

Village of Lombard

*Village Hall
255 East Wilson Ave.
Lombard, IL 60148
villageoflombard.org*



Meeting Minutes

Wednesday, April 22, 2009

7:30 PM

Board Room

Village Hall Board Room

Zoning Board of Appeals

*John DeFalco, Chairperson
Mary Newman, Eugene Polley,
Greg Young, Val Corrado, Ed Bedard
and Keith Tap
Staff Liaison: Michael Toth*

Call to Order

Chairperson DeFalco called the meeting to order at 7:30 p.m.

Roll Call of Members

Present: Chairperson John DeFalco, Val Corrado, Greg Young, Ed Bedard and Keith Tap

Absent: Mary Newman and Eugene Polley

Also present: William Heniff, AICP, Director of Community Development and Michael Toth, Planner I.

Public Hearings

090236

ZBA 09-03: 1221 S. Main Street (Lux Chateau)

Requests an appeal of an administrative decision of the Lombard Director of Community Development, pertaining to the denial of an issuance of a Certificate of Occupancy/Zoning Certificate. The Director's decision states that a hookah lounge/establishment, and its ancillary entertainment use, is not a tobacco shop and is therefore not a permitted land use within the B4A Roosevelt Road Corridor District as set forth within the Lombard Zoning Ordinance. (DISTRICT #6)

Russell Rasche, legal representative of the petitioner, presented the petition. Mr. Rasche stated that the matter before the ZBA tonight is clear. Mr. Rasche stated that he put together a summarized information packet for the ZBA. Mr. Rasche stated that there was no basis statutorily or the law regarding the decision that was made by the Village. Mr. Rasche stated that the Village feels that additional changes to their ordinances are needed, but at this time he didn't think that there was anything that acted as prohibition to the petitioner's business. Mr. Rasche then discussed some of the history and facts of the case.

Russell Rasche discussed the Illinois Smoke Free Act. Mr. Rasche discussed the certain exemptions listed as part of the Act, which included: exemptions for previously established businesses, 80% revenue derived from tobacco sales and Hookah being specifically mentioned. He also discussed how the law impacted his client's business operations. Mr. Rasche argued that his client's business is perfectly in compliance with the Illinois Smoke Free Act.

Russell Rasche stated that the original use of the business was a restaurant. He then stated that because of the Illinois Smoke Free Act, his client stopped selling food to come into compliance.

Russell Rasche then discussed some of the zoning issues. He stated that a tobacco shop is a permitted use in the B4A zoning district. He also stated that live entertainment is a conditional use when attached to a restaurant and does not speak to tobacco shops; as such, it does not apply to his client's business. Mr. Rasche then stated that his client's business has been operating under a business license and is legally entitled to a Certificate of Occupancy. Mr. Rasche added that the Village's criteria to sign the Certificate of Occupancy has been satisfied and the other issues, such as the Illinois

Smoke Free Act do not apply.

Russell Rasche then pointed out the Director's position on the matter. He stated that the Director takes the position that he lacks the authority to sign a Certificate of Occupancy because Hookah is not specifically authorized under Section 155 of the Village Code and is, therefore a prohibited use unless a text amendment is approved. He then argued that no text amendment is required because a tobacco shop is a permitted use. He also stated that just because a use isn't listed, doesn't mean that it is prohibited. He also mentioned that the Director took the position that there is a difference between a retail tobacco shop that only sells tobacco and the business where it is consumed. Mr. Rasche then pointed out that the Village's website states that smoking is permitted in retail tobacco shops. Mr. Rasche stated that the position of the Village is that it is a prohibited use and the current interpretation is one of recent origin and not one that has been enforced or applied consistently for any period of time.

Russell Rasche stated that he felt that the decision was arbitrary and capricious based upon the fact that the Village failed to meet the burden of proof in these matters and the fact that the petitioner was able to operate for two years having made an application for the Certificate of Occupancy. Mr. Rasche ended by stating that there is no basis in the Village's statutes or ordinances for the Director's position and the business is in compliance with the zoning laws. The fact that they haven't issued the Certificate of Occupancy for two years prevents them from this point legally from denying them.

Chairperson DeFalco asked if there was anyone present to speak either for or against the petition. Hearing none, Chairperson DeFalco opened the meeting up to the Board to ask questions of both staff and the petitioners.

Dr. Corrado asked if he were to go into the restaurant or tobacco shop and didn't know anything about it, what would they tell him. He also asked what he could order.

Russell Rasche asked if he was referring to his client's business.

Dr. Corrado responded, yes.

Russell Rasche stated that he would explain what hookah is.

Dr. Corrado stated that he just wanted to know what he would do to participate at the business.

Russell Rasche explained, in detail, what hookah is. He explained that is a social event for people who are too young to drink. He stated that they serve soft drinks and pre-packaged foods. He added that it is a cultural experience.

Dr. Corrado asked if you sit around tables.

Azeem Syed, owner of Lux Chateau, stated that there are two private rooms and four booths set up like couches. He added that it is a traditional atmosphere.

Dr. Corrado asked how long people stay.

Mr. Syed responded by stating that people typically stay anywhere between a half hour to about an hour and a half.

Other members of the audience who were affiliated with the petitioner were then sworn in.

William Heniff, Director of Community Development, stated that he would like to offer his presentation.

Mr. Heniff began by giving the address, location and zoning for the subject property (B4A). Mr. Heniff stated that the petitioner stated that the main function of the business is a hookah lounge, which is similar to smoking in cigar lounges where people are coming and consuming tobacco and other smoking related-products. Mr. Heniff added that the business also offers entertainment as an ancillary function.

Mr. Heniff then began to walk through the Director's interpretation. Mr. Heniff stated that the Village does not dispute the fact that tobacco shops are listed as a permitted use within the B4A zoning district. He then stated that the appellant does note some of the definitions within the Illinois Smoke Free Act, but the Village is not obligated to recognize those definitions. He added that the Zoning Ordinance specifically establishes separate definition sections and specific rules and regulations interpreting the regulations set forth within the Zoning Ordinance.

Mr. Heniff stated that there is no definition of tobacco shop listed in the Zoning Ordinance. Mr. Heniff then read the dictionary definition of a tobacco shop. Mr. Heniff then reviewed Section 155.216 (Interpretation of Use Lists), which states that the Director may determine zoning compliance land uses. He then went into great detail about the word usage in Section 155.216. Mr. Heniff stated that both parties can agree that the terms "hookah lounge", "hookah establishment" and even "smoking establishment" are not listed in the Zoning Ordinance; therefore, an interpretation needs to be made regarding the use.

Mr. Heniff stated that the petitioner's description and the submitted building plans of the business lend itself to a place of gathering. Mr. Heniff reviewed the B4A District provisions and noted the Zoning Ordinance does make a distinction in the use list between purchasing products and consuming products. He added that this is an important distinction.

Mr. Heniff stated that food stores, grocery stores, meat markets and things of that nature where edible goods for consumption elsewhere are treated different than restaurants, which is a food establishment where foods are for sale and consumption, only within the structure on the premises.

Mr. Heniff then used liquor as an example. He stated that liquor stores and packaged goods are one type of business establishment. He added that if you consume liquor on site you are not a liquor store, you are a bar or tavern.

Mr. Heniff then discussed the next item, clubs, lounges and meeting halls, which are all separate and distinct land uses. Mr. Heniff stated that the primary function of the subject business is the consumption and gathering for hookah on the premises, which is more like an assembly function. He added that this is different than a tobacco shop. He stated that tobacco shop uses sell prepackaged goods in a mercantile fashion.

Referring to the business floor plan, Mr. Heniff stated that the subject use is designed in a similar manner to a restaurant or tavern where assembly functions occur. He then added that if the principal function is to provide for congregation of individuals, such a use is similar to taverns, clubs, lodges and meeting halls and the like, which are all considered conditional uses. As such the interpretation has been made that the use is similar in nature to a tavern, club, lodge or meeting hall. He added that staff will not dispute that the use also functions like a restaurant, but this is not one in the same as a tobacco shop as it is not a mercantile function.

Referring to live entertainment, Mr. Heniff stated that a restaurant could be done as of right, but a restaurant with live entertainment requires conditional use approval. He noted that the live entertainment could only be done in conjunction with a restaurant. He then stated that live entertainment could be done as an accessory to the principal use, but in this case, the principal use is not permitted.

Referring to the Illinois Smoke Free Act, Mr. Heniff stated that it does allow smoking on the premises provided that the operator meets the provisions of the state statute. He also added that the Act essentially created a separate land use category because prior to the Act, patrons of a restaurant, bar, etc could smoke indoors. He added that if hookah was to be the only activity on the premises, then it would be the principal use and function.

Mr. Heniff stated that the business operator did not obtain a Certificate of Occupancy/Zoning Certificate for the space so the question remains whether or not the business was lawfully established on the premises. Mr. Heniff stated that contrary to the representations made, the denial of the Certificate of Occupancy/Zoning Certificate is not based on the Illinois Smoke Free Act, but rather that the use is not permitted by right in the B4A District. He added that if the appellant does not violate the Illinois Smoke Free Act, they must still comply with the Lombard Zoning Ordinance.

Mr. Heniff stated that staff, the Director and the appellant recognize that hookah is not listed as a permitted use in the B4A District; therefore the Director does not have the authority to sign the Certificate of Occupancy/Zoning Certificate.

Referring to Exhibit B, Mr. Heniff stated that a tobacco license is an administrative function, not a zoning interpretation. Mr. Heniff stated that Mobile Gas Station and Jewel both have a Tobacco Dealer Business License, but no one would say that either of those businesses could be interpreted as a hookah lounge.

Mr. Heniff stated that in summation, what staff is saying is not whether this should be listed with the Zoning Ordinance as a permitted or conditional use, but rather it goes back to the issue of at the time of the interpretation, how did the Zoning Ordinance exist and was this an appropriate interpretation. Again, staff's interpretation is not whether it should be there or not.

Finally, Mr. Heniff responded to some of the items discussed by the appellant. He stated that staff is making a distinction as to how the property is being used from a land use perspective. He added that staff is asserting that the use is not inherently compatible with the tobacco establishment, that it's more like an assembly function and should be treated as a distinct land use category. Mr. Heniff then mentioned the Village website and stated that a reference to the Smoking Act does exist on the Village website, but it merely references the Act. Mr. Heniff entered the website exhibit into the public record. Mr. Heniff then stated that for comparative purposes, six other municipalities offer hookah lounges as conditional uses, which requires a public hearing. Mr. Heniff entered information from Schaumburg into the public record. Mr. Heniff then stated that he offers the Schaumburg information because it offers suggestions that a text amendment to the Zoning Ordinance could be considered to include smoking establishments as a conditional use.

Chairperson DeFalco thanked Mr. Heniff and asked if anyone had any questions.

Mr. Young stated that he had a number of questions. Mr. Young then asked what was different from his business than the prior business that occupied the tenant space.

Mr. Syed stated that the prior business served hookah as well as coffee, lattes and other

food products.

Matthew Rasche, son of the Attorney Russell Rasche, stated that prior to the Illinois Smoke Free Act, the prior business operated as a restaurant that allowed smoking. He stated that after the Illinois Smoke Free Act came into effect, Lux Chateau stopped serving food.

Mr. Young asked if the Smoke Free Act changed the zoning requirements for this establishment.

Mr. Heniff responded by stating that if one cannot consume food on the premises, one cannot make the interpretation that it is a restaurant.

Mr. Young stated, right.

Mr. Heniff then stated that the Village didn't know what to consider them as they did not have a valid Certificate of Occupancy/Zoning Certificate.

Mr. Young asked if there was a Certificate of Occupancy/Zoning Certificate for the former owner.

Mr. Heniff and Chairperson DeFalco both stated that the former owner had one as a restaurant.

Mr. Young asked how much hookah that is purchased actually leaves the site.

Mr. Syed responded, twenty-five to thirty-five percent.

Mr. Young stated that there are permitted uses in the B4A Zoning Districts such as liquor stores that sell packaged goods only. He implied that consumption would not take place within these establishments.

Chairperson DeFalco responded by stating that if there was consumption, it would be a bar or tavern.

Mr. Young then questioned the difference between a business license and a Certificate of Occupancy/Zoning Certificate.

Mr. Heniff stated that there was an application for a business license and on the application it stated that a Certificate of Occupancy/Zoning Certificate was needed. He then added that a Certificate of Occupancy/Zoning Certificate for a hookah lounge was never obtained. Mr. Heniff then referenced document B-5, which is the appellant's application for a Certificate of Occupancy/Zoning Certificate. On the Certificate of Occupancy/Zoning Certificate, the applicant notes the restaurant, retail, "other" and lounge uses.

Russell Rasche stated that it is interesting that his client is charged with not having a Certificate of Occupancy/Zoning Certificate for a use that does not exist within the Zoning Ordinance. Mr. Rasche then stated that the Village has the right to change their Zoning Ordinance to include hookah. He then stated that his client passed all police and fire inspections. He then added that he doesn't understand how the Village could come along after two years and raise these "cock-a-mamee" if's and what's and what could be because the reality is none of it exists except in the Director's mind.

Russell Rasche then stated that the Director's "scholarly dissertation" is totally off-point and has absolutely no bearing on anything discussed tonight. He then added that the

Certificate of Occupancy/Zoning Certificate either complies with the Ordinances or it doesn't. He then added that had the Director made these arguments two years ago they would have had more substance. Mr. Rasche then stated that in the State law in other communities, retail tobacco commonly is understood to include hookah. He added that he and his son go to cigar stores and smoke cigars.

Russell Rasche then stated that the use is a retail tobacco establishment. He stated that it earns a certain percentage of its revenues from the sale of tobacco-related products and does not serve food or alcohol. He added that there is no merit for overturning this decision.

Chairperson DeFalco asked Mr. Heniff if the Zoning Ordinance lists permitted uses.

Mr. Heniff replied, yes.

Chairperson DeFalco asked if those permitted uses were considered appropriate for a particular zone by the Village Board.

Mr. Heniff replied, yes.

Chairperson DeFalco asked that because if a use is not permitted then it is fair to assume that the use is prohibited. Chairperson DeFalco used tattoo parlors as an example. He asked if a tattoo parlor could be opened in the B4A District.

Mr. Heniff replied that a tattoo parlor is not listed as a permitted or conditional use, therefore it is prohibited.

Chairperson DeFalco used a stable as another example. He asked if a stable could be opened in the B4A District.

Mr. Heniff stated that he would have the same response as before.

Chairperson DeFalco used a cigar bar as another example because it is not listed as a permitted use.

Mr. Heniff replied that a cigar bar is not listed as a permitted or conditional use, therefore it is prohibited.

Chairperson DeFalco asked if the ordinances are very specific about what is a permitted use.

Mr. Heniff replied, yes.

Chairperson DeFalco asked if a use is not listed as a permitted use, staff makes the determination that the Village does not want that particular business in that particular zone.

Mr. Heniff replied, yes, absent the text amendment to change the code.

Chairperson DeFalco again used the stable example. He asked if a stable could be done if someone went before the Plan Commission and requested that the use be added as a permitted or conditional use.

Mr. Heniff replied, yes.

Chairperson DeFalco stated that he does not see a hookah lounge as a permitted use in

the B4A District.

Mr. Heniff replied, yes.

Chairperson DeFalco stated that as a result, that would not be a permitted use in the B4A District. He stated that he did see restaurant listed.

Mr. Heniff replied, yes.

Chairperson DeFalco then stated that the previous business, Sahara, applied for a Certificate of Occupancy/Zoning Certificate as a restaurant.

Mr. Heniff replied, yes.

Chairperson DeFalco stated that he was unsure what the previous business did, but they specifically asked for a restaurant license. He then stated that one cannot assume that a future tenant that wants to participate in the same activities that were not within the knowledge of the Village should likewise be allowed to do so. He then added that on the Lux Chateau application for a Certificate of Occupancy/Zoning Certificate, they put it down as a restaurant, retail and lounge. He stated that the term lounge is pretty ambiguous. He added that he could see it listed as a conditional use under the ordinances as a club or lodge. He then stated that nowhere on the application does it state "hookah".

Russell Rasche stated that hookah is included as part of retail tobacco where they would have the right to smoke indoors. He then added that the burden of proof is on the Village and he doesn't see that being met anywhere. He then stated that smoking is permitted in a retail tobacco location.

Mr. Syed then stated that prior to purchasing the business in 2007; there were a couple of incidents at or near the restaurant where local law enforcement knew that hookah was occurring on site. He then questioned why there was no communication between the different Village departments. He then added that he knows how the processes work because he had to obtain a special use permit in Carpentersville. He added that his business had been involved in several sting operations undertaken by the Village in an effort to reduce underage smoking and drinking. He stated that he passed all of the stings and received a letter from the mayor commending them.

Chairperson DeFalco stated that the Zoning Board of Appeals does not look at whether or not you should be there. He then asked Mr. Heniff if there is any documentation that Lux Chateau had been operating as a hookah lounge.

Mr. Heniff stated that the Village had the Tobacco License and the request for a Certificate of Occupancy/Zoning Certificate. Mr. Heniff added that prior to January 1, 2008 anyone could legally light up a cigar or cigarette in a restaurant. He stated that restaurants used to have cigarette machines and that activity was not monitored prior to the Illinois Smoke Free Act.

Chairperson DeFalco asked if a license was needed to sell those cigarettes.

Mr. Heniff replied, yes. Mr. Heniff then referred back to his testimony by stating that just because you have a license, doesn't make you that use. He then added that the State Act says that you cannot serve food if you have a tobacco license and vice versa. He reiterated that they could have gotten rid of the hookah portion and served specialty drinks. As they were serving food and smoking, they were then given notice by the County. Mr. Heniff then used Steve Cigarette Shop as an example of a mercantile

business and added that the appellants business is more of a congregation use.

Mr. Tap then asked if he visited the business tomorrow, could he buy a little bit of tobacco and take it off the premises.

Russell Rasche replied, yes, but it's technically not considered tobacco.

Mr. Tap then referred to the petitioner's affidavit and asked Mr. Rasche if ninety-seven percent of the gross sales are from tobacco.

Russell Rasche replied, yes.

Mr. Tap asked if this was still true today.

Russell Rasche responded that it should be. Mr. Rasche then briefly discussed Lux Chateau's pricing strategy. He added that other than hookah the only thing that can be purchased are packaged beverages.

Mr. Tap, referring to the example of occasional liquor being served in a liquor store, asked if occasional tasting requires a conditional use.

Mr. Heniff stated that if a store were to have a wine tasting, they would need a special license from the liquor commissioner. However, small sampling is just a function of the principal business. Just like grocery stores sample meats, wine stores sometimes sample wine so the consumer can decide whether or not to make the purchase. He added that the principal function would still be a liquor store.

Matthew Rasche then stated that without the hookah element, the business would fail.

Chairperson DeFalco asked if hookah was so important to the business, why it was not specified on the Certificate of Occupancy/Zoning Certificate.

Russell Rasche then complimented Mr. Heniff on his excellent job with the Village. He then stated that the Illinois Smoke Free Act and how it changed things. He also stated that hookah was specifically mentioned in the new Act and that the law was created to specifically allow smoking at exclusively tobacco locations. He then stated that the law commonly exists in many different parts of the country in some variation. He stated that his client has been operating there for two years so the business was no secret and there haven't been any compelling arguments to shut it down. He stated that it wasn't fair to shut his client down because it's not in the statutes and because it goes against the basic American principals of fairness.

Mr. Bedard asked Mr. Heniff if the B4A hypothetically did not include restaurants as a use and someone wanted to open a restaurant, what we would do.

Mr. Heniff replied that we would say that the current code does not provide for it.

Chairperson DeFalco asked what he would then recommend.

Mr. Heniff stated that if there was a Certificate of Occupancy/Zoning Certificate, we would not issue it and recommend that the petitioner apply for a text amendment.

Mr. Bedard stated that his question was answered.

Mr. Heniff stated that the text amendment option was offered to the petitioner.

Dr. Corrado asked if the Village could issue a conditional Certificate of Occupancy where Lux Chateau could occupy their space until the Village voted on a new amendment to the statute.

Mr. Heniff stated that they are currently operating on the premises. He added that they functionally have a conditional Certificate of Occupancy/Zoning Certificate right now. He then stated that if his interpretation is overturned, he would have to sign the Certificate of Occupancy/Zoning Certificate. He added that if his interpretation is not overturned, they could apply for a text amendment or ask for remediation in court.

Dr. Corrado asked the petitioner why they didn't seek the text amendment.

Russell Rasche stated that it was his decision not to. He personally didn't see how the Village could deny this petition. He also stated that additional time is required.

Mr. Young stated that time shouldn't be an issue because they are currently operating.

Russell Rasche stated that they will take any necessary steps. He still didn't see how the Village could deny the Certificate of Occupancy/Zoning Certificate. He then added that the Village can change their statutes.

Mr. Young referred to the Schaumburg exhibit and asked the appellant if they do in fact have a Schaumburg location.

Russell Rasche replied, yes.

Mr. Young asked if Schaumburg's Zoning Ordinance specifically identifies hookah lounges.

Mr. Heniff stated that Schaumburg lists it as a special or conditional use.

Chairperson DeFalco stated that Schaumburg requires a special use for "retail tobacco and smoking" use. He then contended to Mr. Rasche as to why in Schaumburg it's very specific about including the "and smoking" part to their definition.

Russell Rasche again argued that because the use is not listed, it is permitted.

Mr. Bedard argued that it could be interpreted to mean the opposite. He stated that because it doesn't say "hookah smoking shop" it's not included.

Dr. Corrado asked for examples of various places that allow smoking.

Matthew Rasche responded by stating that there is one in Lisle, Naperville and a few in Schaumburg. He added that it is also permitted in Chicago as retail tobacco.

Chairperson DeFalco then summed up the entire issue. He stated that Sahara operated prior to January 1, 2008 and it was also purchased by Mr. Syed prior to that date. He then stated that when it was Sahara it operated as a restaurant, but hookah was also an accessory use. He then added that a tobacco license was issued to Lux Chateau. He stated that the Illinois Smoke Free Act then came along and then Lux Chateau was cited by the County and they had to stop serving food. He stated that it was no longer considered as a restaurant, which is a permitted use, as they didn't serve food anymore. He added that the issue now is the interpretation of whether or not the establishment is related more towards consumption or retail. He added that the decision was made to stop operating as a restaurant.

Russell Rasche stated that the Illinois Smoke Free Act has changed a lot of things, but there is no secret that hookah has been served on the premises. He stated that his client has tried to adapt to the laws, not break them.

Mr. Young asked if it is fair to assume that the issue boils down to what is a tobacco shop and what is not a tobacco shop. He added that state law allows smoking in a retail shop, but is the subject use a retail tobacco shop or is it a lounge where tobacco is consumed. He stated that this is a gray area and he doesn't blame Mr. Heniff for not wanting to dive into the murky waters and sign the Certificate of Occupancy/Zoning Certificate. He then stated that he would have preferred them to seek the text amendment.

Mr. Bedard agreed because there is so much ambiguity and the safer route would be to err on the safe side and support staff's consideration.

Russell Rasche then asked if they were to apply for the text amendment, would they receive a favorable recommendation.

Mr. Young stated that he can't speak for the Plan Commission, but if the ZBA felt strongly enough, they could concur with staff and in essence deny this petition.

Mr. Bedard asked if they could make a favorable recommendation for a text amendment.

Chairperson DeFalco summarized some of the decision-making possibilities by stating that if the ZBA says that the permit should be allowed, the Director must grant them approval and if it is denied, the petitioner can still seek the text amendment.

Mr. Heniff replied, yes.

Russell Rasche then asked if it is possible to have the decision delayed to allow time to work with staff to draft some language.

Chairperson DeFalco replied, yes. He added that there are three choices: A) grant the relief sought by the appeal B) deny the relief and C) grant such other different relief as appropriate under the circumstances.

Michael Toth, Planner I, asked if they were referring to a continuance.

Mr. Young stated that continuances are typically requested by the petitioner, not the ZBA.

Russell Rasche then took time to speak to his client. He then requested a continuance. He then stated that they were never opposed to take the text amendment route, but he felt strongly that they had a case in this matter.

Chairperson DeFalco, Mr. Young and Mr. Heniff then discussed the timeframe of the Plan Commission and ZBA hearings. Chairperson DeFalco asked if the text amendment would come back to the ZBA. Mr. Heniff responded that it would go to the Plan Commission and Village Board. Mr. Young asked if the decision would come back to the ZBA if the Plan Commission denied their petition. Chairperson DeFalco replied, yes.

Russell Rasche stated that he had an agreement with the Village Attorney that he could continue to operate until they go through all of the processes.

Mr. Heniff discussed the timeline. He stated that the text amendments will most likely go

to the June or July Plan Commission meeting and in the absence of action the ZBA can continue the case until such further time.

Chairperson DeFalco asked if the petitioner's Certificate of Occupancy/Zoning Certificate or business license were to expire could they reapply.

Mr. Bedard asked if they can grant an administrative extension.

Mr. Heniff stated that they don't have a Certificate of Occupancy/Zoning Certificate and their business license expires in June or July.

Chairperson DeFalco stated that their business license will expire June 30, 2009. He asked what they could do in the meantime.

Mr. Heniff stated that he will speak with Village counsel on the subject.

Chairperson DeFalco stated that he would like to see action taken before it expires.

Russell Rasche stated that he would be willing to sit down with the Village to work something out.

Chairperson DeFalco asked if anyone would like to make a motion.

It was moved by Young, seconded by Tap, that this matter be continued to the June 24, 2009 ZBA meeting. The motion carried by the following vote:

Aye: 5 - Chairperson John DeFalco, Corrado, Young, Tap and Bedard

Absent: 2 - Newman and Polley

Business Meeting

Approval of Minutes

There were no minutes to approve.

Planner's Report

New Business

Unfinished Business

Adjournment

The meeting adjourned at 9:24 p.m.

*John DeFalco, Chairperson
Zoning Board of Appeals*

*Michael S. Toth, Planner I
Zoning Board of Appeals*