consultant for Gnarly J's.

Mr. Telitz provided the Commission with a presentation outline and stated that he had prepared a power point presentation to share with the group.

Mr. Telitz advised the Commission of their Mission Statement and stated as follows:

“Gnarly J's, along with our employees will strive to give the highest level of service, to ensure our guests leave feeling good about their experience at Gnarly J's. This means having a fun, clean, and relaxing environment with delicious food for our guests, and a place to enjoy your favorite sports games either on tv or actually playing the games our facility has to offer.”

Mr. Telitz stated that Gnarly J's closest competitors were Four Lakes Lodge in Lisle, the Foundry in Aurora and Hooters in Downers Grove. He stated that Four Lakes Pub and The Foundry both offer outdoor sand volleyball and bags but only during the summer months. He noted Hooters offers a similar menu and a sports environment, but Gnarly J's goes above and beyond anything Hooters can provide with their sand volleyball courts, indoor bag toss, pool, darts and bowling.

Mr. Telitz advised that Gnarly J's is owned by he and his wife, Jennifer. He stated that the kitchen will be managed by Danny Scheurer and their chef is Dave Grey. He advised that their head of security is Elias Nehra. Mr. Telitz stated that he currently is a crew leader for a local municipality. He stated that Jennifer is an experienced manager and highly seasoned worker and has held almost every position in the industry; from hostess to corporate trainer. He advised that Danny has 9 years of experience working in kitchens and is the founder and CEO of Save-a-Vet. He advised Dave has owned his own restaurant and is currently the owner of "Git Boned" gourmet dog treats. He advised that Elias has 5 years of military training and has provided security at local area establishments and concert venues.

Mr. Telitz advised that their Facebook page calculates the age and demographics of their followers. He stated that they hope to attract customers from Downers Grove, Lisle, Naperville and Chicago area. He stated that they will target mostly young, urban professionals in the 30-45 year old range.

Mr. Telitz advised that they have leagues at the facility six nights per week through mid-May. He stated that there are 100-150 people per night in the facility playing volleyball.

Mr. Telitz advised that they have reached out to the United Bag Toss League (UBTL) to manage their bags leagues. He stated that they reached out to ADA (American Darters Association) to start leagues in the facility. He stated that they will be also starting a weekly sand dodge ball league.

Mr. Telitz advised that they have a contract with All Events Entertainment to host karaoke in the "Garage" on Friday nights.

Mr. Telitz stated that Gnarly J's will have a full slate of specials designed to get customers through the door every night.

Mr. Telitz advised that Gnarly J's will be advertising through radio on Q87.7, ESPN1000, US99 and 97.1 the Drive. He stated that they also have connections with WGN720am, through Save-a-Vet and certain local TV news outlets. He stated they will continue to use Facebook as a conduit to their core customers along with radio and newspaper media.

Mr. Telitz advised that Gnarly J's can offer year round sand volleyball and bag toss. He stated that the facility features two full size indoor sand courts. He added that they also have a 15 by 37 foot indoor field turf area for bag toss.

Mr. Telitz stated that there is ample space at the facility to host charity events. He added that they support Save-a-Vet, St. Baldricks, Marine Corps Toys for Tots, Autism speaks, Illinois Veteran Food Drive and advised that he and Jennifer are active with the Downers Grove Moose Lodge.

Mr. Telitz showed the Commission pictures of the facility.

Mr. Telitz stated that they do not plan to operate as a night club.

Mr. Telitz stated that upon entry, patrons enter the main bar and "Front Yard" area. He stated there is seating area and pool tables next to the main bar. He stated that the room will have a jukebox and dartboards. He noted that tv's will be scattered throughout to keep patrons entertained.

Mr. Telitz stated that beyond the "Front Yard" area is the "Back Yard" with the artificial turf and bag game area. He stated that there is seating on the stage area where people can watch the bags games. He stated they have put in turf to represent grass and noted the decor with windows to the sand courts that

makes it feel as if you are next to the garage in your back yard. He stated that the DJ booth will be vinyl wrapped to look like a stainless steel grill.

Mr. Telitz stated that the rear "Garage" area houses the two lane bowling alleys, seating and bar area. He stated that this area will only be open on Thursday, Friday and Saturday or for private functions and will be closed off during the week. He stated that area is decorated to look like a man cave.

Mr. Telitz stated that the "Side Yard" area houses the sand courts, bar and seating area.

Mr. Telitz stated that they are fully cash funded.

Mr. Telitz stated that the volleyball leagues will terminate at the end of May. He stated that leagues have nowhere to go in the winter to play indoor sand volleyball besides Gnarly J's .

Mr. Telitz stated that Sunday through Wednesday, they will have three less security people as the "Garage" area will be closed off. He stated that they will have a dedicated chef on staff at all times. He stated that they will have a line cook and dishwasher as well.

Mr. Telitz advised that security staff will monitor the door. He stated that they will have a scanner at the door. He stated that they plan to have spot sweeps of the parking lot areas. He stated that all employees will be BASSETT certified. He stated that Thursday through Saturday they will have seven security personnel that will rotate throughout. He stated that they will be equally trained in all security aspects of the facility.

Mr. Telitz stated that their hours of operation will be Monday through Thursday 3pm to 1am, Friday 3 pm to 2 am, Saturday 12 noon to 2 am and Sunday 12 noon to 1 am. He stated that during football season they will open at 11 am.

Mr. Telitz stated that they anticipate 40% food sales, 35% liquor sales and 25% in leagues and activity sales such as volleyball, pool, darts and bags leagues and bowling rentals. He stated that the full menu will be available up until one hour prior to close. He stated that they included a menu in their paperwork.

Mr. Telitz advised that they will have live music.

Mr. Telitz stated that the facility will be 21 and over. He stated that they will be available for special events, private parties, corporate outings, birthday parties and fund raisers. He stated that there will be no kids allowed in the facility. He felt it would be easier to run and safer limiting it to a 21 and over crowd at all times.

Mr. Telitz stated that they revamped the original menu. He stated that the quantity of items on the menu was reduced. He stated that they would rather have higher quality items rather than quantity. He stated that they will have appetizers, a few soups, burgers, paninis, salads and pizza.

Mr. Telitz stated that their security plan is important to them. He stated that they hope to open a business in town and continue raising their kids in Downers Grove.

Mr. Telitz stated that they will not accept vertical identification. Mr. Nehra stated that traffic tickets will not be accepted.

Mr. Telitz stated that they will not advertise or encourage a night club atmosphere. He stated that they will reserve the right to refuse service. He stated that they will not allow in patrons with baggy pants or those who violate their dress code or code of conduct. Ms. Telitz noted that they do not have a strict dress code for the volleyball leagues as it would be difficult to enforce the casual clothing they wear.

Mr. Krusenoski stated that Lucky Strike has a very restrictive dress code and suggested that they review their dress code. He stated that they do not allow ball caps. Ms. King asked how they enforce the dress code. Mr. Krusenoski stated that it is posted at the front.

Mr. Telitz stated that supporting the military is important to them. He stated that they have done work with Save-A-Vet and their head of security is a veteran. He stated that they hope to hire vets to help in the facility.

Mr. Telitz stated that they will have pool tables, a bag area and dart boards.

Ms. Fregeau asked if the floor plan was to scale. Mr. Telitz replied yes.

Ms. Kuchynka stated that Village staff conducted a walk through inspection of the facility on Tuesday. She distributed photos of the facility for the Commission to review. She stated that the original floor plan had changed from what was presented to the Commission at last month's meeting. She stated that it was determined that some of the tables were actually cocktail size and could not accommodate four seats and or room for dining.

Ms. Kuchynka advised that occupancy totals for each room are being calculated by Community Development. She noted that each room will have a placard with occupancy loads and the floor plan layout.

Mr. Telitz stated that the outside deck may be the only area not to scale.

Mr. Telitz hoped to make a better life for themselves and establish a future for their sons.

Ms. Kuchynka stated that the current Certificate of Occupancy allows volleyball only. She stated that they have to obtain an amendment to allow food and potential liquor service. She stated that the facility needed a re-inspection by Community Development and Fire Prevention. She stated that there has been clean up work done at the facility along with painting and cosmetic work. She stated that based upon changes to the floor plan, occupancy loads will need to be re-calculated.

Ms. Kuchynka advised that they may need to obtain a few permits which is being handled by Alex Pellicano of the Community Development Department and they will advise Legal if there are any other issues that they need to address before the revised Certificate of Occupancy is issued.

Ms. Kuchynka asked the Commission to determine how they want to proceed with their request. She stated that the Village may amend the existing code or create a license classification for this facility.

Ms. Fregeau asked if there was a staff recommendation. Ms. Petrarca stated that staff was open to discussion and was hoping to receive direction from the Commission. Ms. Kuchynka advised that North Beach had a license created for them specifically in the past. She stated that they did not have a 21 and over requirement. She recalled that the facility was in excess of 16,000 square feet and they had a 125 dining seat requirement.

Ms. Kuchynka advised that Rita's has a 21 and over age requirement along with Q, the billiard hall facility. Ms. Kuchynka stated that Gnarly J's has indicated a willingness to operate 21 and over.

Chairman Strelau asked the Commission for questions.

Ms. King stated that she liked the concept and felt that they came back to the Commission with a comprehensive plan. She stated that the Village has had issues with licensees in the past that say they will operate in a certain way and inevitably attract a different crowd from what the applicant intended. She stated the licensees seem to market toward a younger crowd because their income requirements are not being met by older clientele they anticipated.

Ms. King wanted to protect the Village from a licensee that amends an establishment that drastically changes operation from what was presented to the Commission. She stated that other than floor plan changes, the Commission has no other way to further regulate these licensees.

Mr. Telitz stated that the bags area will remain. He stated that the turf is set down and the boards bolted in the ground. He stated that they have no desire to turn Gnarly J's into a club. He stated that the facility will be 21 and over. He stated that it is not their intention to change what they are proposing to the Commission.

Ms. King stated that Mr. Telitz works full time and noted that they have children. She asked how much time the two of them will realistically be at the facility to oversee it. Ms. Telitz stated that their family helps with the children. She stated that she will be at the facility during the day and Nick will be at the facility at night. She stated there will be someone at the facility at all times. She stated that they both run the 72 hour a week volleyball league between the two of them week and that they have a few employees to help them out. Mr. Telitz stated that he is at the facility 25-30 hours a week. He stated that going to work does not seem as much of a burden when you own the place.

Ms. King mentioned Another Round. She noted that the facility can expand and contract in size, depending on the size of the crowd and is manageable. She stated that their facility is quite large. Mr. Telitz noted that the Garage area will only be open 3 nights per week. He stated that the area is capable of being fully closed off, which would be their way of downsizing the facility. Ms. King asked if there was only the bowling alley. Mr. Telitz replied the area has two lanes of bowling, there is a bar, karaoke stage, dining seats and lounge area. Mr. Telitz stated that it would be very difficult to close off the front or side volleyball rooms.

Ms. King stated that another concern is the combination of physical sports and alcohol. She asked if their liability is high. Mr. Telitz replied yes. Mr. Telitz stated that the leagues requires players sign waivers and play at their own risk. Ms. Fregeau asked if the Village would be held liable in any manner. Ms. Petrarca stated that the Village would not be involved in that liability.

Mr. Telitz noted that most of the players are very serious about playing volleyball. He stated that they play on tours and are incredibly intense.

Mr. Austin asked staff about the capacity and seating in relation to the 20% maximum bar seating. Ms. Kuchynka replied that it might be beneficial to mirror the 125 dining seat requirement of other licenses, which has been a standard figure for this type and size of facility. She stated that staff is concerned if they can meet that requirement when the "Garage" area that contains seating is closed. Mr. Austin asked how many seats they have. Ms. Kuchynka stated that she did not recalculate the number as she wanted to discuss whether the Commission would be willing to include the cocktail dining tables into the

calculation. She quickly counted the number of seats in the side yard volley ball area which totals 62. She noted that the outdoor dining seats would not apply and could not be included in the calculation as their use is limited to the summer months. She stated that the front dining area totaled roughly 12 seats, with three tables at the stage totaling 6. She stated that the dart board/front stage area totals 21, but excluded the high top cocktail tables on the DJ stage area. She calculated the "Garage" area seating at 40.

Ms. Fregeau counted 70 seats in the "Side Yard". She stated that there were 13 tables of four, two three-seat high tops and the seats at the bar. Ms. Kuchynka stated that staff does not count physical bar seats and was counting those similar to Rita's which may not exceed 20% of the number of dining seats. Ms. Kuchynka noted the correct total seating in the side yard would be 68.

Ms. Kuchynka stated that the occupant load in the sand cannot be calculated toward dining space as the use is not conducive for dining.

Mr. Telitz stated that the front area has room for more tables if they need to meet the 125 dining requirement with the Garage closed. Ms. Kuchynka stated that this is the preliminary floor plan and not being considered as part of an application. She stated at this time they could request something else. Ms. Kuchynka stated that if the Commission crafts a license, they do not necessarily have to meet a requirement of 125 dining seats. Mr. Austin stated that they would not be able to qualify for the seating requirement that Rita's currently has. Ms. Kuchynka agreed. She believed that they have a little less seating and based on a rough calculation, with the Garage area being closed, they will be short of the 125 seat requirement by approximately 16.

Ms. Petrarca stated that Gnarly J's also does not qualify for the existing Rita's license classification because they are not operating as an entertainment facility providing live entertainment and dancing. Mr. Austin stated that the license can be amended by changing the definition of entertainment. Ms. Petrarca stated that the Village has a definition of a recreation license which more closely matches what they are looking to do. Ms. Petrarca stated either way an ordinance will need to be created or amended. Ms. Fregeau noted that a license class could be crafted for them.

Ms. Telitz stated that they have space for dancing and live entertainment. Ms. Petrarca stated that, however, is not their primary business. She stated that they have stated that recreation is their primary business which is defined as a place where the public may participate in activities including, but not limited, to bowling, gaming, billiards, indoor simulated golf. She added that such facility shall include an area where food is prepared on the premises.

Ms. Fregeau asked how they are going to market themselves. She stated that the slide presentation stated Eat. Drink. Compete. She stated that their first introduction to the Commission was for them to operate as a recreational facility. Ms. Telitz stated that they want to have that label but they do not meet the requirements of that classification as that is not their primary business. Chairman Strelau stated that they do not meet that class, by definition, because by their own declaration, only 25% of their revenues are dedicated to the recreation aspect.

Mr. Austin asked staff if the Village defines primary business as 51% and if it was viewed from a monetary perspective. Ms. Petrarca replied more than 51% of revenue.

Ms. Telitz stated that they do not want to be portrayed as a bar or a restaurant. She stated that they are a recreation facility. Ms. Kuchynka noted that staff was having difficulty with this operation as it is difficult where we can categorize them into an existing class.

Mr. Austin stated that the Rita's classification does not include sports. Ms. Petrarca agreed. She stated that their primary focus was the dancing, music and entertainment, which is what Gnarly J's has indicated they do not want to be. Ms. Petrarca stated that a license can be crafted where it could say that recreation is the primary focus in lieu of primary business. She stated based on their declaration, most of their revenue will be generated from food sales.

Chairman Strelau stated her concern was that they do not want to be a bar, however, 75% of the revenue will come from eating and drinking. She asked what they mean when they do not want to be considered North Beach and asked what the negative connotation was. Mr. Telitz replied that it operated as a night club one night and then had high school night battle of the bands.

Chairman Strelau stated that they have 427 people on their Facebook and they can see the demographics of those who are on their site. She asked what the demographic of the 427 was on their site. Mr. Telitz stated that the median age was 35-44, followed by the 25-30 age range for demographics.

Chairman Strelau stated that her concern was there is a business with 40% food, 35% liquor and 25% sports entertainment and cannot see the composition of how they are going to run the business to operate as a sports business. She was not sure how they were not a bar. She stated that the high tables are a problem. She stated that people are not going to go there for dinner. She stated that food will be a supplement to the other activities at the establishment, where hopefully, recreation will be the primary. She stated that she sees liquor sales as being a huge driver of the business and that is what the Commission may be concerned with.

Ms. Fregeau stated that Gnarly's mentioned at last month's meeting that they wanted liquor service as the draw for the pool, darts and bags leagues. Mr. Telitz replied that the pool tables, darts and bags are what will draw people into the facility. He felt that the food and liquor will keep patrons in there. He stated that he cannot get 51% of his revenue from \$1 pool and dart games. He stated he will get people in that come every week because they will be playing in the leagues. Mr. Telitz stated that alcohol will be a driver, but he noted that the facility will be 21 and over. He stated that they want to be responsible.

Ms. Fregeau asked if they plan to have dancing. Mr. Telitz replied no. Ms. Telitz stated that in the Garage area they will have karaoke on a stage and there is a dancing area. Ms. Telitz added that if they book events they can also have live entertainment. She stated that there will be dancing and entertainment, but not in the main part of the facility.

Ms. Fregeau stated that she visited the facility in the afternoon. She stated that the Commission will work with them collaboratively, but she personally felt that the establishment feels like a bar. She stated as soon as you walk in, there is a very large bar in the front, a second bar in the Side Yard and a bar in the Garage. She stated that it felt like a bar. She stated that tables and chairs and food are all elements of the facility. She noted that there was a DJ area near the bags area and turf. She stated that there was a volleyball area.

Ms. Fregeau stated there are potentially 24 people allowed on the court at one time and 16 people bowling with the remainder of people waiting for a recreational activity, eating or drinking. She stated that they still have 20,000 feet to patrol and was a concern. Ms. Telitz stated that under Downers Grove Codes they are not allowed to promote themselves as a bar, nor does she want to focus on that to get people through the door. She stated although it looks like a bar, it is a comfortable hangout and stated it is a bar. Ms. Fregeau stated that others have presented themselves a certain way and there are reasons that operations change, however, licenses are very specific. She stated that there is a spirit and intent of the Downers Grove Liquor Code.

Ms. Fregeau stated that the Commission looks at the ratio of security to people. She stated that 20,000 square feet is a lot to monitor. She stated that when alcohol is involved it complicates activities and is a challenge. Mr. Telitz noted that 2,000 square feet of the 20,000 square foot facility is volleyball courts. Ms. Fregeau stated that accommodates 24 people and they could fill the remaining 16,000 square feet with a lot of people which presents challenges.

Mr. Austin asked Ms. Petrarca if the Commission was concerned with Rita's and their 125 seat requirement, and Gnarly's closes the doors to a certain area, the classification only says it should have dining on the premises with a seating capacity of not less than 125 and just because a door is closed does not mean they do not have the capacity. Ms. Petrarca stated that is not how the Village enforces the minimum requirements. She also noted the Code reads the seating must be available. Ms. Kuchynka stated that based on a preliminary count, they have 102 seats. Chairman Strelau noted that the dining requirement is only one aspect of the E class license that they do not meet. She stated they are not an entertainment facility. Ms. Petrarca stated that the entertainment definition states a facility where a facility is maintained, advertised and held out to the public as a restaurant where dancing and/or live entertainment is available. Ms. King asked if volleyball is entertainment. Ms. Petrarca stated that the recreation definition is more akin to what they are trying to establish themselves as.

Ms. Petrarca stated that they are clearly wanting to operate as a recreational facility as opposed to an entertainment facility. Mr. Austin asked if the problem with the recreational facility is the problem with the revenue. Ms. Petrarca agreed.

Mr. Austin stated that the best move may be to adjust the definition of entertainment. Chairman Strelau asked why. Mr. Austin replied that he went to a baseball game and felt that was "entertainment". Chairman Strelau stated that the ordinance has been written specifically to accommodate what Rita's is and not designed to be amended and slotted for another facility. She stated that they are trying to determine what the right mix needs to be to accommodate Gnarly's request. Chairman Strelau stated that nobody is saying this cannot be done, what is being said is that the current classifications do not match their proposal. She stated that the Commission is trying to figure out what the mix should be. She stated in the past the Council has preferred that ordinances be specific to certain venues.

Ms. Austin stated that the recreational facility definition does not mention primary business. Ms. Petrarca stated that the Class R license states the "primary business" is that of a recreational facility. She stated that they have to read the definition, then go to the class specifics. Mr. Austin asked if the Village removed the E-3-B license. Ms. Petrarca replied yes.

Ms. Petrarca stated the best way to address Gnarly's request was to create a specific class for this potential licensee. She stated it would be helpful to hear some specific requests and requirements from the Commission. She stated that staff could draft specific activities that will take place on the site that the Village can hold them accountable for. She stated that if they deviate from what is presented, the Village will be able to hold them accountable for non-compliance.

Chairman Strelau stated that the draft classification should start with the things they want. Ms. Petrarca asked if they want to promote their activities as a recreational facility. Mr. Telitz stated that they want volleyball, bags, pool and darts. Ms. Fregeau asked that they will not be advertising as a bar. Mr. Telitz stated that they will not advertise as a bar or night club.

Ms. Telitz stated that they fit all the requirements of the entertainment class with the exception of the entertainment definition. She stated that they have 125 seating, are in excess of 12,000 square feet, will be 21 and over. She asked if they could tweak that license in the Code. She stated that they need their

license by July 1st or they are out. She stated that they have put a lot of money in the facility. She stated that if the creation of the license was going to take awhile, they would not be able to meet their deadline. She asked if there was a way to allow them to get the Class E license and get them functional. Ms. Telitz stated that she has \$6,500 a month that she needs to pay in rent and has the funds to get the facility up and running. She stated that she may be able to extend the agreement with the new property owner, but they will be expecting rent payments. She stated they do not have 3-4 months to wait for the creation of a license.

Ms. Petrarca advised whether a license class is created or the existing class amended, the Village Council needs to amend the Code. She stated that there are no Class E licenses available. She stated that the time line would be approximately the same. Chairman Strelau stated that they might not make the July deadline. Ms. Fregeau noted that the Council has to place their item on a meeting agenda then on an active agenda for vote.

Ms. Petrarca stated that if the Code is amended or approved by the Village Council, they will still have to come back to the Liquor Commission to actually apply for the license. Mr. Telitz asked about the Council time line. Ms. Petrarca stated that assuming the Commission recommends approval of any draft ordinances, they are looking at going before the Council in May or June.

Ms. Kuchynka asked if they have had an opportunity to speak with the landlord about extending the terms of their lease. Mr. Telitz replied no. Ms. Kuchynka stated that staff would contact them on Gnarly's behalf to keep them apprised of their situation. Ms. Telitz understood that anyone that comes into the building will need to go through the same obstacles as they do. Chairman Strelau stated that it is not Gnarly's issue, it is the process of the Commission and Council that takes time to change ordinances.

Ms. Petrarca asked again if there will be dancing or not as she heard each of them say yes and no. Chairman Strelau stated that when they have a band, DJ or karaoke, will there be dancing. Ms. Telitz stated that there will be dancing. Mr. Telitz stated that if the license is being held up by the dancing, then they will not. He stated that most will be special events, if anything.

Chairman Strelau asked how many special events they might have. Mr. Telitz replied Save-A-Vet, a few from St. Baldrick's and a few other. Ms. Telitz anticipated 1-2 special events per month. Ms. Fregeau asked for clarification about special events. Ms. Petrarca stated that if they plan a large charity event, they will be asked to disclose them to the Village in order to alert the Police Department, etc. She stated any out of the ordinary event or events that would draw a large crowd and go beyond the scope of normal day to day operation must be disclosed in advance.

Ms. Kuchynka stated that staff can pull a number of requirements from various existing categories, such as the 21 and over, monthly reporting events from the E class, the recreation definition and craft something for them.

Mr. Austin stated his primary concern about the sale of alcohol is that the Commission has seen problems with specific establishments in particular. Chairman Strelau stated that is why the Commission may need to design a license to eliminate problems. Mr. Austin suggested an alternative. He stated that they should not pick on one particular licensee but make blanket amendments to the Code. Chairman Strelau stated then the Commission should be taking care of any open issues with existing licensees now, which they cannot seem to do.

Mr. Austin stated in looking at the definition of the entertainment/restaurant facility's only issue in being restrictive to the Gnarly's operation is that it is a public place advertised as a restaurant and where dancing and live entertainment is available. He suggested "or sporting activities" be added.

Ms. Fregeau stated that the spirit and intent of the ordinance goes beyond that.

Mr. Austin stated that he did not want to jeopardize their investment. He stated that sometimes there are bad apples and the Commission needs to deal with it.

Ms. Fregeau stated that she would like to prohibit marketing to college age kids, dollar beer specials, college nights, pajama parties and special things that could develop into problems. Mr. Peckat stated that would severely limit their advertising. Ms. Fregeau stated that she would be concerned if they have a college night with \$1 beers or shots or bombs. Mr. Peckat stated he thought that was a statewide ban, not to a particular license. Ms. Fregeau stated that would be her preference. She stated that she was aware that the State also has rules on promotions as well. Mr. Peckat stated that those would fall under the Happy Hour regulations.

Chairman Strelau advised the Gnarly's representatives that this is the same process that every other requestor for a liquor license has gone through. She stated there is a standard process in creating a license and/or amending a limited license. She stated that it is not the Village's intent to be punitive toward a particular licensee. She stated that they focus on the process and how long it can take to get a license. She stated that their proposal keeps changing and the license is not clear cut, which is why the discussion needs to take place. She stated that they are being taken through the same process as everyone before them has gone. She stated that they are interested in tailoring a license to how they want to operate.

Chairman Strelau stated that there are concerns that they are going to hear because the Commission has seen licensees go awry. Ms. King stated that once they go awry, the Commission has no recourse.

Mr. Austin stated that if the Village is concerned about promotions and advertising to certain age groups, they should fashion an ordinance that no provider of alcohol shall do it. He stated that they are picking on individual applicants. He stated that he agrees that certain promotions need to be addressed, but should be addressed across the board.

Mr. Austin stated that he would like to get this licensee moving so that Downers Grove does not lose their investment and at next month's meeting, address promotion issues across the board. He stated that he would like to amend the Class E definition and make available a second license in the category.

Chairman Strelau noted that typically there are not problems with licensees holders other than with the E license class.

Mr. Austin stated that the Commission should not be holding them back. Chairman Strelau stated that the Commission is not holding them back, but are following the license request process. Mr. Austin stated that the process is broken.

Chairman Strelau stated that the Commission will only be making a recommendation and there is nothing that says it will pass when it goes before Council. She stated that they have had discussions on the license classes they have seen in the past. She stated the Commission thought those were discussed thoroughly, however, were sent back to them by the Council for even further discussion. Chairman

Strelau stated this action could make the process take even longer. Mr. Austin agreed that there is no guarantee and that any proposal can be rejected by the Council.

Chairman Strelau asked if the Commission would prefer a motion. Ms. Petrarca stated that staff is present to solicit the Commission's recommendations.

MR. AUSTIN MOVED TO AMEND THE ENTERTAINMENT/RESTAURANT FACILITY DEFINITION TO INCLUDE SPORTING ACTIVITIES.

Mr. Krusenoski asked if the second amendment would be to increase the amount of licenses available to two. Mr. Austin agreed.

Mr. Krusenoski asked if there were any percentage restrictions or primary business requirements for this class. Mr. Austin replied no. Ms. Petrarca stated that the primary business would be entertainment, restaurant and sporting activities. Ms. Petrarca stated that she would recommend using recreation activities as opposed to sporting activities in the definition. Mr. Austin moved to amend his motion.

Chairman Strelau stated that the recreation aspect of the license would be 25 percent. Ms. Petrarca stated this license differs from the recreation in that the primary business is not recreation. She added this is amending the definition of the entertainment/restaurant class.

Mr. Austin amended his motion as follows:

MR. AUSTIN MOVED TO AMEND THE ENTERTAINMENT/RESTAURANT FACILITY DEFINITION TO INCLUDE RECREATION ACTIVITIES. MS. KING SECONDED.

Mr. Krusenoski asked what the Village Council considered a bar. Ms. Petrarca stated that bars are not allowed in Downers Grove. Mr. Krusenoski asked how are bars defined. Ms. Petrarca stated that bars are not defined. She added that primary business has been restaurant or 51% in food. Ms. Petrarca stated that is how the Village has enforced the primary business. Mr. Krusenoski asked how the Village enforces it if they do not audit the books. Ms. Petrarca stated that the Village has not audited the books and added that establishments submit a declaration page listing out the percentages of their business.

Mr. Krusenoski understood Mr. Austin's point that the Commission tinkers with and creates custom licenses, it goes to the Village Council, then gets referred back. He stated that they will decide whether they will expedite this application or send it for further discussion.

VOTE:

Aye: Mr. Austin, Ms. King, Ms. Fregeau, Mr. Krusenoski

Nay: Chairman Strelau

Abstain: None

MOTION CARRIED: 4:1:0

The Motion carried.

MR. AUSTIN MOVED TO INCREASE THE NUMBER OF AVAILABLE E CLASS LICENSES TO TWO UPON PASSAGE OF THE AMENDMENT TO THE DEFINITION OF THE ENTERTAINMENT/RESTAURANT LICENSE. MR. KRUSENOSKI SECONDED.

VOTE:

Aye: Mr. Austin, Mr. Krusenoski, Ms. King

Nay: Ms. Fregeau, Chairman Strelau

Abstain: None

MOTION CARRIED: 3:2:0

The Motion carried.

Ms. Fregeau stated that she sees a difference between the two facilities (Rita's/Gnarly's) and their experience with the E Class license.

Mr. Austin stated that for purposes of new business, the Commission needs to address the problem not with the license class, but with the licensee's activities. He stated that the Commission should consider prohibiting things that should not take place across the board.

Ms. Fregeau stated that she does not believe that increasing the number of licenses will expedite the process. Mr. Austin stated that this ordinance may get a different reception.

Ms. Petrarca stated that with adoption of this amendment, it will allow the other Class E license holder to expand their scope as well. Mr. Austin stated that Rita's could now do recreation activities.

Ms. Petrarca stated that they have a floor plan change request on file. She stated that would be right into play with what Rita's is proposing. Ms. Fregeau stated that she was extremely concerned about Rita's. Mr. Austin was concerned about that license as well. Ms. Petrarca stated that the Village will be limited on what they can do if this ordinance passes. Mr. Austin stated that the Commission can make blanket changes to address problems and promotion/activities across the board.

Chairman Strelau stated that the Commission will find out if the Council has interest in a broad-based license or if they are interested in handling them on a case by case basis.

Mr. Austin stated that the outcome will be determined on the Council's reception of the Commission's recommendation.

Chairman Strelau advised that Mr. Austin has recommended what Gnarly's had requested and that was to have the Class E definition amended to include recreation activities and to get an additional license available. She advised that the recommendation will go to staff to draft, the draft ordinance will be forwarded to the Village Council to be placed on a workshop meeting, then on a meeting for adoption. She stated that it could also be sent back to the Commission for specificity. She stated that there is no certainty to the license amendment or time line. Ms. Petrarca stated that there is no control over the time frame.

Mr. Krusenoski stated that expediency was not the reason he voted in favor of the change. Mr. Austin agreed. He stated that they are taking a different approach to licenses and in the future may recommend changes across the board that would affect all licensee promotions.

Chairman Strelau stated that both motions passed. Mr. Peckat asked if the license is now reserved for them. Mr. Krusenoski replied no. Ms. Fregeau stated that there is only a recommendation for it and it is not official yet. Ms. Petrarca stated that once it is created, technically anyone can apply for it.

Mr. Telitz thanked the Commission for their time and consideration. Ms. Fregeau stated that they put a lot into their presentation and answered a lot of questions for them. She stated that the Commission is a recommending body and that they are respecting the licensing process.

Mr. Telitz stated that this is a scary process as he has put everything he has into this business. Mr. Austin stated that this matter will be before the Village Council and encouraged them to attend that hearing on their behalf.

Ms. Fregeau asked Ms. Telitz asked if they check to make sure nobody is bringing alcohol into the facility. Ms. Telitz stated that if they are caught with alcohol, they will be barred from the facility. Ms. Fregeau asked if they watch behaviors. Ms. Telitz replied yes. She stated that they have had to kick a few people out. Mr. Telitz stated that the leagues are informed at the beginning of the season that bringing any alcohol into the facility will not be tolerated. Ms. Telitz stated that is also printed on the volleyball contracts.

Ms. Fregeau asked staff if Jason of Lao Sze Chuan received his certification. Ms. Kuchynka replied that she was unsure and would contact the licensee to confirm.

Ms. Fregeau stated that at renewal, existing staff should provide copies of their certification. Ms. Kuchynka stated that all licensees are requested to provide copies of employee certifications or a list of employees with their certification type. She stated that she does not have the resources to check if every one of their employees turn them in. Ms. Kuchynka stated that the application states that the licensee attests to the completeness of the application and required submittals. She trusts that the information that they provide to her is true and correct.

VI. NEW BUSINESS

Chairman Strelau asked if there was any discussion, update from staff or comments from the Commission regarding any new business.

Ms. Petrarca advised the Commission that staff met with the Park District about special events on Park District property. She stated that they are also interested in creating a liquor license to hold weddings and events at some of their facilities. She stated that the museum has received rental interest. Chairman Strelau asked if the Recreation Center has a license. Ms. Petrarca stated that the license is on the books, however, no license is issued currently. Ms. Petrarca stated that some events they are planning may be covered by a Special Event license issued by the Mayor.

Ms. Fregeau stated that the Commission may want to consider how Aurora denied events for certain reasons. She stated that they might want to look at or consider special events and require food or certain specific factors for each event.

Chairman Strelau asked if the Village has ever denied a Special Event in the past. Ms. Kuchynka was not aware of any. She stated that there are a number of local churches that hold events year after year, without incident.

Chairman Strelau stated that she was interested how the Naperville Rib Fest is now requiring tickets versus cash.

Ms. Petrarca advised that there are two disciplinary hearings for next month's meeting.

Ms. King asked if the Commission could receive an informational chart showing violations and how many incidents where the under 21 licenses were shown. Ms. Kuchynka stated that she could supply the Commission with the suspension overview chart that logged violations for the past 10 years.

Ms. Fregeau asked if the Commission could receive a copy of the most recent liquor manual on file at the time of the violation. Ms. Kuchynka agreed to provide them in the packet. She stated that prior to the disciplinary hearing, she will review them with the license holder and make updates accordingly.

Chairman Strelau asked if Westbrook Market renewed their liquor license. Ms. Kuchynka replied that licensees are not up for renewal until June. Chairman Strelau stated that there was a sign posted on the door that they were not selling liquor and asked staff to look into it. Ms. Kuchynka stated that it could have been an issue with the State license and that she would contact the licensee to find out.

Mr. Austin stated that he would be interested in seeing a list of what establishments have promoted that would be questionable activities or against Village Code. Chairman Strelau stated that when licenses are specific, the Commission may have a more expedient method to deal with violations. She stated that unspecific activities tend to be harder in interpreting violations. She stated that in the past they have tried to make licenses specific so that the Commission to help them know what is supposed to be going on and when things do not go as planned.

Ms. Kuchynka advised that she has two disciplinary hearings and two applications on file. She stated that she also has floor plan change requests on file and would put them on a future agenda.

VII. COMMENTS FROM THE PUBLIC

There were none.

VIII. ADJOURNMENT

Concluding business for the evening, Chairman Strelau called for a motion to adjourn.

Ms. Fregeau moved to adjourn the April 4, 2013 meeting. The meeting was adjourned by acclamation at 9:45 p.m.

**VILLAGE OF DOWNERS GROVE
ZONING BOARD OF APPEALS
FEBRUARY 27, 2013 MINUTES**

Call to Order

Chairman White called the meeting to order at 7:30 PM.

Roll Call

Present: Mr. Domijan, Ms. Earl, Ms. Majauskas, Mr. McCann, Ms. Souter, Ch. White

Absent: Mr. Enochs

A quorum was established.

Staff: Damir Latinovic, Village Planner

Tom Dabareiner, Director of Community Development

Also Present: Mary & Jeff Eckdahl, 6204 Middaugh Ave; Mark & Margaret Maxwell,

6214 Middaugh Ave; Margaret Hogan, 6308 Powell St.;

Andy Schmidt, 6200 Middaugh Ave.

Minutes of January 23, 2013 meeting

Ms. Souter noted that in the 2nd paragraph from the bottom on page 2, the question as to how much time has passed was not made by Ms. Earl, but by Ms. Souter.

Ms. Earl moved to approve the minutes of the January 23, 2013 meeting as corrected. Ms. Souter seconded the Motion.

AYES: Ms. Earl, Ms. Souter, Mr. McCann, Ch. White

NAYS: None

ABSTAIN: Mr. Domijan, Ms. Majauskas

The Motion passed.

Meeting Procedures

Chairman White explained the function of the Zoning Board of Appeals, and reviewed the procedures to be followed during the public hearing, verifying with Staff that all proper notices have been published with regard to Case ZBA-01-13. He called upon anyone intending to speak before the Board on the Agenda item to rise and be sworn in, as the public information portion of the meeting is an evidentiary hearing. Chairman White explained that members of the Zoning Board of Appeals all have had the opportunity to review the documents for the petition prior to the meeting. In order for a requested variation to be approved there must be a majority of four votes in favor of approval. Chairman White added that the Zoning Board of Appeals has authority to grant petitions without further recommendations being made to the Village Council.

.....

ZBA 01-13 A petition seeking a side yard setback variation for an addition to the existing home. The property is zoned R-1, Single Family Residential. The property is

located on the west side of Middaugh Avenue approximately 580 feet north of 63rd Street, commonly known as 6204 Middaugh Avenue, Downers Grove, IL (PIN 09-18-406-053); Mary and Jeff Eckdahl, Petitioners and Owners.

Mr. Latinovic reminded everyone that the order of presentation was changed at the beginning of the year with Staff making its presentation first.

Staff's Report

Mr. Damir Latinovic, Planner for the Village, explained the petition before the Board. He displayed an overhead projection of the property located at 6204 Middaugh Avenue, on the west side of Middaugh. It is approximately 26,625 square feet in area, 88' wide, and is improved with a single-family home. The petitioner is proposing to construct a one-story 375 square foot addition in the rear with a new sunroom, extended kitchen and larger den. The addition would be in line with the existing north wall of the house. The petitioner requests a side yard setback variation to construct the addition 8.05 feet from the north side property line, instead of the minimum 8.8-foot side yard setback required.

Mr. Latinovic displayed the floor plan of the existing home showing where the extension would be constructed. Elevation drawings depicted the home from various sides. He said that the existing house is a nonconforming structure because it fails to comply with the side yard setback requirement from the north property line. He explained that a nonconforming structure may be reconstructed, structurally altered or enlarged provided that the nonconformity is not increased, and that new construction conforms to current zoning requirements. In this situation the petitioner would increase the nonconformity.

Mr. Latinovic referred to the Zoning Ordinance's nine Standards for Granting Variations, noting Staff's belief that seven of the nine Standards have not been met. Staff's opinion is stated in its report dated February 27, 2013. As further stated in Staff's report, Staff finds no physical hardship or practical difficulty associated with this property which would require the addition to be placed in the proposed location. The petitioner has the ability to construct the addition offset nine inches from the existing north wall of the house to meet the required 8.8-foot side yard setback. He said if the Board finds that all Standards have been met and votes to approve the requested variation, that it be subject to Staff's condition as stated in the afore-mentioned Staff report.

Mr. Domijan asked what year the Ordinance was changed from five-foot setback to 10% allotment. Mr. Latinovic said it was changed in 2006. Prior to that it was a five-foot setback for the side yard. The setback for this property in the R-1 District is now 10% of the width of the property.

Petitioner's Presentation

Mary Eckdahl and Jeff Eckdahl, residents of 6204 Middaugh, asked for clarification of Staff's recommendation, and Mr. Latinovic responded that Staff recommended denial; however, if the Board finds in favor of the Petitioner, Staff requests that it include the condition stated in Staff's report.

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Ms. Eckdahl explained that they want to build the addition because they are very family oriented. They bought the house in 1986 when the house was conforming to the then-existing Ordinance. The opportunity has now come about for them to increase the size of the home. Architects were interviewed, and Ms. Eckdahl wanted initially to make the kitchen larger. The architects recommended an extension on the whole house, and the Eckdahl's are in favor of that. She said they are not asking for a large amount of variance. They are making a change to the neighborhood as well as the house with a significant financial commitment. They've lived in Downers Grove all their lives and want to stay here.

Ms. Majauskas asked what other options were reviewed before requesting the variance. Ms. Eckdahl said they looked at bringing one of the walls in to comply with the Code, and that would result in the loss of a full wall. She showed how the room would be changed on an overhead floor plan of the house. It changes the balance of the space. That is why they've requested the variance.

Mr. Eckdahl said they spend most of their time in the Family Room, and the loss of the wall would affect the use of the room. He then gave his interpretation of the Ordinance with regard to the requested variation. He has no intention to change the existing setback. They are trying to understand the process.

Ms. Souter asked for clarification, saying that the portion in question will have a window, but she doesn't understand the explanation regarding the loss of the wall. Mr. Eckdahl said that without the wall, they would not be able to center the TV on the wall, as it is the only useful wall in the room.

Ms. Majauskas asked how far they are bumping the wall out, and Mr. Eckdahl said it is about three feet to the back. Ms. Eckdahl said that they have a 300 ft. deep lot, and want to place the addition on the back of the house. The house was constructed in 1986, and extending the house opens it to the beautiful view in the back. Mr. Eckdahl said their present family room has no windows to see the back of the property. The architects recommended this type of expansion.

Chairman White asked for clarification that they are requesting about nine inches, and Mr. Eckdahl said that was correct.

Chairman White then called for anyone who wished to speak either in favor of, or in opposition to the petition.

Ms. Margaret Maxwell of 6214 Middaugh Ave, said she moved to the suburbs because this is where she wants to live and raise her family. She is excited that her neighbors want to put this type of money into their home to improve it. She said to the Village representative that she understands that they have to follow the Code, however she also thinks there comes a point when they have to think outside of the box. Their house will bring more taxes with this expansion. She supports the request 100%. The petitioners have been great neighbors and active in the community as volunteers.

Mr. Andy Schmidt of 6200 Middaugh Ave, said he has been a neighbor of the Eckdahl's for twenty-five years. He said they have made many improvements to their home. The variance would be adjacent to his property line. The Eckdahl's spoke with him and his wife about their

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plans, and explained that the Village said this would be an encroachment. Mr. Schmidt said he and his wife didn't feel losing ten inches would cause them any problems, but it would enable the Eckdahl's to improve their home. He and his wife support this request.

Mr. Mark Maxwell of 6213 Middaugh Ave, which is two doors south of the Eckdahls, said that a few years ago his neighbor built a much larger addition to his house with 5 ft. setbacks, and he asked for an explanation of how that happened, since the Ordinance was changed in 2006. Mr. Latinovic said he could speak with him about it after the meeting, as he is unfamiliar with that house. Mr. Maxwell said he measured the distance of the home at 6220 Middaugh Ave and it was exactly five feet. He was amused that the Board could not keep up with the changes that have been made. The Board's job comes down to one basic, simple decision, and that is whether there is any reason based in logic that this petition should be denied. He said there is none. No one would be adversely affected. He asked that they uphold their jobs as public servants and grant the appeal.

There being no further comments or questions, Chairman White closed the opportunity for further public comment.

Board's Deliberation

Chairman White called for comments from the Board.

Mr. Domijan said he usually walks the line with respect to the conformity of the Code, however, in this case he doesn't see that it impinges on adjacent properties, sight lines, etc.

Ms. Majauskas said she loves the addition and understands that it is a small amount. She also loves that the neighbors have come in support. However, in this case there are two things that bother her. The architects can make recommendations, but she hasn't seen any other options tried. In addition, there is nothing unique about the situation. If this is granted, it will set a precedent for many more houses in the Village to request a variation.

Ms. Earl said she walked the property and studied the site. Usually she is a stickler for walking the line; however, in this case it boils down to 3'-10" to the west, and .75' to the north. Had they decided they wanted to increase the height that would have been allowed. With the requested variation, the house stays in line at 3'-10" before it jogs in for the bay window. She felt that this proposal made sense for this property. There is a huge grade difference between the properties, and the lot is extremely deep. Ms. Earl said the owners could have moved back twenty-feet or more, but all they are asking for is a small amount in the side yard. She will support this.

Chairman White said that this Board decides whether the variation is small enough and consistent with the whole big picture. He thinks this is reasonable.

Mr. McCann said the Code specifies the requirements and if the Board as a body makes a subjective opinion as to when there should be a variation without meeting the requirements, all of a sudden the Board is rewriting the Code. He is aware that it is only a few inches, but asked at what point it becomes an issue. The Village made a decision at some point to increase the amount of setback space between houses, which requires compliance. Mr. McCann said complying with the Code does not cancel their ability to build the addition and granting the

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variation is inviting additional requests of this nature. He doesn't see any unique circumstances to grant the variation requested.

Mr. Domijan said that in the past nonconforming structures were extended without modification to be in compliance. That is more egregious than this could be. It makes no sense to allow the jog in the corner of the structure.

Ms. Majauskas said her concern is that she wants to see something else, other ideas they considered before making the decision on this proposal.

Mr. Domijan said he has no interest in looking at their options, because the Board is not there to design the addition for them.

Mr. McCann said he could see the legitimacy of both points of view, and the Board has to decide which point of view to approve and how to proceed with this. Downers Grove has traditionally been lenient, perhaps too lenient.

Ms. Majauskas said she thought the issue was whether the petitioner actually tried to work with the architect to find another option. She sees a straight line created by the architect that matches what the petitioner wants.

Ms. Souter said she has gone back and forth on this. She agrees that alternatives would help in making the decision. At the same time the neighbors are in favor of the addition. However, if the Board were to grant a variance here, they would have to grant it in other cases. What she comes back to is why is the Board there. They are there to listen to reasons to grant variances when the proper circumstances exist. Given that, and her walk on the property, she is in favor of granting this. It is a very small amount.

Chairman White asked if everyone has had an opportunity to express his or her opinion.

Ms. Earl said that the amount of lot coverage played into her decision, as well as the size of the variance, which was minute compared to what they could have done. Neighbor support was also significant in making her decision.

Mr. Domijan moved, seconded by Ms. Earl that in case ZBA-01-13 the Board approve the variation as requested, subject to the following condition recommended by Staff on page 4 of its report of February 27, 2013:

- 1. The proposed addition shall substantially conform to the Site Grading Plan prepared by Spaceco Inc., dated November 28, 2012 and Architectural Plans prepared by Derrick Architecture dated December 5, 2012, last revised 01/10/2013 attached to staff report dated February 27, 2013 except as such plan may be changed to conform to Village codes, ordinances, and policies.**

AYES: Mr. Domijan, Ms. Earl, Ms. Souter, Ch. White

NAYS: Ms. Majauskas, Mr. McCann

The Motion to approve passed with a vote of 4:2, and the Petitioner's request for a variation is granted.



Mr. Latinovic said that Jeff O'Brien is no longer with the Village, and the Department is in transition. He said if the Board has any questions when they receive their packets to be sure to contact Staff.

Upon voice vote, Chairman White adjourned the meeting at 8:17 PM.

Respectfully submitted,

Tonie Harrington
Recording Secretary