

**DOWNERS GROVE PUBLIC LIBRARY
BOARD OF TRUSTEES
PUBLIC HEARING AND ACTION ON PROPOSED 2015 BUDGET AND TAX LEVY
AND REGULAR MONTHLY MEETING
AUGUST 27, 2014**

MINUTES

1. **Call to order.** President Kathleen DiCola called the meeting to order at 7:30 p.m.
2. **Roll call.** Present: Trustee Susan Eblen, Trustee Wendee Greene, Trustee Daniel Loftus, Trustee Thomas Read, President Kathleen DiCola. Absent: Trustee David Humphreys.

Trustee Humphreys monitored the meeting by telephone and participated in discussion but was not considered formally present and did not vote on any matters.

Also Present: Director Rick Ashton, Assistant Director for Public Services Bonnie Reid, Assistant Village Manager Michael Baker, Chicago Tribune TribLocal Reporter Dawn Rhodes, Downers Grove Resident Stephanie Rice.

3. **Welcome.** President DiCola welcomed visitors and staff.
4. **Public Hearing and Board Action on Proposed 2015 Budget and Tax Levy.** President DiCola opened the public hearing.
 - a. Staff presentation of Proposal. Ashton presented the proposal in detail. Revenues were estimated at \$4,998,187, an increase of 4.18% over expected 2014 actual figures. Expenditures were proposed at \$5,042,500, an increase of 6.4% over expected 2014 actual figures. After completion of the building renovation, the 2015 proposal reflects an emphasis on operations, with special attention to staff compensation. The budget-over-budget property tax impact is a 5% total increase. The budget-over-actual impact is a 2.94% increase.
 - b. Public comments. Resident Stephanie Rice asked about the relationship of the proposed 2015 total budget to the financing of the 2014 renovation project. Board members responded to explain that the renovation project had been funded from reserve funds on hand.
 - c. Board questions and comments. Read commented on the difference between the 5% budget-to-budget and 2.9% budget-to-actual property tax increases. He questioned how the expenditure plan, with an overall 7% compensation budget increase, could be supported.

DiCola asked about the proposed 7% overall salary budget change. Ashton responded that an across-the-board raise is not proposed. Rather, some market-driven adjustments to classification and pay for certain professional and technical positions will be brought to the Board for further consideration.

Humphreys commented by telephone that he strongly supported a substantial increase in compensation. Public expectations and Board expectations of staff work performance have risen with the building program, and the adjustment is needed.

Loftus commented that he could not support the proposed budget and tax levy because he had unfortunately been absent and unable to participate in the earlier Board discussions on the matter. He stated that he thought a 7% salary budget increase is larger than necessary.

- d. Board action. It was moved by Greene and seconded by Eblen THAT the Proposed 2015 Budget and Tax Levy be approved. Roll call: Ayes: Eblen, Greene, Read, DiCola. Nays: Loftus. Abstentions: None.

5. Approval of Minutes.

- a. Regular Monthly Meeting, July 23, 2014. Read requested a correction to the Minutes as drafted. Under Agenda Item 11, a change should be made to reflect that he had made a comment about the distance of the photocopier from the Magazine area, not a request to staff to consider relocation. With this correction, it was moved by Read and seconded by Loftus THAT the Minutes of the Regular Monthly Meeting of July 23, 2014 be approved as presented. Roll call: Ayes: Greene, Loftus, Read, DiCola. Nays: None. Abstentions: Eblen.
- b. Special Meeting, August 13, 2014. It was moved by Read and seconded by Eblen THAT the Minutes of the Special Meeting of August 13, 2014 be approved as presented. Roll call: Ayes: Eblen, Read, Greene, DiCola. Nays: None. Abstentions: Loftus.

6. **Approval of August invoices and other financial reports.** It was moved by Loftus and seconded by Eblen THAT operating invoices totaling \$92,108.45, construction invoices totaling \$333,334.38, and credit memos totaling \$316.25 be approved and July 2014 payrolls totaling \$187,149.44 be recognized. Roll call: Ayes: Eblen, Greene, Loftus, Read, DiCola. Nays: None. Abstentions: None.

7. **Public comment on agenda items.** President DiCola invited comment. There was none.

8. **Public comment on other Library business.** President DiCola invited comment. There was none.

9. **Unfinished business.**

a. Proposed policy on use of study rooms and conference rooms. Reid and Ashton presented the proposed policy. Greene requested a change to “TV/DVD equipment” in the description of available equipment. With this change, it was moved by Eblen and seconded by Loftus THAT the proposed policy on use of study rooms and conference rooms be approved. Roll call: Ayes: Eblen, Greene, Loftus, Read, DiCola. Nays: None. Abstentions: None.

b. Library building renovation project update. Ashton reported that the project was nearing completion, and that only a few items would be pending in September, including furniture deliveries. DiCola commented on the material for the north stairway, equipment in the teen area, and the overall impact of the children’s area.

c. Update on plans for celebration of completion of building renovation project. Ashton reported on the plans and asked Board members to plan to be present at 10 a.m. on Saturday October 18 for a brief dedication ceremony.

10. **New Business.**

a. Proposed policy on library card expiration. Ashton and Reid presented the proposal. Under the new policy, library cards would not have an expiration date. The Board discussed the proposal, for further consideration and possible action at the September 24 meeting.

b. Proposed schedule of holidays and closings for 2015. Greene provided a correction to the proposed list, changing the Staff In Service Training date to Friday January 16. With this change, it was moved by Loftus and seconded by Greene THAT the proposed schedule of holidays and closings for 2015 be approved. Roll Call: Ayes: Eblen, Greene, Loftus, Read, DiCola. Nays: None. Abstentions: None.

c. Illinois State Library Edge Initiative and Per Capita Grant Application. Report. Ashton reported on the requirements and requested a Board member volunteer to assist in fulfilling requirements by viewing a webinar on the topic. Greene and Read volunteered. Ashton agreed to assist them with this activity.

d. Proposed process for Director’s annual performance evaluation. Ashton presented the proposed process. The Board informally agreed to proceed.

- e. Proposed Change in Authorized Contacts for the Library's credit card account. It was moved by Greene and seconded by Loftus THAT Rachel Kruty's name be removed from the list of Authorized Contacts and that the name of Katelyn Vabalaitis be added. Roll Call: Ayes: Eblen, Greene, Loftus, Read, DiCola. Nays: None. Abstentions: None.

11. **Report of the Director.** Ashton summarized his written report and commented that Community School District 99 had once again supplied to all Board members and their guests a season pass to all Downers Grove South High School and Downers Grove North High School athletic, musical, and dramatic events.

12. **Board member comments and requests for information.**

Greene invited all Board members to the Downers Grove North High School football game on Friday evening.

Read commented that the large Board packets are difficult for his computer printer to handle. Ashton agreed to supply printed Board packets to him and any other Board member as needed.

13. **Adjournment.** President DiCola adjourned the meeting at 8:36 p.m.

**VILLAGE OF DOWNERS GROVE
ZONING BOARD OF APPEALS
AUGUST 27, 2014 MINUTES**

Call to Order

Chairman White called the meeting to order at 7:00 PM.

Roll Call

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

Absent: Ms. Majauskas

A quorum was established.

Staff: Patrick Ainsworth, Planner; Kelley Chrise, Planner; Stan Popovich, Planning Manager

Also Present: Graham Grady, Taft Law, 111 E. Wacker, #2800, Chicago, IL; Brandon Barnes, Fry's Electronics, 16741 Tara Belle Pkwy., Naperville, IL; Tessa McFarland, Fry's Electronics, 600 E. Brokaw Road, San Jose, CA; Lawrence Okrent, Jason Jarrett, Okrent Associates, Inc. 122 S. Michigan Ave., Chicago, IL; Eileen Fitzgerald, 1561 Warren Avenue, Downers Grove; Brian Krajewski, The Warren Crossing Condo Assoc., 1541-1561 Warren Ave., Downers Grove; Mike Ryan, Matt Meiers, Tony Tremonte, St. Mary of Gostyn, 444 Wilson St., Downers Grove

Minutes of July 23, 2014 meeting

Ms. Souter moved to approve the minutes of the July 23, 2014 meeting, which was seconded by Mr. Zaba.

AYE: Ms. Souter, Mr. Zaba, Mr. Domijan, Ms. Earl, Mr. McCann, Ch. White

NAY: None

The Motion passed unanimously.

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 the cases on the Agenda. He called upon anyone intending to speak before the Board on the Agenda items 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. He noted that Staff would make its presentation first, followed by comments by the Petitioner. He said that if anyone in the audience wishes to speak either in favor of or in opposition to a petition, they would be able to do so following the Petitioner's presentation.

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When the public participation portion of the meeting is closed, the Board will deliberate on the information provided and vote to either approve or deny the petition.

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ZBA-07-14 (Continued from July 23, 2014): A petition seeking a sign variation to maintain the existing wall and monument signs. The property is currently zoned B-3, General Services and Highway Business. The property is located at the southwest corner of Opus Place and Finley Road. This property is commonly known as 3300 Finley Road, Downers Grove, IL (PIN 06-31-107-017); Fry's Electronics Inc., Petitioner; Urbs in Horto, LP., Owner.

Staff's Presentation:

Mr. Stan Popovich, Planning Division Manager for the Village, presented the petition from Fry's Electronics. He noted two items on the dais that were distributed to the Board members: 1) an appraisal dated August 26, 2014, and 2) a letter dated August 25, 2014 presented after business hours. He explained that the letter clarifies Fry's request to maintain a total of 1,887 square feet of signage, and asked that the Board members review those documents before he made his presentation. (Board reviews documents.)

Mr. Popovich confirmed the board had completed their review of the dais documents. He proceeded to explain that the petitioner is seeking a sign variation to maintain all of the signage that presently exists on their property at 3300 Finley Road. Using an overhead map, Mr. Popovich noted the exact location of the petitioner's property, which is zoned B-3, General Services and Highway Business. Currently the site has 1,887 square feet of signage, although the property is permitted a total of 300 square feet of wall and monument signage and an additional 225 square feet of Tollway monument signage. Mr. Popovich identified all signs presently on the property, as noted in the table on Page 6 of Staff's report dated August 27, 2014. A seventh sign is a shared monument sign that was approved as part of the X-Sport Planned Development, and is not part of the Fry's petition. The six signs equal a total of 1,887 square feet of signage, and the petitioner is proposing to maintain 1,887 square feet of signage. Mr. Popovich then explained how sign size is determined.

Mr. Popovich stated that Staff finds that there are no unique circumstances or hardships associated with this property that would warrant granting the requested variation for the reasons stated in Staff's report dated August 27, 2014, Page 3:

- 1) There are no physical hardships or unique circumstances associated with the property which prevent the installation of code compliant signs,
- 2) This particular property is afforded an additional sign not provided to similar commercial properties. The petitioner has the ability to install a 225 square foot Tollway monument sign that can be 20 feet in height. The Tollway sign does not count toward their 300 square feet of maximum allowable signage; therefore, the petitioner is afforded a total of 525 square feet of signage.
- 3) The 57 square foot monument sign that contains the content of "Fry's Electronics & X-

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Sport Fitness” located at the intersection of Finley Road and Opus Place is part of Planned Development #40 and does not count towards the total amount of signage for the petitioner.

- 4) If the variation were granted where no physical hardships or unique circumstances exists, then the variation would be applicable to other similar properties.

Mr. Popovich then referred to the nine Standards for Granting Variations as summarized and reviewed on pages 3-5 of Staff’s aforementioned report. Staff does not believe that the Standards have been met, and based on its analysis recommends denial of the requested wall sign size variation. He noted that if the Zoning Board of Appeals finds that all nine standards have been met and decides to approve the requested variation, Staff requests the variance be made subject to the following condition: 1) The wall and monument signs shall comply with the drawings attached to Staff’s report dated August 27, 2014.

Mr. Domijan asked if they are discounting the compromise between the Village and Fry’s. Mr. Popovich replied that his understanding was that if staff supported the variation request, Fry’s would agree to the reduced figure of 1,401 square feet of signage; however, if staff did not support their request, they would not agree to the discounted figure. When Fry’s learned that staff did not support their request, the letter dated August 25, 2014 was delivered after office hours stating they were requesting the entire 1,887 square feet of signage. He added that staff was not supportive of the 1,401 square feet compromise figure.

Chairman White referred to Page 5 of the petitioner’s paperwork, which refers to Section 28.1802(l). Mr. Popovich read that Section. Chairman White asked how Staff interprets the “or” statements as shown on pages 5 and 6 of the petitioner’s application. Mr. Popovich said this was submitted originally under the previous Zoning Ordinance. Staff said that Section 28.1803 requires that the Standards for Granting Variations have to be met.

Petitioner’s Presentation:

Mr. Graham Grady attorney with Taft, Stettinius & Hollister LLP in Chicago, introduced their team who would be making presentations, followed by Mr. Grady’s concluding comments. He noted the following team members:

- Tessa McFarland, in-house legal counsel for Fry’s;
- Lawrence Okrent, Okrent Associates, Inc., Land Use Planner, Chicago
- Mary Lindberger, Lindberger & Co., Real Estate Evaluator, Evanston
- Brandon Barnes, Manager of the Finley Road Fry’s;
- Jason Jarrett, Assistant Land Use Planner at Okrent.

Ms. Tessa McFarland, legal counsel for Fry’s in San Jose, California, clarified that under Section 28.1803, it states that if the Standards are not met, the Board still has the opportunity to grant the variation. Ms. McFarland then provided a brief summary of the history of Fry’s Electronics, which is a family owned company and made up of 34 stores in nine States. She said that they are proud of their store locations and try to contribute to the community. The Downers Grove store is one of the largest stores, and now occupies a former AutoNation site, which had been vacant for two years prior to Fry’s occupying that space. Fry’s opened in 2004 and leases its present

location. The Village of Downers Grove and Fry's Electronics entered into an Economic Development Agreement (hereinafter "EDA") whereby Fry's would develop the property, submit a building plan for prior approval applicable to the Village's regulations, and pay sales tax revenue to the Village. There would be no sales tax rebate until the Village obtained ten million dollars in revenue. Ms. McFarland explained that of all the conditions precedent in the Agreement, paragraph 10 of the EDA is the only one that is specifically named as a condition precedent, and the Village focused on that statement. Fry's did everything it was required to do according to the Agreement; however, now the signs that Fry's felt were critical to its business are no longer allowed. Fry's feels this is unfair and a breach of the EDA. There is nothing in the Agreement relating to future Ordinance changes. Fry's developed its property on four conditions: 1) location; 2) signage; 3) parking, and 4) the EDA with the Village.

Fry's success is a tremendous advantage to the Village as well as to Fry's. When the store opened in 2004, Fry's had no idea that the Village was working to revise its Sign Ordinance to take away the signs that had been approved by the Village as part of this development process. Ms. McFarland stated clearly that Fry's business will be unquestionably damaged without the existing signage, and they will need to analyze the economics of continuing its presence in Downers Grove. She said that the Staff report notes that X-Sport Fitness is exempt from the application of the 2005 amended Sign Ordinance because it is a Planned Development, which was developed in 2006. At the time, X-Sport Fitness was subject to the reduced Ordinance. Had Fry's developed its property post 2005, or had they known of the contemplated reduced Sign Ordinance, it would have sought the same type of exception that X-Sport Fitness was given. This is an unfair situation, in that X-Sport Fitness was granted a variation; however Fry's developed their business under the EDA and is now told that their signage is no longer valid.

Ms. Earl asked why Ms. McFarland thinks the EDA is specific to the Zoning Ordinance that they are dealing with now. She noted that Fry's according to the Agreement promised 350-400 jobs yet there were only 146 jobs made available. She said that the Zoning Board of Appeals did not negotiate the EDA. That was done between the Economic Development Corporation and the Village, and that has nothing to do with the Village's zoning regulations, especially since the zoning regulations have been changed. She is not sure what that has to do with why Fry's feels it is not subject to the zoning regulations, when everyone else in town is.

Ms. McFarland responded that Fry's would love to be able to employ 400 people; however, they faced tremendous challenges, as did retailers in general in 2008 when the economy downturned. In addition, brick-and-mortar retailers are struggling in the Internet environment. She added that if the variation is not granted, she can guarantee that they will not be able to support hiring 400 people in the future. In terms of the EDA itself, Ms. McFarland said there are two specific paragraphs that talk about the fact that Fry's had to submit its plans for approval, and in the approval process for development there are very detailed plans including elevations, layouts, and driveways.

Chairman White interjected that it is his opinion that everything about the EDA is not the purview of this Board. The Board makes its decision based on the Standards found in the Ordinance. The Board either supports or opposes the position, and the Board's function is a limited and narrow function.

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Ms. McFarland said she understands, but felt that it was important that the Board understands the development history of Fry's.

Mr. Larry Okrent of Okrent Associates, Inc., said he was a planning and zoning consultant with offices in Chicago. He has been in this business a long time and has been accepted as an expert in his field before Planning Commissions and Zoning Boards all over the region, and has testified in Court in matters of land use in Lake, Cook and DuPage Counties. Mr. Okrent then began a Power Point presentation addressing the Zoning Ordinance.

He showed an aerial photo of the property, showing its location in relation to the expressway system and surrounding commercial area. This Fry's is the only one in this region, with the closest other Fry's is near Indianapolis, IN. It's accessibility to expressways is important to its success in its present location. He showed the Village's Zoning Map comparing Fry's location with the Ogden Avenue parcels in a B-3 zoning district, and the Village's downtown business district. He noted that Fry's is almost an island unto itself and is all business and industrial, with no residential zoning in that area. Mr. Okrent said Fry's has frontage on two expressways, and by its scale and the character of its merchandising is characteristically different from other commercial businesses along Butterfield Road. Butterfield gives no strong signal that it is part of Downers Grove, as opposed to the Village's downtown business district, which is surrounded by residential zoning. Mr. Okrent then pointed out the signage on the site, which contains 213 feet of frontage on Finley Road, 2150 feet of frontage on the Tollway system, and 2,800 feet of arterial and expressway frontage which is a unique condition that doesn't exist anywhere in Downers Grove, and probably does not exist anywhere in the Tollway corridor. The overall boundary is 5/8 mile. There are 829 parking spaces on the site, and that is a contributing factor to the uniqueness of this particular parcel. He displayed additional aerial views of the site and the building from various directions.

Mr. Okrent said that looking at the signs in proportion to the scale of the building begs the question of how reducing the signage would be a good thing. The building also contains an acre and a half of vertical exterior walls. The current signage covers only 3.2% of the entire perimeter walls, and if conforming signs are analyzed, it would be 0.5% of the wall area. He pointed out the difference between the X-Sport Fitness building and Fry's.

Mr. Okrent showed a smaller strip center on Butterfield Road made up of seven businesses that have 1200 feet of frontage, versus 2,800 feet of frontage for Fry's, yet all seven businesses have signage. In order to make Fry's uniqueness understandable, he picked out three retailers along Butterfield Road, including Best Buy, Home Depot and H.H. Gregg. As to the number of outlets, Fry's has only one outlet in the region. Best Buy has 25 outlets, Home Depot has 35 outlets and H.H. Gregg has 13 outlets. He then compared the square footage of each business versus Fry's, and their square footage of frontage. Mr. Okrent said that no one has to search far for a Home Depot or Best Buy.

Chairman White said that people who are going to Fry's know where they are going, and Mr. Okrent said that was correct. Chairman White said if someone came from northeast Indiana to go to Fry's they will continue to seek it out until they find it. Mr. Okrent said that was the problem in with having to circle around until you find the location, as finding the business is the important part of retailing. Chairman White further explained his statement, saying that if

someone wanted to go to Home Depot and drove past it, they could continue down the road and find a Lowe's nearby and purchase the same items. That is not true for Fry's. People making the trip to Fry's will search it out.

Mr. Okrent displayed additional aerial photography to give a clearer picture of the signage while traveling along the expressway. He said that sight distance and travel speed have a lot to do with being able to identify the signage. He explained that the existing signs are directed to the passing traffic and to reduce or eliminate those signs would do great damage. Mr. Okrent then showed similar photographs of signage for Home Depot, H.H. Gregg and Best Buy. Expressway traffic moves faster. The signage needs to have visibility to passing expressway traffic. The Village's Sign allowance is disproportionate to the size of the business.

He then reviewed the purpose of the Village's Sign Ordinance:

1) To preserve, protect and promote public health, safety and welfare. Mr. Okrent said that the current sign configuration could adversely affect Fry's customers if the sign configuration was reduced.

2) To preserve the value of private property by assuring compatibility of signs with surrounding land uses. He noted that Fry's existing signage is not incompatible with surrounding land uses, however having smaller signs or no signs at all could very well be.

3) To enhance the physical appearance of the Village. Mr. Okrent said that with the expressway presence, Fry's is generally not seen as being part of Downers Grove. The Village character is better seen in its historic downtown surrounding by the residential district.

4) To enhance the Village's economy, business and industry by promoting the reasonable, orderly and effective display of signs, and encouraging better communication between an activity and the public it seeks with its message. To say that the current Fry's signs are unreasonable, disorderly and ineffective is absolutely unsupportable. The issue at hand has only to do with the implementation of new sign regulations. Again given the scale of the use and the attributes of its context the current sign program promotes better communication between the use and customers arriving via the current expressway system.

5) To protect the general public from damage and injury that may be caused by the faulty and uncontrolled construction use of signs. Mr. Okrent stated that this does not apply at all with relation to Fry's because no one has said that the signs are faulty or uncontrolled construction.

6) To protect motorized and non-motorized travelers by reducing distractions that may increase the number and severity of traffic accidents. Smaller signs not legible to expressway traffic may pose traffic safety hazards to first time customers.

7) To encourage sound practices and lessen the objectionable effects of competition with respect to size and placement of street signs. Mr. Okrent summarized that the proposed reduction in sign size and coverage does nothing at all to advance the stated purposes of the Village's Sign Ordinance purposes and may, in fact, be deleterious.

Mr. Okrent then addressed the issue of Variations, stating that in reviewing Staff's report he noted some unusual use of language, with items highlighted in red, "practical difficulties" and "physical hardships." He said that the phrase "physical hardships" does not exist in the Ordinance. The phrase "particular hardships" does exist in the Ordinance. He said that these phrases are an important distinction. He then reviewed the Standards as stated in Staff's report.

As to Standard (1) on page 4 of Staff's report regarding the property yielding a reasonable return, Mr. Okrent said that no one from the Village staff ever contacted Fry's to ask whether or not they could yield a reasonable return if the signs were reduced in size. He also said that Staff offered no support for its comment in its report that the property will continue to yield a reasonable return. There is nothing stated to support Staff's conclusion.

Ms. Earl then asked Mr. Okrent if he had brought information from Fry's to support its statement that the property will not yield a reasonable return. She said if such information is going to be provided, she wanted to be made aware of that. Mr. Okrent replied saying that Fry's asserts that this change in signage will hurt its purpose and they have brought their representatives to this meeting to make that information available.

Ms. Mary Lindberger, 1017 Ridge Avenue in Evanston, IL, said she is a real estate evaluator and appraiser with offices in Evanston. Most of her work deals with value impact issues. She then addressed a comment made by Chairman White earlier, saying that Fry's is a special store with unique merchandise and highly specialized equipment. She said that specialized inventory drives their shoppers. She also said that there is no question that the signage may not get you completely to the store. The function of the signage in terms of being powerful for Fry's is something that's called in advertising 'top of the mind.' It makes people aware of Fry's and is advertising. This is their most significant source of advertising. Prior to becoming involved in this case, she was never in Fry's; however, she knew of them because of her travels along the Expressway. There is a method of connecting with your customer by putting your name in front of them that is significant. When you are a single store, that is incredibly important.

Ms. Lindberger then reviewed the Standards listed on pages 4-5 of Staff's report dated August 27, 2014. She noted that there is a dramatic decrease of 85% in sign size for Fry's, or for anyone else who occupies that property. She referred to her report, which had been previously distributed to the Board members, and commented on what was key to her. The first dramatic thing about the property is that it is huge, and by the standards of big-box stores in general it is the upper end of the size range for Wal-Mart, and is larger than any Costco in America. The second challenge that Fry's has is that this is the only store they have in the metropolitan area, so the signage is a powerful form of advertising for them. In terms of how to be one store and still be successful, they have to go for visibility. She indicated that the location for Fry's is not a very good retail location. It would be better to be on Butterfield Road. This store is a half-mile from Butterfield Road and is divorced from Butterfield Road. It is a highly visible location, and that visibility requires signs that can be read. The existing signs just meet the threshold of visibility, and to reduce them by 85% would be to render them pointless. Without adequate signage there is no reason for a retailer to be in that location. In her judgment the effect of reducing the signage for Fry's would be detrimental to their success. Further, she said that trying to re-tenant this location with the existing sign allowance would be challenging. Ms. Lindberger said the signage issue is a property issue, and not simply a Fry's issue. In terms of the first Standard, she

said the challenge is to talk about what a reasonable return would be for the property and how the signage reduction would impact the business. Essentially you are trying to quantify the business impact of signage on a property. She referred to the report she prepared which addresses the issue of research in the field of signage. It is a fairly well researched area by a variety of people. She found one researcher who studied properties in Florida that had lost signage. One had a 42% decrease in income and the second went out of business. In order to obtain further information she spoke with the researcher by phone and explained to them the size of loss to Fry's. She concluded that it was realistic that cutting the significant amount of signage as 'advertising,' it would result in a loss of no less than 30%, because the property will become invisible from the expressway. A 30% decrease in customer flow will not allow you to sustain a reasonable return.

Chairman White asked if in her opinion the purpose of the sign then, is more than getting the customer to come back, but is to let people know that Fry's exists in the Chicago market. Ms. Lindberger said that was correct. She is not an electronics shopper, but she has been fully aware of Fry's because she works in the County and passes by their signage on the expressway. There are 250,000 cars that see that sign every day, and when you are a single-store in a region, you need that visibility.

Ms. Souter asked if she thinks that could be achieved with a Tollway monument sign, and Ms. Lindberger said she did not think so. There are two expressways there and a monument sign will not be able to replicate what currently exists on the property.

Mr. Okrent continued with his presentation and review of the Standards. As to the plight of the owner being due to unique circumstances, Mr. Okrent said that this is the largest parcel in Downers Grove and is the largest single retail outlet in Downers Grove. Fry's has the lengthiest expressway frontage of any retail business in the Village, and those signs need to be readable. He reviewed Staff's comments regarding unique circumstances and said that there is nothing about Fry's that is similar to other commercial properties in the Village.

As to the third Standard and altering the essential character of the locality, Mr. Okrent said if they were to leave things as they are on the Fry's property, and as they have been for ten years, it would not alter the essential character of the locality, as it has not altered it for ten years.

Mr. Okrent addressed Standard 4 regarding the use of the terms "particular hardship," and "physical hardships." He commented that Staff's explanation as to why Standard 4 has not been met is unsubstantiated. He said the specific physical surroundings are the vast expressway right-of-way to which three sides of the building are exposed. No other business comes close to this in the Village. Fry's response to this Standard is that the existence of these signs along the expressway is extremely important to Fry's business.

As to Standard 5 and the applicability of the variation to other property within the same zoning classification, Mr. Okrent commented that the term "physical hardships" is used again in Staff's response, and that there are no other businesses in Downers Grove that are comparable to Fry's given their size and the location of their property.

Standard 6 states that the alleged difficulty or hardship has not resulted from the actions of the owner. Mr. Okrent's response is that Staff's statement has no relation to the Standard. He said

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that the hardship in reducing their highway exposure is a particular hardship unique to Fry's and not applicable to any other retailer in Downers Grove. The nonconformity of Fry's signs is directly caused by the Village's change in sign regulations soon after its EDA agreement with Fry's.

Mr. Okrent said with regard to Standard 7, the requested variation if approved changes nothing. Traffic conditions, fire safety, public safety, etc., will not be affected if the signage remains the same as it has been since Fry's opening.

Ms. Mary Lindberger then said there is not much she can say regarding property values in the neighborhood and retaining the existing signage. The signs have been up for ten years, there is no residential district there, and no one has ever complained about Fry's business or signage. There is nothing to indicate that retaining the signage that presently exists will alter adjacent property or land use.

Standard 8 states that the proposed variation will not alter the land use characteristics of the district. Mr. Okrent responded that this standard is about land use and not signage. Approving the variance will not change the land use. Approval of Fry's variance will not affect other businesses or other properties, and a decision regarding the variation is based on the particular merits of each case. The attributes of the Fry's site are particularly unique.

Mr. Okrent completed the Standard review saying that the variation would not confer a special privilege to the owner. If the variation is not granted Mr. Okrent said that it would create a particular hardship for the continued operation of Fry's. He said again that there are no similar businesses in Downers Grove and the applicant has a right to a variance if the Standards are met. That is not privilege. Mr. Okrent then showed photographs of existing signage on the building and how those signs would look if they were reduced to meet the requirements of the new Sign Ordinance. He stressed that Fry's has unique characteristics, is the largest retail business and has the largest site in the Village. He explained that given its location, the signage must be readable at greater distances to cars travelling at high rates of speed. Reducing sign sizes will do nothing to advance the stated purposes of the Sign Ordinance, and may cause harm by reducing the visibility, advertising and convenience of access. Conforming signs would be grossly inconsistent with the scale of the building.

Mr. Graham Grady, legal counsel for Fry's, said that Fry's has submitted evidence to show that Fry's does meet the Standards for Granting Variations. He stressed that the members of the Zoning Board of Appeals have the authority to grant a variation where the Standards have been met. Applying a one-size-fits-all rationale for the 2005 amendment to the Zoning Ordinance had the downtown business district, Ogden Avenue and Butterfield Road in mind, and not the unique factors that exist on Fry's property. He said not granting the variance would be manifest injustice to the applicant. Fry's built their building pursuant to the Ordinances that existed at the time. X-Sport Fitness came in three years later and was granted variances.

Ms. Earl said that X-Sport Fitness was not granted a variance. They are a Planned Development and they do not come before the Zoning Board of Appeals. Mr. Grady replied that on page two of Ordinance 4790 it states that X-Sport Fitness requested a variation from the Sign Ordinance and was granted that variance. The Standards are the same to grant a Variation. Ms. Earl asked

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if Fry's approached Staff to determine whether they could come in as a PD, and Mr. Grady said they did not because they believe they qualify for the variation because they've met all the Standards specified by the Zoning Ordinance.

Mr. Grady asked that all materials that they have submitted to Staff and that they have presented in evidence be made part of the record of this hearing. Manager Popovich said that the information would be part of the official record of the meeting.

Mr. Grady said he attended Zoning Board of Appeals meetings in May and June and observed the outcome of other petitions brought before the Board at those meetings. He asked that the Board take into consideration all of the evidence presented to them. They truly believe they are entitled to receive the variation requested.

Chairman White called for questions from the Board. There being none he called for any comments from anyone in the audience either in favor of, or in opposition to the requested variation. There being none, he gave the petitioner the opportunity to make any additional comments.

Mr. Grady pointed out to the Board members that there was no one present to speak in opposition to Fry's application.

Ms. Earl said she read in Fry's literature that all of their other stores seem to have "themes" that go with them. She asked if there was a theme for this store.

Mr. Brandon Barnes, Manager of the Downers Grove store, said that the theme for this store is the history of Downers Grove. They have many 8'x10' historic photographs of the area on display in the store.

Mr. McCann asked if there was any information as to customers who are new customers versus repeat customers. Mr. Barnes said he has first hand testimony. He does not track the customers, but spends a good amount of time greeting customers as they enter the store. He said retailers are facing the advent of e-commerce as well.

Ms. Earl asked how many people order online. Mr. Barnes said he thought about 500-600 per week are in-store pick-ups.

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

Board's Deliberation

Ms. Earl asked Staff to show the slide with the existing signs again, and she commented that the store is a huge white box; but she doesn't know that they need such large signs to call attention to their business. She noted that Fry's does have a long Tollway frontage, but so does Wannamaker's and some other automobile dealerships.

Chairman White then reviewed all of the Standards again. He asked about Standard #4 saying he

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thought that the “hardship” related to having a smaller sign. Every property has some type of unique circumstances to it. He asked the Board if they felt this property is unique in terms of the Zoning Ordinance.

Mr. McCann said that the physical size is a unique condition, and it is not in the main corridor but is on an arterial road in a B-3 District. He sees this as a gray area.

Chairman White said he didn’t think that being the biggest parcel is necessarily enough to warrant a variation based on uniqueness.

Mr. McCann said that the amount of traffic that sees it on the Tollway sees three different sides of the building. The only other way they can see it is if they come from Butterfield Road. He doesn’t understand why Fry’s does not want to have the Tollway sign.

Mr. Zaba said that it’s not only visually accessible from one expressway or Tollway, but from two. Perhaps taking all those circumstances together may make it satisfy the Standards.

Chairman White said that Standards 5 and 9 are related. He sees this in terms of the impact it may have on future requests for variances from larger parcels.

Mr. McCann said he thinks the land itself is unique, but he doesn’t know that the issues are that unique. The presentation was very good and all the bases were covered. He is wrestling with the equity of this. There is the question of whether the signs are doing what they are supposed to be doing; however, the Village Council has reviewed the needs and made changes to the Ordinance. If there is a truly unique circumstance then they could grant the variation; however, one thing that strikes him is that businesses along the corridor have the extra feature of the Tollway monument sign. That may be inadequate in the eyes of businesses people, but the Village has considered that circumstance. He thinks the Tollway sign might suit their advertising needs along the highway. The property is unique but the issues are not unique. He feels their arguments are good; however, they can be applied to other businesses as well.

Chairman White said the economic argument of “top of the mind” relates to someone driving by one month and then several months later remembering that Fry’s was there and visiting there at a later date. However, there are numerous stores along the Tollway that would benefit from that “top of the mind” economic advantage. He said his difficulty is that there may be a flaw in the Sign Ordinance; however, that is not a variation type of solution.

Ms. Souter said she thinks the reduction in sign size will adversely affect the business tremendously, given its location and amount of traffic. Kohl’s location on Finley and Butterfield is more visible. She is in favor of the variation.

Ms. Earl said that she disagrees and believes that they can yield a reasonable return if required to comply. Everyone she knows who goes there does some heavy online shopping. It is the mecca to computer aficionados and is a destination in itself. She doesn’t think that enormous signs are required to identify this property. There are other ways to highlight the property without larger signs. Fry’s customers are not the same as Best Buy customers, because they are very tech savvy. She has ordered merchandise online and then picked it up in the store, spending even more

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money once she was in the store. She thinks a monument Tollway sign would be just as helpful. She doesn't think there are unique circumstances. Ms. Earl also feels that granting the variation would confer a special privilege on Fry's.

Mr. Zaba said his concern is that they might be granting a special privilege to Fry's that other businesses would not benefit from.

Chairman White said that the "island" of Fry's site is unique; however, the language of Standard 5 states that other businesses in B-3 would benefit.

Chairman White asked if any Board members feel they need more time to discuss this.

Mr. Domijan referred to Mr. McCann's comments that this is one of the areas that needs rectification by Council and they have been hesitant to write work arounds. All things being said, he cannot approve the variation based on that condition.

Mr. Domijan moved that in case ZBA-07-14 the Board denies the variation as requested. Mr. McCann seconded the Motion.

AYES: Mr. Domijan, Ms. Earl, Mr. McCann

NAYS: Ms. Souter, Mr. Zaba, Ch. White

The Motion to deny failed 3:3.

Mr. Zaba moved that in case ZBA-07-14 the Board approves the variation as requested. Ms. Souter seconded the Motion.

AYES: Mr. Zaba, Ms. Souter, Ch. White

NAYS: Mr. Domijan, Ms. Earl, Mr. McCann

The Motion to approve failed 3:3.

Chairman White said that it is in the best interests of the Village that these signs are allowed; however, he doesn't think they made a proper case before the Zoning Board of Appeals.

Mr. Grady asked if there is a procedure in the Village when a Board member is absent, they could then read the record and make their vote. Chairman White said that has never been done in the Village since he's been on the Board.

Chairman White called for a short recess.

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ZBA-15-14: A petition seeking setback variations to reduce the required monument sign setbacks along Fairview and Prairie Avenues. The property is currently zoned R-4, Single Family Residence. The property is located at the southwest corner of Fairview and Prairie Avenues. This property is commonly known as 444 Wilson Street, Downers Grove, IL (PIN 09-08-222-018); St. Mary of Gostyn Parish, Petitioner and Owner.

Ms. Kelley Chrise, Planner for the Village of Downers Grove, explained that St. Mary of Gostyn Parish is seeking setback variations from Section 9.050B1(b) of the Zoning Ordinance:

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1) a monument sign setback that is 6.42 feet along Prairie Avenue where 10 feet is required; and
2) a monument sign setback that is 7.33 feet along Fairview Avenue where 10 feet is required.
She indicated that the property is located on about 2/3 of the block bounded by Douglas, Wilson, Prairie and Fairview, and is zoned R-4 single-family residential. This property has an institutional use and is occupied by St. Mary of Gostyn Church and is comprised of multiple lots.

Ms. Chrisse said in addition to the church, there is also an elementary school. Because there are two uses on the property the petitioner is allowed two monument signs, one for each use. The sign at the northwest corner of Prairie and Fairview Avenues is the subject of the request before the Zoning Board. The sign on the northwest corner meets the criteria; however, the sign in question meets the size and height, but does not meet the setback variations. Ms. Chrisse projected images of the signage that is the subject of the variation request. The required setback is 10 feet minimum from both lot lines. She indicated that there is an underground detention basin along the east edge of the site, prohibiting installation of a sign meeting the 10-foot setback requirement along Fairview Avenue. She noted that there are portions of the underground detention basin that are visible from the street. She further noted that there is a one-foot grade differentiation between the sidewalk and the detention basin, and about a three-foot grade differentiation on the south portion of the lot. In addition, there are mounded plantings that are required to buffer the parking lot from the adjacent residential uses. Ms. Chrisse said she attempted to highlight the topography of the site, explaining that when the church purchased the area for the parking lot they had to install the underground detention basin near the Fairview Avenue boundary. There is a three-foot difference in the parking lot topography from the adjacent roadway. She explained that moving the sign to meet the setback requirements from either Prairie or Fairview Avenue would be problematic due to the existence of the detention facility.

Based on its evaluation of the property and in consideration of its topography and the existence of the underground detention basin, Ms. Chrisse said Staff finds that there are unique circumstances associated with the property that warrant granting the requested variations, as stated in items 1-4 on page 3 of Staff's report dated August 27, 2014, ZBA-15-14. Staff further finds that all of the Standards for Approval have been met, as stated in the aforementioned report on pages 3-5.

Mr. McCann questioned whether the basin is sufficient to support the sign. Ms. Chrisse explained that based on the need to have a foundation for the sign that is at least 42 inches deep, installing the sign on top of the basin would not be practical. Mr. McCann asked also how they installed the sign legally and Ms. Chrisse said at the time of installation, the required setback was five feet. It has since changed to a 10-foot requirement.

Petitioner's Presentation

Mr. Mike Ryan, Parish administrator for St. Mary of Gostyn, thanked Staff for their assistance in preparing the variation request. He said the stormwater detention basin is the primary reason they are seeking the variation for the sign. When there is a heavy rain, the detention basin's importance along Fairview Avenue becomes evident. He asked that the Board review Staff's report and recommendation, and the Findings of Fact.

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Ms. Souter asked what was in the pressed board box, and Mr. Ryan said they had started to move the sign when they became aware of the proximity to the detention basin. Staff told them to stop any further work on the site. Ms. Souter asked if there is an address on the sign, and Mr. Ryan said there would be.

In response to a question raised by the Board, Ms. Chrisse said that the detention basin is a private structure and is not maintained by the Village.

There being no further questions, Chairman White called for anyone who wished to speak either in favor of or in opposition to the petition. There being none, Chairman White closed the public participation portion of the meeting.

Board's Deliberation:

Mr. McCann said he is a member of St. Mary's parish, but is not a member of the Board. He believes he can be impartial with regard to this request. He said based on the information provided by Staff, he thinks the request for a variation is appropriate.

Ms. Earl stated that she believes the standards for granting a variation have been met and is supportive of the request.

Chairman White asked if there were any opposing opinions from the Board members and there were none. He then called for a Motion.

Mr. McCann moved that the Zoning Board of Appeals approve the requested variation in case ZBA-15-14 for property located at 444 Wilson. Ms. Earl seconded the Motion.

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

NAYS: Mr. Domijan

The Motion to approve passed 5:1.

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ZBA-16-14: A petition seeking a setback variation to reduce the required monument sign side yard setback. The property is currently zoned M-1, Light Manufacturing. The property is located immediately south of the T-intersection of Wallbank and Warren Avenues. This property is commonly known as 1541-1561 Warren Avenue, Downers Grove, IL (PINs 09-07-221-001, -002, -003, -004, -005 and -006); The Warren Crossing Condominium Association, Petitioner; Eileen R. Fitzgerald, R & K Insurance Agency, Inc., VRW Investments, LLC., Warren Property Management and Development LLC., and West Suburban Bank Trust #12252, Owners.

Staff's Presentation:

Mr. Patrick Ainsworth, Planner with the Village of Downers Grove, explained that the applicant, The Warren Crossing Condominium Association, is seeking a variation from the Sign Ordinance to maintain the location of the existing monument sign, which is 10 feet from the east property line, where 25 feet is required per Section 9.050B1b of the Zoning Ordinance. He displayed

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slide projections of the subject property, which is located in an M-1 Light Manufacturing zoning district. The site is an office use. He noted that the property is allowed one monument sign along Warren Avenue, and the existing monument sign was constructed in 2001. The 6.7-foot tall, 21 square foot monument sign is in compliance with the Sign Ordinance except for the interior side yard setback. The Sign Ordinance requires a monument sign to be set back 25 feet from any interior property line, and the petitioner is requesting a variance from this side yard setback regulation.

Mr. Ainsworth explained that the property adjacent to the subject site has an existing stormwater retention pond, which holds the stormwater run-off for both the 1501 and 1541-1561 Warren Avenue sites. He showed photos of the site and the building to the east. The petitioner is responsible for maintaining approximately one-third of the retention pond, and a document to that effect was recorded with the DuPage County Recorder of Deeds in November of 2000 and is attached to the petitioner's application Declaration of Reciprocal Storm Water Facility Easements. Mr. Ainsworth said this is a unique scenario with two properties sharing the maintenance responsibility for a shared retention facility. For reasons of this unique circumstance, and the recorded document which requires the petitioner to maintain their portion of the retention facility, Staff finds a unique circumstance exists to warrant the granting of the requested sign variation as stated in Staff's Report dated August 27, 2014, ZBA-16-14, pages 3-5.

Mr. Domijan asked if these parcels were all developed in 2000, and were they then redeveloped later. Mr. Ainsworth suggested that the petitioner might have that answer. He further responded that if the property were to change hands, the responsibility for the retention facility would transfer with the land.

Petitioner's Presentation:

Mr. Brian Krajewski of Downers Grove, and an owner of the property said he was unsure why the requirement for maintenance of the retention facility was included with the sale of the subject property. The pond is about 100 feet long, and the adjacent building has also been sold since the requirement was made.

There being no further questions of the Petitioner, Chairman White called for anyone in the audience who wished to speak either in favor of or in opposition to the petition. There being none, Chairman White closed the public participation portion of the meeting.

Board's Deliberation:

Mr. McCann said he thinks that the document that has been filed with the Recorder of Deeds establishes the unique situation that exists on this property with regard to the retention facility.

Chairman White called for any contrary opinions and there were none. He then called for a Motion.

Mr. Zaba moved that the Zoning Board of Appeals approve the variation requested in Case ZBA-16-14 for property located at 1541-1561 Warren Avenue. Mr. Domijan

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seconded the Motion.

The Motion to approve passed unanimously.

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Mr. Popovich announced that there were petitions for the September meeting, which will be held on September 24, 2014. He also noted that in the future all packets would now be electronic rather than hard copies.

A question was raised by Mr. Domijan regarding a reported request relating to a sign along the Metra right-of-way. Mr. Popovich replied that Staff has been asked by Council to evaluate the request for a text amendment to allow signs along the railroad right-of-way.

ADJOURNMENT:

Ms. Earl moved, seconded by Mr. Zaba, to adjourn the meeting. All in favor. The Motion carried unanimously.

Chairman White adjourned the meeting at 10:05 PM.

Respectfully submitted,

Tonie Harrington
Recording Secretary