



ZONING BOARD OF APPEALS
Wednesday, October 17, 2013
5:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Minutes on Website: <http://rockfordil.gov/community-economic-development/construction-development-services/land-use-zoning/zoning-board-of-appeals.aspx>

Present:

ZBA Members: Aaron Magdziarz
Alicia Neubauer
Dennis Olson
Dan Roszkowski
Scott Sanders
Craig Sockwell

Absent:

Staff: Jennifer Cacciapaglia – City Attorney
Marcy Leach – Public Works
Todd Cagnoni – Deputy Director, Construction & Development Services
Mark Marinaro – Fire Department
Sandra Hawthorne - Administrative Assistant

Others: Ald. Joseph Chiarelli
Ald. Jeanne Oddo
Ald. Teena Newburg
Kathy Berg, Court Stenographer
Applicants and Interested Parties

Todd Cagnoni explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as:

The Chairman will call the address of the application.

- The Applicant or representative are to come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name and address to the Zoning Board of Appeals secretary and the stenographer
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.
- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns/questions of the Objector or Interested Party

- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.
- The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the Codes & Regulations meeting was given as Monday, October 28, 2013, at 4:45 PM in Conference Room A of this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact the Zoning Office for any further information and the phone number was listed on the top of the agenda which was made available to all those in attendance. The City's web site for minutes of this meeting are listed on the agenda as well.

The meeting was called to order at 5:36 PM. A **MOTION** was made by Scott Sanders to **APPROVE** the minutes of the September meeting as submitted. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

ZBA 025-13
Applicant
Ward 13

1XX Horsman Street & 801 West State Street

Rockford Rescue Mission / Sherry Pitney

Special Use Permit for a Women's Crisis and Life Recovery Center

Variation to decrease the minimum required front yard setback for a parking lot from 20 feet to 10 feet along Mulberry Street in a C-3, Commercial General Zoning District

Laid Over from August & September Meetings

Prior to the meeting, a request was received by the Applicant to Lay Over this to the November 19th meeting.

A **MOTION** was made by Dennis Olson to **LAY OVER** the Special Use Permit for a Women's Crisis and Life Recovery Center and the Variation to decrease the minimum required front yard setback for a parking lot from 20 feet to 10 feet along Mulberry Street in a C-3, Commercial General Zoning District at 1XX Horsman Street & 801 West State Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

ZBA 027-13
Applicant
Ward 3

15XX and 1502 Parkview Avenue

OSF Healthcare System / Arty. Sherry Harlan

Zoning Map Amendment from R-1, Single-family Residential Zoning District to C-1, Limited Office Zoning District

Laid Over from August & September Meetings

The subject property is located west of the Parkview Avenue and Pelham Road intersection. Attorney Sherry Harlan, Karen Brown OSF St. Anthony, and Scott Jensen OSF Health Care were present. Alderman Tom McNamara wished to speak in support of the application. He thanked OSF and Attorney Harlan for the manner in which they made every effort to notify the community of their project and to address their concerns. Mr. Cagnoni mentioned Alderman McNamara was speaking as an interested party and supporter, not in regards to the presentation of the Application.

Attorney Harlan reviewed the application. This project will be done in two phases. She stated the Applicants had work aggressively with Staff to determine the 12 conditions of approval that would work for both parties and she encouraged the Board to adopt those condition. Attorney Harlan reviewed the

location of dumpster, signage, and lighting. If there should be an immediate care, it will close at 9:00 PM. She presented a tree preservation plan that came about from working with Tom Graceffa , and discussed the landscaping plan in detail, indicating placement of new trees, including pines, and a plan for future reservation and maintenance of trees for the future.

Karen Brown, Director of Operations, also gave a brief discussion on the project.

Scott Jensen, OSF Healthcare System, stated OSH has 8 hospitals. He is part of the facilities management and operations division.

Scott Sanders asked if there would be retaining walls or provisions for storm water retention. In response, Mr. Jensen stated they will have storm water management in the existing storm detention. During the development of the parking lot, which is Stage Two, detention will be installed beneath the parking lot.

Staff Recommendation is for Denial of the Zoning Map Amendment to C-1, and Approval of a Special Use Permit with (12) conditions. No Objectors were present. In addition to Alderman McNamara, an Interested Party was present.

Attorney Bruce Ross-Shannon stated he lives in the neighborhood of the subject property and is also speaking on behalf of the neighbors more as a representative of the neighborhood than as an attorney. He explained the original request for C-1 zoning caused some concern. The applicant has been very responsive, they have addressed every one of the neighborhood concerns, and the neighborhood feels they are going to be great neighbors. The neighboring community had a great deal of concern for the trees and future loss of any through disease or natural means and are very pleased with the landscaping plan that was worked out in depth with the Applicants.

Mr. Sanders asked about signage. Mr. Cagnoni stated the signage meets, and in one case, exceeds the ordinance requirements.

A **MOTION** was made by Scott Sanders to **DENY** the Zoning Map Amendment from R-1, Single-family Residential Zoning District to C-1, Limited Office Zoning District and to **APPROVE** a Special Use Permit for a professional and medical office in an R-1, Single-family Residential Zoning District at 15XX and 1502 Parkview Avenue. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meeting all applicable fire and building codes.
2. Uses that may be located on the Property. The uses permitted on the Property as of the date of the approval of this special use (and in the future) and deemed as legally conforming uses in the R-1 zoning designation, subject to the special use conditions set forth herein, are as follows:
 - a. A medical office building that includes prevention, diagnosis and treatment, and rehabilitation services that are provided by physicians, nurses and other health care personnel. Services can include but are not limited to medical testing, analysis, laboratories, imaging, outpatient surgery and immediate care services. The medical office building can also provide medical related course work and patient education classes provided the hours of operation are enforced.
 - b. A place of religious assembly without the need to obtain a modification of the special use.

- c. A community center defined as a place for meetings, recreation or social activities and not operated for profit without the need to obtain a modification of the special use.
 - d. Any use permitted in the R-1 zoning category
 - e. All permitted uses listed in the City of Rockford Zoning Ordinance under the C-1 Zoning District table in effect as of the date of the approval of this special use, except for the following specifically prohibited uses as noted with exceptions:
 - i. Entertainment and Spectator Sports/Small Venues
 - ii. Financial Services defined as a bank, savings and loan or credit union including any drive up services, but specifically excluding uses such as stockbrokers, accountants, financial planners, wealth managers, insurance brokers and other similar consumer investment services which are considered professional offices and permitted uses.
 - iii. A full service health club such as Peak or Anytime Fitness provided however that a yoga or dance studio, martial art studio or other similar use would be permitted. A hair salon or nail studio would not be permitted without a modification to the special use permit, but aesthetician services associated with a medical dermatology practice would be permitted.
 - iv. Manufacturing, Production and Industrial Services/Artisan
3. Hours of Operation. The hours of operation of the Property shall not commence prior to 6:00 AM and not continue later than 8:00 PM, except for a medical office building which shall not continue operation later than 9:00 PM. OSF agrees that published hours shall be stated as not later than 8:00 PM on signage and advertising or other public communications; however if the medical facility is open and a patient arrives a few minutes after 8:00 PM the patient may be seen.
- a. In addition if the Property is utilized as a professional office building such as for lawyers, accountants and other professional services, the hours of use by the owners, employees, partners and their agents and invitees shall not be subject to the hours of use condition.
4. Development to occur as to structures and parking substantially as shown on the site layout plan attached prepared by ARC Design and known as project number 13110 and dated 9/13/2013 ("Site Plan"). Notwithstanding the foregoing, provided the development does not encroach into the Tree Preservation Zone as shown on the Landscape Plan, the zoning office retains the ability to work with the Owner on the footprint of the building and the parking lot as building plans are developed in the future. Development of the building and parking lot shall occur in phases as shown on the Site Plan. Such Site Plan shows the location of the dumpster pad and the enclosure within the service court and behind the retaining wall. The dumpster shall be contained within a fence as shown and be constructed of wood. The parking will be installed generally as shown on the Site Plan with curb and gutter and with the number of parking stalls as indicated approved by the City and constructed in phases. The height of the building from grade will not exceed thirty feet (see note 5 on the Site Plan).
5. All exterior lighting shall be installed in conformance with the Rockford City Ordinance in effect as of the date of the building permit and directed away from the residential uses as described on the Site Plan. At the property line, emissions shall be 0.0 foot candles. All lighting shall be high cut off fixtures providing down lighting only. "High cut off fixtures" means that the bulb or light source is located within the light fixture such that light is projected downward at less than a

ninety degree angle. Parking lot Lights and any internally lit signs attached to the north or west side of the building will be extinguished by 10:00 PM and shall not be turned on until 6:00 AM, except for necessary perimeter security lighting. Any wall lights including perimeter security lights will be shielded so the lights illuminate downward in the same manner as the parking lot lights. The conditions in this paragraph 4 supersede any less restrictive provisions of the Rockford Zoning Ordinance. In addition the "Site Lighting Notes" on the Site Plan shall also by reference herein contain the provisions of this paragraph 4.

6. Signage shall be internally illuminated signage. The landmark identification sign installed along Parkview shall be eight feet in height and substantially in the form as shown on the Site Plan and as further described in the OSF standard signage plan attached, which is the OSF standard eight foot medical office building sign (although the actual sign panels will have different wording). The signage attached to the façade of the building will be in conformance with the City Ordinance but will include the OSF crest. The sign as shown on the Site Plan along Parkview close to the entrance will be a six foot post directional sign as shown on the exhibit attached hereto and be used for directional and service identification purposes. Signage installed along Parkview will not be digital or contain an electronic reader board.
7. The City waives any requirement for sidewalk to be installed on the Property.
8. The building plans will be prepared by a licensed architect in the State of Illinois for the building to be constructed on the Property and shall meet all applicable fire and building codes. The fact that there is one entrance to the Property shall not be deemed a violation of any applicable fire code.
9. A building permit and parking lot permit will be submitted to the City for approval prior to construction commencement. The location of the building and parking lot shall however, not be subject to further review and is approved.
10. New landscaping to be installed substantially per the landscape development plan ("Landscape Plan") prepared by Thomas Graceffa & Associates Landscape Architects dated 9/10/2013 and attached hereto. Landscaping to be installed upon completion of the parking lot and building and will be installed in phases as the parking lot and building develops. For example, no foundation landscaping shall be required along the Phase 2 portion of the building until constructed and no landscaping around the parking lot or in parking islands shall be installed until that portion of the parking lot is installed. Landscaping shall be installed as appropriate to the season when construction occurs.
 - a. The letter dated September 6, 2013 from Thomas Graceffa & Associated and the provisions contained therein are incorporated by reference in this paragraph 9.
 - b. All landscaping will be maintained by the Owner of record. New trees installed by Owner after the adoption of the special use will be replaced with a similar tree if a tree dies. Existing trees which die or are diseased will be replaced with a new sapling as set forth in Tom Graceffa's letter, unless the saplings have already been planted as a part of the phase two portion of the project requiring understory planting in the tree preservation zone, in which event no new sapling in the tree preservation zone will need to be planted by Owner.
11. A Tree Survey dated 9/1/2013 prepared by Thomas Graceffa & Associates is attached hereto and approved by the City. A Tree Preservation Plan as required by the City Ordinance and dated 9/10/2013 and prepared by Thomas Graceffa & Associates is attached and is approved by the City. All trees not indicated for preservation may be removed by the applicant or its agents.
12. Storm Water Detention will be managed in the area as shown of .28 acres on the Site Plan and also installed under the parking areas as necessary and will be in compliance with the City Ordinance. If the storm water detention pond is expanded it will not be towards the north or west and the white pines planted on the north and west side of the detention pond shall remain unless the trees are diseased or dead in which event either Owner or with the permission of the Owner (permission not to unreasonably denied), the neighbor may remove and replace. In no event will

Owner be responsible for replacement of the trees to the north and the west of the detention pond as they were planted by the neighbors originally with the permission of the Owner.

ZBA 027-13
Findings of Fact for Denial of a Zoning Map Amendment
From R-1, Single-Family Zoning District to
C-1, Limited Office Zoning District at
15XX and 1502 Parkview Avenue

Denial of this Zoning Map Amendment is based upon the following findings:

1. The proposed Zoning Map change is not consistent with Article 10-005, Legal Framework, Purposes of the Rockford Zoning Ordinance for the following reasons:
 - a. This proposal does not implement the adopted plans and policies as it is not consistent with the 2020 Plan.
 - b. This proposal does not protect the character, scale and stability of the adjacent residential because the proposed zoning would permit uses that could be injurious to the enjoyment of other property in the immediate vicinity for the purposes already permitted; and
 - c. This proposal does not maintain orderly and compatible development patterns that promote an appropriate mix of land uses and protect and conserve property values as the land uses surrounding the property and the proposed map amendment would not allow for a reasonable development to take place consistent with the surrounding neighborhood.
2. The proposed Zoning Map Amendment is not consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as RL, Light residential.

ZBA 027-13
Findings of Fact for Approval of a Special Use Permit
For a Professional and Medical Office
In an R-1, Single-Family Residential Zoning District at
15XX and 1502 Parkview Avenue

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the R-1 Zoning District in which it is located.

ZBA 028-13
Applicant
Ward 1

18XX N. Perryville Road & 2013 McFarland Road

First Perryville Development Corp.

Special Use Permit for off-site landmark style sign to serve shopping center

Variation to increase the sign height from 8 feet to 30 feet

Variation to increase the maximum square footage of a sign from 64 square feet to 275 square feet in a C-2, Limited Commercial Zoning District and C-3, General Commercial Zoning District

Laid Over from August & September Meetings

The Applicant has requested another Lay Over of this item.

A **MOTION** was made by Dennis Olson to **LAY OVER** the Special Use Permit for off-site landmark style sign to serve shopping center; the Variation to increase the sign height from 8 feet to 30 feet; and the Variation to increase the maximum square footage of a sign from 64 square feet to 275 square feet in a C-2, Limited Commercial Zoning District and C-3, General Commercial Zoning District at 18XX N. Perryville Road and 2013 McFarland Road. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

ZBA 035-13
Applicant
Ward 03

124 North Longwood Street

Dawn R. Karns, Executor

Special Use Permit for a two family residential use in a C-2, Limited Commercial District

This item will be Laid Over to the November 19, 2013 meeting per Staff's request.

A **MOTION** was made by Dennis Olson to **LAY OVER** the Special Use Permit for a two-family residential use in a C-2, Limited Commercial District at 124 North Longwood Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

ZBA 036-13
Applicant
Ward 12

3600 North Main Street

Capital Telecom Acquisition, LLC

Special Use Permit for construction of a wireless telecommunication facility 120 feet in height in a C-2, Limited Commercial Zoning District

The subject property is located on the southeast corner of West Riverside Boulevard and North Main Street and is the North Town Mall Shopping Center. Scott VonRein, Sr. Director of Site Development and Attorney Richard Riley were present.

Attorney Riley reviewed the request of the Applicant. Material was distributed showing the lack of service coverage currently at the site, along with the 5 surrounding towers and a second map showing total coverage of that area after the tower is built. He explained the site will be surround by 8 foot board-on-board fencing, with a generator for emergency purposes only. Site visitation is approximately once per month. The site will be monitored 24-7. The surrounding sites are about a mile and a third to a mile and a half apart. Regarding the 60 foot radius surrounding the tower, Mr. VonRein explained that should there be a catastrophic event that would cause the tower to collapse, it would fall within the 60 foot radius. From above the 60 foot base, the tower would actually bend on itself rather than fall in a straight 120 foot line. Ms. Neubauer expressed concern with visibility of the tower from the grade to the river. Attorney Riley stated they did not have that information at this time, but would be providing it in the actually building stage. Mr. VonRein did state that a person 6' tall walking along the river area would only see the tree line.

Alicia stated she did not necessarily see this site as being used for a 120 foot tower.

Staff Recommendation is for Approval with (3) Conditions. No Objectors or Interested Parties were present.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Special Use Permit for construction of a wireless telecommunication facility (120) feet in height in a C-2, Limited Commercial Zoning District at 3600 North Main Street. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 5-1 with Alicia Neubauer voting Nay.

Approval is subject to the following conditions:

1. Must meet all applicable building and fire codes.
2. Lease area for the proposed facility is limited to the area shown within Exhibit D.
3. Maintenance of fence and landscaping must be maintained as required by the Zoning Ordinance.

ZBA 036-13
Findings of Fact for Approval of a Special Use Permit
For Construction of a Wireless Telecommunication Facility
120 Feet in Height
In a C-2, Limited Commercial Zoning District at
3600 N. Main Street

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the C-2 District.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the Zoning District in which it is located.

ZBA 037-13
Applicant
Ward 06

6001 Beltline Road
Northwest Pallet Supply Co.
Special Use Permit for the outdoor storage, display, and work area of mulch for the process of converting mulch into colored mulch and the outdoor storage of raw material consisting of mulch in an I-2, General Industrial Zoning District

The subject property is located on the north side of Belt Line Road, approximately 2,600 feet east of Kishwaukee Road. Joe Keenan, in-house General Council, and Matt Porter, Operations Manager for Northwest Pallet Supply were present.

Mr. Keenan reviewed the application, explaining they mulch wood products from their plant in Belvidere and in the off season need a location to store excess mulch. Although 5 mulch piles are shown on the submitted site plan, he is anticipating they will only use 3. Fire hydrants will be located at the entrance to the property and they will comply with all Fire requirements.

Aaron Magdziarz asked about the dye products and Mr. Keenan explained there is no danger for runoff because the dye is contained. Craig Sockwell asked how long it took to move a mulch pile. Mr. Porter stated less than an hour with two machines. Mr. Keenan stated they once had a serious mulch fire in Belvidere and the proposed site has been planned to eliminate that danger. Mark Marinaro, Fire Department, stated the problem in the Belvidere fire case was that there was no water on site, and they did not have heavy equipment to quickly move the piles around. After the fire piles were decreased down to 25 feet. In addition, temperatures of the piles were taken every day and sent to the Fire Department. Mr. Marinaro stated the Fire Department has had several meetings with the Applicant and is comfortable with their process.

Staff Recommendation is for Approval with (5) Conditions. No Objectors or Interested Parties were present.

Mr. Keenan asked that the 5 year limitation on the Special Use Permit be extended to the full time of their lease. He explained it is a 5 year lease with the right to renew. Mr. Cagnoni explained it was within the Board's authority to approve an Special Use Permit lasting in perpetuity; however, because this is within the Global Trade Park area and there are a number of opportunities to develop within that area, Staff felt more comfortable with having a 5 year limitation that could be extended should the Applicant renew their lease.

Scott Sanders and Dan Roszkowski were in agreement with the 5 year limitation and felt it could be extended as long as there were no concerns with the operation of the business at the time of renewal.

A **MOTION** was made by Scott Sanders to **APPROVE** the Special Use Permit for the outdoor storage, display, and work area of mulch for the process of converting mulch into colored mulch and the outdoor storage of raw material consisting of mulch in an I-2, General Industrial Zoning District at 6001 Beltline Road. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meeting all Building and Fire Codes.
2. Submittal of a Final Agreement for Staff review and approval that addresses the business operation, safety and fire precautions, and improvements to the site.
3. The Special Use Permit #037-13 for the outdoor storage, display, and work area of mulch for the process of converting mulch into colored mulch and the outdoor storage of raw material consisting of mulch is only in effect for a period up to five (5) years or the last day of August, 2018 unless the lease is terminated by the Greater Rockford Airport Authority, whichever comes first.
4. The outside storage will be limited to mulch (raw material) and colored mulch.
5. All conditions must be met prior to establishment of use.

ZBA 037-13
Findings of Fact for Approval of a Special Use Permit
For the Outdoor Storage, Display, and Work Area of Mulch
For the Process of Converting Mulch Into Colored Mulch and
The Outdoor Storage of Raw Material Consisting of Mulch
For a Period of Five (5) Years or Last Day of August, 2018
In an I-1, General Industrial Zoning District at
6001 and 6100 Belt Line Road

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the Zoning District in which it is located.

ZBA 038-13

Applicant
Ward 01

1869 North Perryville Road

John R. Carabelli

Renewal of Performance Review (Special Use Permit #038-11) for a Gas Station and associated uses – and - **Variation** to permit a reduction in the internal landscaping requirement to 5% in a C-2, Limited Commercial District

The subject property is located on the northeast corner of Rote Road and North Perryville Road. John Carabelli, and Steve Brooks were present. Mr Carabelli, Vice President of construction for Road Ranger reviewed his request for Renewal of the Special Use Permit. He explained that in part, due to economic issues they were unable to move forward on this project in the time frame allowed. He stated the construction will be done in the next two year timeframe.

Staff Recommendation is for Approval of both items subject to the same (6) conditions as that of October 27, 2011.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the Renewal of Performance Review (Special Use Permit #038-11) for a Gas Station and associated uses and Variation to permit a reduction in the internal landscaping requirement to 5% in a C-2, Limited Commercial District at 1869 North Perryville Road. The Motion was **SECONDED** by Craig Sockwell.

Prior to vote, Dennis Olson brought up that there is a gas station going in less than a block away that was approved for the Meiers project recently. He was concerned about saturation of the same business. Alicia Neubauer stated without drawings in front of her, she was not certain she could support this project.

Mr. Cagnoni stated that some of the conversation was not relevant to the renewal or not of this Special Use Permit. It is not applicable to reinstating the original submittal of the Special Use Permit because it has been approved. Mr. Roszkowski pointed out that the Meiers gas station project was actually approved after this application and discussion on saturation should have been at the time that application came before the Board. The Motion **CARRIED** by a vote of 5-1, with Alicia Neubauer voting Nay.

Approval is subject to the original (6) conditions as that of October 27, 2011:

1. The building elevations shall be in substantial conformance with the plans submitted at the Zoning board of Appeals, dated September 20, 2011.
2. The canopy shall be in substantial conformance with the elevation plans submitted at the Zoning Board of Appeals dated September 20, 2011.
3. The landscaping plans shall be in substantial conformance with the plans submitted at the Zoning Board of Appeals dated September 20, 2011, by Thomas Graceffa 9/19/2011.
4. An illumination plan shall be submitted for review and approval by Staff.
5. All dumpsters shall be enclosed with the same brick material as the building and a dumpster enclosure permit shall be acquired for such.
6. A Final Plat shall be submitted for Staff and City Council approval that confirms location of the right-in/right-out, the ingress/egress relocation and water main easement.

ZBA 038-13
Findings of Fact for Approval of a Renewal of Performance Review
(Special Use Permit) #038-11
For a Gas Station and Associated Uses and a
Variation to Permit a Reduction in the Internal Landscaping Requirements to 5%
In a C-2, Limited Commercial District at
18XX and 1869 North Perryville Road

Approval of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-2 Zoning District in which it is located.

With no further business to report, the meeting was adjourned at 6:40 PM.

Respectfully submitted,
Sandra A. Hawthorne, Administrative Assistant
Zoning Board of Appeals