

Village of Justice
Zoning Board of Appeals
Minutes of Monthly Meeting
January 20, 2014

CALL TO ORDER:

Meeting was called to order at 7:00pm by Chairman John Bruce.

ROLL CALL:

Roll call was taken. Present at meeting were: George Orawiec, Edwina Gaskin, Jack Kennedy, Jim Brock, Chairman John Bruce, and Secretary Shirley Shilka.

Bogdan Ogorek, Rich Berkowicz not in attendance.

ATTENDANCE: John Small, Trustee Small, Trustee Symonds, Trustee Rusch, Trustee Kuban, Trustee Oszakiewski, Orley Betcher, Ed Shilka, Jim Lurquin.

John Bruce: I would like to entertain a motion to table the minutes from the October 21, 2013 until after we complete the Public Notice.

Jack Kennedy: **SO MOVED**

SECOND: Edwina Gaskin

VOTE: All Ayes.

John Bruce to Jim Lurquin: In regards to the petition for public notice to amend Chapter 12, Zoning, of the Justice Municipal Code to provide for the regulation of medical cannabis dispensing organizations and medical cannabis cultivation centers/facilities. I have assigned Public Notice #2014-01 on the Petition for reference.

John Bruce: Read Petition Notice #2014-01 which was published in the Des Plaines Valley News on the 2nd of January, 2014 and is a weekly publication.

John Bruce: Once question I have on this is I-1R is a selective restriction or are we amending the Village Zoning Code to include an I-1R?

Jim Lurquin: The current zoning code has an I-1R in it, it's just not designated anywhere. My question is; where it is located? In the I-1R in the code book, it does have parking specifications, building specifications and all of that, we don't have a designated I-1R district.

John Bruce to Jim Lurquin: Before you make your presentation; the other question I have is, the attorney also mentioned you are also looking to amend special use specificity in the village code? Will this be part of your presentation?

Jim Lurquin: There is a section in the ordinance that adds special use to the zoning.

John Bruce: Swearing in of Jim Lurquin.

Jim Lurquin: James M. Lurquin, Municipal Services Administrator, Village of Justice.

The two sections of the zoning of an ordinance amending chapter 12 of zoning providing for the regulations of medical cannabis facilities. One of the issues is special use, which is new section 12-15. The second section is article 5, medical cannabis cultivation and dispensaries section 12-2 11 12-2 16, --- would be added. One of the items that you have as a memorandum from the village attorney basically summarizes the law which is 211 pages long, it is down to ---pages.

The first section 12-1, Rules of Construction definition, simply adds a paragraph on medical cannabis cultivation centers. That would be added as an I-1R use, currently this is #4; this should be #5.

Basically adds 4 definitions to that section

Section 12-15 in the code, in your ordinance page 3; this is a brand new section on special uses. I believe we basically follow these rules when we have other types of zoning issues that require special use in different categories.

John Bruce: In this case I believe, in the past it was more of a variance that had been issued.

Jim Lurquin: This puts in the code how to go about what has to be met in order to obtain a special use, how to keep that special use and what happens when you leave.

Jack Kennedy: Wasn't there a time limit on the special use?

John Bruce: Permits have to be issued within one year.

Jack Kennedy: Can this only be special use for a certain amount of time, or is there no limit on a special use permit?

Jim Lurquin: Generally it runs with the business, not the property. If you move out of town and another business comes in and wants to do the same thing; that special use is no longer there. It goes with the owner, not the property.

John Bruce: It's tied to the property and the owner.

Jack Kennedy: I thought it was one or the other.

John Bruce: If the owner moves to a different piece of property within the town, does it move with him?

Jim Lurquin: No.

John Bruce: So it is tied to the property and the owner.

Jim Lurquin: For that parcel as long as that owner doing that business is at that parcel.

Jim Lurquin: Basically you want to read thru page 3, 4, 5, and 6 under special uses.

Jack Kennedy: On page 6, Section J covers that right; so it's just the property in question rather than the owner/operator.

John Bruce: I thought it was the opposite of the variance, the variance is tied to the property and the type of business not necessarily the owner.

So it should be in addition to the owner or as well as, however you want to word it.

Page 3 and 4 is pretty much standard procedure and common sense that we have done. Point 1 on page 4 paragraph 1, 2, 3, 4, 5, 6, and 7 are compliant with standard village code and pretty much common sense.

Point D; notice this is a little different than a variance, a variance cannot be specifically for financial consideration it's specified in that but not in here, correct Jim?

Jim Lurquin: Not that I know of.

Jim Lurquin: On page 5 the last sentence on the bottom, explains the time limit. They can keep their special use, once it is granted, as long as they start their construction within

If you move on to Section 12-149 of the current code, special uses in the I-1R district currently shows 4 different things that can be done and this will add #5.

Currently you can have similar compatible uses of those allowed as permitted uses in the plan unit development, rail road rights of way, passenger stations, not including rail road yards and shops or hospitals, dispensing in cultivations centers.

John Bruce: What is the distance on the rail road station, is that still the 1000 feet or is there a specified distance?

Jim Lurquin: The four that I mentioned, are the four things that you can do now in a special use, we are adding medical cannabis facilities that otherwise are covered under this section. The biggest part of this besides special use is the cultivation and dispensaries article 5 page 7, the new chapter section 12-211 basically outlines under state law what cannot be done and what can be done as far as dispensing centers and cultivation centers. There is a little bit of a difference in the two, they are both standalone buildings. The cultivation center is 2500 square feet from residential, day care, schools.

Jack Kennedy: That is 1 ½ times what they regulate in the medical act that he is talking about?

John Bruce: No, that is what the state requires.

Jim Lurquin: The state requires 2500 on the cultivation centers, it requires only 1000 on the dispensing centers.

Jim Brock: That is from the lot line to the growing area?

Jim Lurquin: That is from lot line to building.

Jack Kennedy: Do we want 2500 on both?

John Bruce: State statute is 1000 ft. We don't have home rule so I don't think we would be able to.

Jim Lurquin: 2500 feet is the cultivation center.

John Bruce: The cultivation center itself, the dispensing center is 1000 feet.

Edwina Gaskin: It says 2500 on both dispensing and cultivating.

John Bruce: That's nursing school, residence, it is 2500 from the school, what is the dispensary on the state statute.?

Jack Kennedy: It says dispensaries may not be located within 1000 feet of a property line of a pre-existing public or private pre-school.

Edwina Gaskin: It also says that on the memorandum.

John Bruce: On page 8; 12-215, paragraph a and b, it says 2500 feet on both private, nursery school, etc., or zoned for residential.

Jim Lurquin: I will see if I can find it in the code.

John Bruce: Can we make a note to change that to 1000 feet.

Jack Kennedy: It also says you should not make it unnecessarily difficult for the dispensing centers.

Trustee Kuban: Exactly, if that is what our code says then it is not unnecessarily difficult. Jim, how far is tobacco right now?

Jim Lurquin: Tobacco is 1000 feet.

John Bruce: I am not sure if we can change that from the state statute.

Trustee Kuban: The same gentlemen that wrote the memo is the gentlemen who wrote this ordinance, and it is the same ordinance for the municipalities around us.

John Bruce: We don't have home rule.

Trustee Kuban: We don't have to have home rule.

John Bruce: I think we are limited to state statute on some things like this.

Trustee Kuban: Ordinance takes precedence over state statute, unless statute is greater than ordinance.

John Bruce: In this case it would be the reverse. I don't have a problem with 2500 feet if we could do it.

Just for sake of discussion, does anyone have a problem if it was at 1000 feet, based on the state statute?

Jim Brock: I would not have a problem with that.

Jack Kennedy: Whatever the state regulates, I say yes.

Jim Lurquin: The cultivation center of the state statute says; the cultivation center may not be located within 2500 feet of the property line of a pre-existing public or private pre-school, elementary or secondary school, or day care center, day care home, group day care home, child care facility, or an area zoned for residential use.

Jack Kennedy: You are almost putting a limit where they cannot do anything. So if you do not have any spots in town that meet the requirement you are making it unreasonably difficult.

Trustee Small: It has to at least be within the state statute. So it's almost like a moot point if we do not have any spots in the village

Trustee Kuban: According to the law, for a cultivation center, you can stop them from coming in if you do not have any place that is non-residential.

John Bruce: I cannot see anywhere it would fit, even in the industrial area, there is really nowhere that would fall within that 1000 foot perimeter.

Orley Betcher: I think if the state is only going to allow 16 places to grow this, I wouldn't even worry about trying grow it here, priorities should be set on where they can buy it. If this is any indication of what the gambling boats started out in the State of Illinois I don't think you are going to be able to stop it.

Trustee Small to Jim Lurquin: I do not know if you have dug into this but that's my question; it says 16 dispensaries and 22 cultivation centers. Have they defined where they are going to allow them and how they are going to disburse them throughout the state?

Jim Lurquin: There will be so many per state police district. I know for a fact that La Grange Park is applying for permits for both cultivation and dispensing.

State law on dispensing is 1000 feet of the property line of the same description for the other. A registered dispensing organization may not be located in a house, apartment, condo, or any area zoned for residential use.

Jim Brock: Do we have to amend the ordinance we are trying to pass to 1000 feet?

John Bruce: Can we change page 8; 12-215 paragraph a and b, to 1000 feet and leave it at 1000 feet?

Jim Lurquin: Section 12-215 paragraph a, should be 1000 feet not, 2500 feet, paragraph b, should be 1000 feet.

Based on what we looked at on the zoning map, in the industrial district we do not make the 1000 feet let alone the 2500 feet. My worry was that an I-1R with a special use could be located anywhere in the village, as long as they made the 1000 feet or the 2500 feet rule. Do we have any place in the village that would qualify; I do not know.

Based on the ordinance, as it is set, with the change that we have made, basically state law prohibits any cultivation or dispensing within the limits of the Village of Justice. It is not that we are making the rules to prohibit it, or going out of our way, it is just the way it is.

Anything on the other side of the 71st Street ditch and the rail road tracks are subject to recreational use only, this does not qualify for that.

John Bruce: We have property on the North side of the Des Plaines River.

Jim Lurquin: We lease property there that has a contingent on the deed that says it can be used for recreational trails only, and you cannot build anything on that property. It is not zoning it is law it is in the deed. It cannot be used for any other purpose according to the Illinois Department of Natural Resources, other than recreation, therefore you cannot build anything anyway.

John Bruce: Basically it is non-buildable R-1.

Jim Lurquin: The parking issue has already been taken care of since it is already on the books. Drug paraphernalia, tobacco products and discrimination code sections, we would make a separate ordinance that deals with those, since you cannot discriminate against people in housing if they are on medical marijuana.

John Bruce: As far as the paraphernalia to use the medical marijuana is that limited.

Jim Lurquin: Dispensing organizations only, everywhere else is against the code.

John Bruce: If there is a full scale pharmacy, is there any question in there as far as them dispensing medical marijuana thru the pharmacy, whether it be in the smoking form or the pill form?

Jim Lurquin: The issue with the pill form is not covered in this act. As far as if Walgreens could be a dispensary, they would have to apply thru Agriculture and the Department of Professional Regulations. I am not sure that would happen since in the code it says that the dispensary and the cultivation center has to be blocked out so no one knows what you are getting or what you are doing. You would have to block out all the windows in Walgreens.

Jack Kennedy: I think section d on page 9 covered that; space occupied by medical cannabis dispensing shall only be used for that. It cannot be anything else, it cannot be occupied, or shared or any other business, other than a medical cannabis dispensing organization.

John Bruce: There is no area in the Village of Justice for cultivation, unless it is in the cemetery and then it would have to be rezoned I. That is the only place that there might be 1000 feet somewhere on all four sides.

Trustee Rusch: Is the cemetery considered a commercial business?

Jim Lurquin: No, it has been rezoned to B-1. As long as it cannot be residential or commercial, then we do not have to worry about that.

Trustee Rusch: Clearly cultivation centers do not belong in a commercial district and cannot be located in a residential.

John Bruce: Subject to that the state changes the statute and makes it less, say 500 feet, the odds are we would not have any space for cultivation but as far as dispensing centers there is a possibility. If the state changes the statute does that supersede out existing statute at 1000 feet.

Jim Lurquin: That's an attorney's question.

Trustee Rusch: If they cannot cultivate, then where can they dispense from?

John Bruce: The only possible place is the north west corner of the property on the east side of Public Works and that would have to be subdivided off on the north west corner of that property into another lot so that you would be able to attain 1000 feet from the east. You are not going to get that 1000 feet without an extra couple hundred feet.

Trustee Rusch: If someone wanted to dispense, in that particular area, then they would have to come to the Zoning Board for re-zoning?

John Bruce: They would have to come to us first for special use and depending upon where the property is, if there is a structure on it now they might have to split that lot to get the dispensing center further away from residential.

Jim Brock: This is a pilot program, is there anything that the state is going to set a deadline for this program to change it to eliminate it.

John Bruce: Is there a time frame, or is it subject to

Jim Lurquin: At this point in time this pilot program, they haven't written the rules and regulations on how to carry it out yet, which they don't expect to happen for another year or two. So you are looking at a pilot program that is going to last at least 2 years or better.

John Bruce: Is anyone comfortable with putting a motion together.

Jack Kennedy: I would like to put a motion together to accept the ordinance changes. How would we word it with the exception of section j.

John Bruce: The ordinance submitted amending the definitions to include the 3 additions to 12-1 in definitions, section 12-15 special uses as submitted to amend paragraph j except where otherwise provided, special use be for the benefit of use and property in question as well as the owner of the property or operator of such use or property. However, it is going to be worded it would have to tie the owner/operator to the property.

Jack Kennedy: Wouldn't it work if you changed rather to and? If you made it property in question and the owner or the operator? Then you have everything covered.

Jim Lurquin: What you are trying to say is; special use goes away when the property changes hands.

John Bruce: The concept is to include the benefit of use, the property and the owner operator of that property.

John Bruce: Then article 5 section 12-215 paragraph a & b under medical dispensing organization, should be changed to; may not be located within 1000 feet of the property line, b is also changed to 1000 feet of the property line. That would make it consistent with the state statute, and this way there could be no accusation of it being unduly harsh as compared to the state statute.

Trustee Small: So this is something that you would hand over to the lawyer?

John Bruce: No, Mr. Lurquin would handle it in discussion with the lawyer and he would have it set up for your review at committee and then it would be up to you, whether you think it needs to come back to us for more qualification.

John Bruce: So basically the motion would be to accept the ordinance as written with the changes as discussed to Section 12-1 definitions, 12-15 special uses paragraph j, and article 5 section 12-211.

Jack Kennedy: entertains MOTION to accept the ordinance changes

SECOND: Edwina Gaskin

ROLL CALL: George Orawiec, Edwina Gaskin, Jack Kennedy, Jim Brock, and John Bruce; all ayes.

John Bruce: Do I need to do a Findings & Recommendations on this or are you going to handle this with the attorney?

Jim Lurquin: You will still have do the Findings & Recommendations.

John Bruce: What is our time frame now? According to the special use paragraph 3, we have 60 days upon conclusion of a public hearing. Is this in the general code also? Action by Zoning Board of Appeals section 2, 12-15 paragraph 3.

Jim Lurquin: What that is talking about is when you have a special use hearing, they have 60 days to submit to the board your Findings and Recommendations at the conclusion of that public hearing.

John Bruce: I have 60 days to submit to the board the Findings & Recommendations.

Jim Lurquin: No, that is for either granting the special use or not.

John Bruce: So the specificity on the findings is going to be based on state statute, we need to amend the village code.

John Bruce: Let me know if you are going to get this on the agenda for the February 5th meeting. I will try to get this to you by that time.

John Bruce: We have the minutes from the October 21, 2013 meeting, anyone have any questions?

Jack Kennedy: Did we lock down the numbers for a quorum?

John Bruce: Yes, four members plus myself. I am considered a member and part of the quorum.

Jack Kennedy: Entertains a MOTION to accept minutes from October 21, 2013 meeting as submitted.

SECOND: Jim Brock

VOTE: All Ayes.

John Bruce: You also have the both the confidential and the general FOIA information, in case someone requests information on the members. If there is anything that needs to be corrected please let me know as soon as possible.

Trustee Oszakiewski: By February 1, 2014, if anyone on the Zoning Board is interested there is a job opening on the Economic Development Commission in moving over to the Economic Development Commissioner stipend position, please contact Matt Zarebczan in the Finance Office. It is not in addition to, it is instead of.

The Zoning Board will be part of the education process of the EDC, as you deal with the properties. This will be two Saturdays from approx. 9 to 1 or so, in April or September, we will let you know ahead of time, it will be in the Village Hall. We will be inviting the Economic Development Commissioners, The Zoning Board Commissioners, the Trustee's, the Mayor, and then also will be the Justice Chamber of Commerce Board, the Building Department, we will like as many people to attend as possible.

Jack Kennedy: Entertains motion to **ADJOURN**: at 8:25pm

SECOND: Edwina Gaskin

VOTE: All Ayes

Respectfully Submitted

Shirley Shilka, Secretary

John W. Bruce

John W. Bruce, Chairman