

S58636B

STATE OF ILLINOIS)
) SS.
COUNTY OF KANE)

**BEFORE THE
KANE COUNTY ZONING BOARD OF APPEALS**

In the Matter of:)
)
 Jericho, LLC, Request to) Petition No.
 change from B-1 to B-4;) 2010-4249
 Property located at 9S593)
 Route 47, Sugar Grove Township.)

**REPORT OF PROCEEDINGS had at the hearing of
the above-entitled matter before the Kane County
Zoning Board of Appeals, Kane County Government
Center, 719 Batavia Avenue, Geneva, Illinois, on
September 14, 2010, at the hour of 7:19 o'clock
p.m.**

PRESENT :

MR. JOSEPH WHITE, Chairman;
MR. HAROLD BOWEN, Member;
MS. PENNY CAMERON, Member;
MR. ROBERT MOGA, Member;
MR. GERALD REGAN, Member; and
MS. ROXANNE STOVER, Member.

ALSO PRESENT:

**MR. KEITH BERKHOUT,
Zoning Planner;**

**MR. MARK VanKERKHOFF, Director of the
Development and Community Services
Department; and**

**MR. KENNETH C. SHEPRO,
Special Assistant State's Attorney.**

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1 CHAIRMAN WHITE: I'd like to call the
2 meeting to order.

3 Will the Secretary please call the roll.

4 MR. BERKHOUT: Bowen.

5 MEMBER BOWEN: Here.

6 MR. BERKHOUT: Cameron.

7 MEMBER CAMERON: Here.

8 MR. BERKHOUT: Johnston.

9 (No response.)

10 MR. BERKHOUT: Moga.

11 MEMBER MOGA: Here.

12 MR. BERKHOUT: Regan.

13 MEMBER REGAN: Here.

14 MR. BERKHOUT: Stover.

15 MEMBER STOVER: Here.

16 MR. BERKHOUT: White.

17 CHAIRMAN WHITE: Here.

18 The petition before us now is No. 2010-4249.

19 The Applicant is Jericho, LLC. The purpose is to

20 rezone the restaurant portion of the parcel to

21 allow for the sale and consumption of alcohol.

22 The existing zoning is B-1. It's a business with

23 a special use for a gas station and convenience

24 store with packaged liquor sales. The requested

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1 action is a B-4 business.

2 It's located on the northeast corner of
3 Route 47 and Jericho Road in Section 33 of Sugar
4 Grove Township with an address of 9S593 Route 47.

5 Will the Secretary please read the file.

6 MR. BERKHOUT: Petition dated July
7 19th, 2010, requesting rezoning a portion of the
8 property from B-1 District Business to B-4
9 District Business.

10 Certification that Petitioner has notified
11 neighboring property owners of the rezoning
12 petition.

13 Certified letter sending a copy of the
14 petition to the Sugar Grove Township supervisor,
15 the Village of Montgomery, the Village of Sugar
16 Grove, and the City of Yorkville.

17 Letter dated July 16th, 2010, from the
18 Illinois Department of Natural Resources stating:
19 "The Illinois Natural Heritage Database contains
20 no record of State-listed threatened or endangered
21 species, Illinois natural area inventory sites,
22 dedicated Illinois nature preserves, or registered
23 land and water reserves in the vicinity of the
24 project location. Consultation is terminated."

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1 Memo dated August 31st, 2010, from the Kane
2 County Health Department stating: "There are no
3 issues of note. They will need to follow the
4 smoking regulations, but they are aware of that."

5 Memo dated August 31st, 2010, from the Kane
6 County Division of Transportation stating: "Staff
7 from KDOT has reviewed the zoning application for
8 the property listed above. We offer the following
9 comments:

10 "1. The rezoning is to allow on-site sale
11 and consumption of alcoholic beverages in an
12 effort to make the restaurant more appealing to
13 patrons. This change does not translate into an
14 intensification of the land use from a traffic
15 generation perspective.

16 "2. The property has an existing full
17 access to Illinois Route 47, currently served by a
18 dedicated left turn lane for the access. There is
19 also an existing full access to Jericho Road.
20 There is no crash history of note with regard to
21 either access point and no safety concerns are
22 anticipated."

23 Letter dated September 7th, 2010, from the
24 United City of Yorkville stating: "We are in

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1 receipt of the rezoning petition for the property
2 located at Jericho and Route 47. Although this
3 property is located within a mile-and-a-half of
4 our corporate limits, per our standing boundary
5 agreement with the Village of Sugar Grove, it is
6 not within our planning jurisdiction. Therefore,
7 the United City of Yorkville is not opposed to the
8 Petitioner's request."

9 Letter dated September 13th, 2010, from the
10 Village of Montgomery stating: "The Village of
11 Montgomery has no comments regarding the zoning of
12 the property located in close proximity to the
13 corner of Route 47 and Jericho Road."

14 The Kane County Technical Staff Report dated
15 August 30th, 2010, recommending approval of the
16 zoning request.

17 Certification of publication and
18 distribution listed. That is the file.

19 CHAIRMAN WHITE: Thank you.

20 Would the Zoning Officer please show the
21 maps.

22 MR. BERKHOUT: Okay. As mentioned,
23 the property, the entire property is located on
24 the northeast corner of Route 47 and Jericho Road.

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1 There is an existing -- it's a multi-use building.
2 There's a gas station in the southern part and a
3 restaurant in the north. The gas pumps are in
4 this area here.

5 The rezoning is just going to affect
6 basically -- it's going to be an island of B-4 on
7 that property. The rest will remain B-1.

8 The zoning map shows the B-1 special use.
9 Most of this, obviously, is farming. There's the
10 B-2 across the street for the golf range. There's
11 a little subdivision here to the southwest.

12 The 2030 plan shows this as commercial.
13 This intersection is one of two designated by Kane
14 County as crossroads commercial for like
15 commercial uses such as this. We have proposed
16 open space resource management to the north and
17 farms, rural residential. This is within the
18 crossroads commercial designation of the 2030 Land
19 Use Plan.

20 This is a picture of the property south of
21 the building. This is where the gas station area
22 would be. The restaurant would be over here to
23 the north. This is looking from the northeast.
24 Again, this would be the back of the restaurant

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1 here and the gas station area there.

2 This is where approximately the outdoor deck
3 will be, where people can take drinks and go
4 outside for a smoke in this area here, and it will
5 be modified so they can come out for access.

6 This is an interior photo of the restaurant
7 now. They are looking to change the theme to more
8 of a roadhouse/sports bar, but keep a lot of the
9 food and so forth that they're renown for. It's a
10 family restaurant, and it will be similar to what
11 you see here.

12 The recommended findings of fact: The
13 current use of the restaurant will not intensify.
14 Staff recommends approval.

15 CHAIRMAN WHITE: Thank you.

16 Are there any questions of Keith from Board
17 members?

18 (No response.)

19 CHAIRMAN WHITE: Is the Petitioner
20 present?

21 Is there anyone else here that's going to
22 speak in behalf or opposed to this petition?

23 I'll need to swear everybody in at the same
24 time. If the Petitioner would like to come

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1 forward, and everybody stand and raise your right
2 hand.

3 (The witnesses were thereupon
4 duly sworn.)

5 CHAIRMAN WHITE: Would the Petitioner
6 please come forward.

7 MS. KRAMER: Kelly Kramer,
8 K-r-a-m-e-r, on behalf of the Petitioner, Jericho,
9 LLC, and Jim and Jean Alabastro, who are the
10 individuals who will be running the restaurant at
11 the location, if approval is given by the Kane
12 County Board for the rezoning.

13 In addition to the staff report, we were
14 before the Sugar Grove Plan Commission and
15 received a unanimous recommendation from that
16 governmental body and also from the Village Board
17 last week. I don't believe the letters have been
18 forwarded yet, but I would like to give you an
19 update as far as their approval of the property.

20 Basically, Jim and Jean have been in the
21 restaurant business for over 20 years and are
22 seeking to operate, like staff said, a sports bar/
23 roadhouse at the location. They will comply with
24 all of the requirements as far as petitioning for

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1 a liquor license in the event that the property is
2 going to be rezoned. Under the Kane County zoning
3 ordinance, we are required in order to obtain a
4 liquor license to rezone from B-1 to B-4.

5 We do not disagree with any of the staff
6 recommendations and would add that the outdoor
7 deck patio area would be railed in with a fence or
8 some sort of gate and would comply with all the
9 State and local requirements as far as proximity
10 of the smoking to any opening in the facility.

11 Again, the Petitioners are here tonight if
12 you would like them to answer any questions, and
13 we believe that the proposed submittal does comply
14 with the Kane County Land use Management Plan, and
15 we will be looking for a positive recommendation
16 to the County Board for the rezoning from B-1 to
17 B-4.

18 CHAIRMAN WHITE: Mr. Bowen.

19 MEMBER BOWEN: I just have one
20 question, if I may.

21 For your outdoor area that you talked about,
22 are you also planning on music or other things
23 creating loud noise coming into that area?

24 I've been around such things, and it can get

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1 rather noisy.

2 MS. KRAMER: It would be a small beer
3 garden.

4 CHAIRMAN WHITE: Please state your
5 name for the record, sir.

6 MR. ALABASTRO: Jim Alabastro.

7 CHAIRMAN WHITE: Could you spell that,
8 please. The reporter is here, and she'd like you
9 to spell your last name, please.

10 MR. ALABASTRO: A-l-a-b-a-s-t-r-o,
11 Jim.

12 CHAIRMAN WHITE: Thank you.

13 MR. ALABASTRO: The outdoor area, what
14 we're planning to do with that is probably put a
15 solid board-on-board fence out there. It will be
16 kind of decorative. It is to block the area, but
17 we want it to look nice also with the exterior of
18 the building that's existing, and that area out
19 there will be blocked.

20 We're coming about 15 feet from that one
21 point you see over there. There will be a new
22 door installed there, and that complies with the
23 code rules and so forth. People can't come out
24 the front door, and they can only access this

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1 smoking patio area out here coming through that
2 door. That's really the main use that the fence
3 is going to be doing there.

4 As far as any music or anything like that, I
5 doubt that we'll -- we haven't planned anything
6 for out there.

7 MEMBER BOWEN: You say you doubt
8 you'll have any or what? It's a little hard for
9 me to hear.

10 MR. ALABASTRO: Okay. We won't have
11 any music out there.

12 MEMBER BOWEN: Okay. I went out and
13 looked at the property over the weekend, and I
14 know where that is, and I'm concerned about that,
15 particularly the noise coming out of there and
16 being heard around the area. That noise, the
17 music can be heard quite a distance away.

18 So you're not going to have any type of
19 music or entertainment outside; is that correct?

20 MR. ALABASTRO: No. You're correct.

21 MEMBER BOWEN: The other comment that
22 always worries me a little bit is the thing on
23 drunk driving. If you want a liquor license, the
24 only way you can get there is to drive. You can't

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1 walk. I understand why you have to have it, but
2 that's always a concern of mine. That's my
3 personal concern.

4 Thank you. You answered the question.
5 Thank you.

6 MR. ALABASTRO: Thank you.

7 CHAIRMAN WHITE: Any other questions?

8 I had a couple questions on the parking.

9 You're taking a few parking spaces out. Do
10 you still have adequate parking for the business
11 you hope to have generated?

12 MS. KRAMER: Yes. The parking lot
13 that is here today has 76 spots, and we're looking
14 to reduce it to 72, but that still does comply
15 with the ordinance.

16 CHAIRMAN WHITE: What about signage?
17 I know the restaurant has a sign out by the road,
18 and they have their name on the building. Any
19 plans?

20 MS. KRAMER: Similar signage, and most
21 likely they will be replacing a panel on the
22 existing sign.

23 CHAIRMAN WHITE: Any other questions?

24 MEMBER STOVER: I've got a comment, if

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1 you don't mind, Mr. Chairman.

2 CHAIRMAN WHITE: Ms. Stover.

3 MEMBER STOVER: I thought I counted 78
4 spots. You only have six to eight handicapped
5 spots. I would suggest that that's not many.
6 That ratio is low. I think you should have more
7 handicapped spots. That's just a comment.

8 MS. KRAMER: We'd be happy to look at
9 that.

10 MEMBER STOVER: That would be great.

11 CHAIRMAN WHITE: Any other questions?
12 Mr. Moga.

13 MEMBER MOGA: Are you ready for the
14 question?

15 CHAIRMAN WHITE: It can be moved. I'm
16 sorry.

17 Is there anyone else who wishes to speak on
18 this petition? Please come forward.

19 Please state your name for the recorder and
20 your position either for or opposed to the
21 petition.

22 MS. NICKELS: My name is Patricia,
23 P-a-t-r-i-c-i-a, last name Nickels, N-i-c-k-e-l-s.
24 I am a general partner of the Nickels Family

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1 Partnership. We own land east of the building
2 about one mile, and we object to the zoning
3 change.

4 We have had on several occasions access on
5 to our property from inebriated drivers. The last
6 being in December of '06. Had a tree not been
7 there, the driver would have taken out the entire
8 house. Back in the '90s, we had a stone monument
9 between us and a neighboring farmer taken out, and
10 the driver was injured and had to be taken away.

11 Also on many occasions in years past when I
12 have come home from playing cards with friends, I
13 have encountered drag racing on Jericho Road, and
14 we are just wondering if this is going to be one
15 more cruise stop for the inebriated drivers that
16 are out cruising around.

17 CHAIRMAN WHITE: Thank you. Is there
18 anybody else wishing to testify concerning this
19 petition?

20 (No response.)

21 CHAIRMAN WHITE: Seeing none, a motion
22 will be in order.

23 MEMBER MOGA: Mr. Chairman, I move for
24 the approval of Petition No. 4249.

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1 MEMBER STOVER: I second.

2 CHAIRMAN WHITE: Moved by Moga.

3 Second by Stover.

4 Any discussion?

5 (No response.)

6 CHAIRMAN WHITE: All in favor of the
7 motion signify by saying aye.

8 (The ayes were thereupon heard.)

9 CHAIRMAN WHITE: Opposed same sign.

10 (No response.)

11 CHAIRMAN WHITE: Motion carries.

12 MR. BERKHOUT: Consideration by the
13 County Board of the zoning petition which is the
14 subject of this public hearing is currently set
15 for 9:45 a.m., Tuesday, October 12th, 2010, in the
16 County Board meeting room at the Kane County
17 Government Center.

18 Persons in favor of or in opposition to this
19 petition who wish to speak before the County Board
20 must file their intention to do so with the Zoning
21 Enforcement Officer not later than the Friday
22 preceding the County Board meeting at which the
23 petition is to be considered.

24 The petition which is the subject of this

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1 public hearing will be considered by the Kane
2 County Development Committee at its meeting
3 currently scheduled for 9:00 a.m., Tuesday,
4 September 21st, 2010, in the County Board meeting
5 room at the Kane County Government Center.

6 Persons in favor of or in opposition to this
7 petition who wish to speak before the Development
8 Committee must signify their intention to do so by
9 signing a sheet provided for such purpose at the
10 meeting at which such petition is to be
11 considered.

12 CHAIRMAN WHITE: This Board is a
13 recommending body to the County Board. Anyone
14 wishing to speak at the County Board meeting is
15 encouraged to take a copy of the procedure to
16 apply for time to speak.

17 If your name is not on the County Board
18 agenda, you will not be allowed to address any
19 concerns or questions that County Board members
20 may have about this petition. This would apply to
21 anyone in the audience.

22 MEMBER BOWEN: Move to adjourn,
23 Mr. Chairman.

24 CHAIRMAN WHITE: It's been moved by

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1 Bowen.

2 MEMBER REGAN: Second.

3 CHAIRMAN WHITE: Second by Regan to
4 adjourn.

5 All in favor say aye.

6 (The ayes were thereupon heard.)

7 CHAIRMAN WHITE: Opposed same sign.

8 (No response.)

9 CHAIRMAN WHITE: The meeting is
10 adjourned.

11 (Which were all of the
12 proceedings had in the
13 above-entitled matter ending at
14 7:33 p.m.)

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