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Affidavit Fee:
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 04/29/2013 03:18 PM Pg: 1 of 23

THIS SPACE FOR RECORDERS USE ONLY

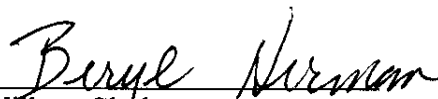
VILLAGE OF LINCOLNWOOD

ORDINANCE NO. 2013-3048

AN ORDINANCE GRANTING VARIATIONS FOR THE DEVELOPMENT OF 4697 W. TOUHY AVENUE

ADOPTED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF LINCOLNWOOD
THIS 16th DAY OF APRIL, 2013.

Published in pamphlet form
by the authority of the
President and Board of Trustees
of the Village of Lincolnwood,
Cook County, Illinois this
16th day of April, 2013


Village Clerk

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AN ORDINANCE GRANTING VARIATIONS FOR THE DEVELOPMENT OF 4007 W. TOUHY AVENUE

WHEREAS, Next Touhy, LLC ("**Owner**") is the record title owner of that certain property located in the B2 General Business District ("**B-2 District**"), commonly known as 4007 West Touhy Avenue, and legally described in **Exhibit A** attached to and, by this reference, made a part of this Ordinance ("**Property**"); and

WHEREAS, the Property is improved with an existing vacant 1,700-square-foot building ("**Building**") and an existing hardsurfaced off-street parking lot; and

WHEREAS, the Owner desires to operate a carry-out restaurant and financial services office within the existing Building on the Property, and in connection therewith, desires to expand and reconstruct the off-street parking lot on the Property; and

WHEREAS, pursuant to Section 4.13 of "The Village of Lincolnwood Zoning Ordinance," as amended ("**Zoning Ordinance**"), the minimum rear yard setback of a building is 10 feet; and

WHEREAS, the existing Building is located 6.97 feet from the west lot line of the Property, in violation of Section 4.13 of the Zoning Ordinance; and

WHEREAS, pursuant to Section 6.11(5) of the Zoning Ordinance, the Owner must provide all landscaping required pursuant to Part D of Article 6 of the Zoning Ordinance in connection with the expansion and reconstruction of the off-street parking lot on the Property; and

WHEREAS, pursuant to Section 6.14(1) of the Zoning Ordinance, the minimum perimeter landscape width for off-street parking lots is eight feet; and

WHEREAS, the Owner desires to improve the Property with an eight-foot-wide landscaped area along the perimeter of the Property, except for an 11'5"-wide encroachment along the northerly lot line of the Property, a 10'6"-wide encroachment along the easterly lot line of the Property, and a five-foot-wide encroachment along the westerly lot line of the Property (collectively, the "**Proposed Perimeter Landscaping**"), which encroachments are in violation of Section 6.14 of the Zoning Ordinance; and

WHEREAS, pursuant to Section 6.14(2) of the Zoning Ordinance, a planting island equal in area to a parking space is required to be located at the end of each parking row within off-street parking lots; and

WHEREAS, the Owner proposes to install less than the required number or size of planting islands within the off-street parking lot on the Property (collectively, the "**Proposed Planting Islands**"), in violation of Section 6.14(2) of the Zoning Ordinance; and

WHEREAS, pursuant to Table 7.06.01 of the Zoning Ordinance, all off-street parking spaces must be accessible from either a one-way vehicular drive aisle of not less than 12 feet in width or a two-way vehicular drive aisle of not less than 20 feet in width; and

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WHEREAS, the proposed access for the two employee-only off-street parking spaces on the Property will be via a two-way 14'5"-wide drive aisle ("*Proposed Employee Parking Drive Aisle*"), in violation of Table 7.06.01 of the Zoning Ordinance; and

WHEREAS, pursuant to Section 7.06(5) of the Zoning Ordinance, off-street parking is not permitted in required front and corner side yards; and

WHEREAS, the Owner desires to improve the Property with off-street parking spaces in the required front and corner side yards of the Property, in violation of Section 7.06(5) of the Zoning Ordinance; and

WHEREAS, the Owner and the Village desire for the Property to be put to its optimum use; and

WHEREAS, in order to permit the proposed redevelopment and reuse of the Property, the Owner has filed an application for: (i) a variation from the minimum rear yard setback requirement set forth in Section 4.13 of the Zoning Ordinance to permit the continued maintenance of the existing Building on the Property; (ii) variations from the minimum landscaping requirements set forth in Sections 6.14(1) and 6.14(2) of the Zoning Ordinance, to permit the installation of the Proposed Perimeter Landscaping and Proposed Planting Islands on the Property; (iii) a variation from the minimum drive aisle width as set forth in Table 7.06.01 of the Zoning Ordinance to permit the Proposed Employee Parking Drive Aisle; and (iv) a variation from Section 7.06(5) of the Zoning Ordinance to permit the location of off-street parking spaces within the required front and corner side yards of the Property (collectively, the "*Requested Variations*"); and

WHEREAS, a public hearing of the Zoning Board of Appeals of the Village of Lincolnwood ("*ZBA*") to consider approval of the Requested Variations was duly advertised in the *Lincolnwood Review* on February 28, 2013 and held on March 20, 2013; and

WHEREAS, on March 20, 2013, the ZBA made findings and recommendations in support of the Requested Variations, subject to specified conditions; and

WHEREAS, the Village President and Board of Trustees have determined that the Requested Variations meet the required standards for variations as set forth in Article V of the Zoning Ordinance; and

WHEREAS, the Village President and Board of Trustees have determined that it will serve and be in the best interests of the Village to grant the Requested Variations, subject to the conditions, restrictions, and provisions of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF LINCOLNWOOD, COOK COUNTY, ILLINOIS, as follows:

SECTION 1. RECITALS. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. APPROVAL OF REQUESTED VARIATIONS. In accordance with and

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pursuant to Article V of the Zoning Ordinance and the home rule powers of the Village, and subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section Three of this Ordinance, the Village President and Board of Trustees shall, and do hereby, grant the following variations from the Zoning Ordinance in connection with the Proposed Use of the Property:

- A. Building Setback Requirement. A variation from Section 4.13 of the Zoning Ordinance to decrease the minimum rear yard setback for the Building, from 10 feet to seven feet.
- B. Perimeter Landscape Width. A variation from Section 6.14(1) of the Zoning Ordinance to decrease the minimum perimeter landscaped area width along the perimeters of the off-street parking lots on the Property, as follows:
 1. From eight feet to two feet nine inches along an 11'5"-wide section along the northerly lot line of the Property;
 2. From eight feet to three feet two inches along a 10'6"-wide section along the easterly lot line of the Property; and
 3. From eight feet to seven feet along a five-foot-wide section along the westerly lot line of the Property.
- C. Planting Islands. A variation from Section 6.14(2) of the Zoning Ordinance to reduce the requirement to construct planting islands at the end of the rows of parking spaces within the off-street parking lots on the Property, as depicted in the Plans (as that term is defined in Section 3.B of this Ordinance).
- D. Drive Aisle Width. A variation from Section 7.06(1) of the Zoning Ordinance to decrease the minimum two-way drive aisle width for the two employee-only off-street parking spaces on the Property, to 14 feet 5 inches in width.
- E. Off-Street Parking. A variation from Section 7.06(5) of the Zoning Ordinance to permit off-street parking in the required front and corner side yards of the Property.

SECTION 3. CONDITIONS. Notwithstanding any use or development right that may be applicable or available pursuant to the provisions of the Zoning Ordinance, the approvals granted pursuant to Section Two of this Ordinance shall be, and are hereby, expressly subject to, and contingent upon, the development, use, and maintenance of the Building and the Property in compliance with each and all of the following conditions:

- A. Compliance with Regulations. Except to the extent specifically provided otherwise in this Ordinance, the development, use, operation, and maintenance of the Building and the Property shall comply at all times with all applicable Village codes and ordinances, as the same have been or may be amended from time to time.

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- B. Compliance with Site Plan. Except for minor changes and site work approved by the Village Zoning Officer or the Village Engineer (for matters within their respective permitting authorities) in accordance with all applicable Village standards, the development, use, operation, and maintenance of the Building and the Property (including, without limitation, the installation on the Property of the Proposed Perimeter Landscaping and Proposed Planting Islands) shall comply with the following plans, copies of which are attached to and, by this reference, made a part of this Ordinance as **Group Exhibit B** (collectively, the **"Plans"**).
1. The Proposed Site/Landscaping Plan, with a latest revision date of April 4, 2013, prepared by Next Realty, LLC, consisting of one sheet;
 2. The Proposed Floor Plan, prepared by Next Realty, LLC, consisting of one sheet; and
 3. The Proposed Front Elevation, Proposed Rear Elevation, Proposed Side Elevation Plan (North), and Proposed Side Elevation Plan (South), prepared by Next Realty, LLC, consisting of four sheets.
- C. Reimbursement of Village Costs. In addition to any other costs, payments, fees, charges, contributions, or dedications required under applicable Village codes, ordinances, resolutions, rules, or regulations, the Owner shall pay to the Village, promptly upon presentation of a written demand or demands therefor, all legal fees, costs, and expenses incurred or accrued in connection with the review, negotiation, preparation, consideration, and review of this Ordinance. Payment of all such fees, costs, and expenses for which demand has been made shall be made by a certified or cashier's check. Further, the Owner shall pay upon demand all costs incurred by the Village for publications and recordings required in connection with the aforesaid matters.

SECTION 4. RECORDATION; BINDING EFFECT. A copy of this Ordinance shall be recorded with the Cook County Recorder of Deeds. This Ordinance and the privileges, obligations, and provisions contained herein shall inure solely to the benefit of, and be binding upon, the Owner and each of its heirs, representatives, successors, and assigns.

SECTION 5. FAILURE TO COMPLY WITH CONDITIONS. Upon the failure or refusal of the Owner to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, as applicable, the approvals granted in Section Two of this Ordinance shall, at the sole discretion of the Village President and Board of Trustees, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Village President and Board of Trustees may not so revoke the approvals granted in Section Two of this Ordinance unless they shall first provide the Owner with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Village President and Board of Trustees. In the event of revocation, the development and use of the Property shall be governed solely by the regulations of the B-2 District, and the applicable provisions of the Zoning Ordinance, as the same may, from time to time, be amended. Further, in the event of

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such revocation, the Village Manager and Village Attorney are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances.

SECTION 6. AMENDMENTS. Any amendments to the approvals granted in Section Two of this Ordinance that may be requested by the Owner after the effective date of this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Zoning Ordinance.

SECTION 7. SEVERABILITY. If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain in full force and effect, and shall be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 8 EFFECTIVE DATE.

- A. This Ordinance shall be effective only upon the occurrence of all of the following events:
1. Passage by the Village President and Board of Trustees in the manner required by law;
 2. Publication in pamphlet form in the manner required by law; and
 3. The filing by the Owner with the Village Clerk of an Unconditional Agreement and Consent, in the form of **Exhibit C** attached to and, by this reference, made a part of this Ordinance, to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance and to indemnify the Village for any claims that may arise in connection with the approval of this Ordinance.
- B. In the event the Owner does not file fully executed copies of the Unconditional Agreement and Consent, as required by Section 8.A.3 of this Ordinance, within 30 days after the date of final passage of this Ordinance, the Village President and Board of Trustees shall have the right, in its sole discretion, to declare this Ordinance null and void and of no force or effect.

[SIGNATURE PAGE FOLLOWS]

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PASSED this 16th day of April, 2013.

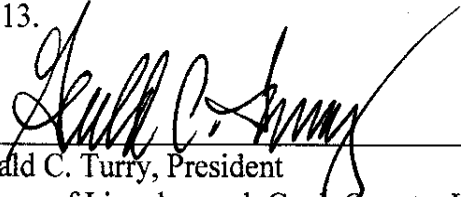
AYES: Trustees Patel, Heidtke, Leftakes, Elster, Sprogis-Marohn, Swanson

NAYS: None

ABSENT: None

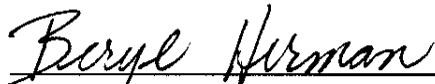
ABSTENTION: None

APPROVED by me this 16th day of April, 2013.



Gerald C. Turry, President
Village of Lincolnwood, Cook County, Illinois

ATTESTED and FILED in my office this
16th day of April, 2013



Beryl Herman, Village Clerk
Village of Lincolnwood, Cook County, Illinois

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EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

LOT 18 IN BLOCK 1 IN WITTBOLD'S SECOND ADDITION TO KENILWORTH HIGHLANDS, A SUBDIVISION OF THE NORTHEAST ¼ OF THE NORTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 34, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ALL IN COOK COUNTY, ILLINOIS.

Commonly referred to as 4007 West Touhy Avenue.

P.I.N.: 10-34-205-020-0000

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GROUP EXHIBIT B

PLANS

Property of Cook County Clerk's Office



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EXHIBIT C

UNCONDITIONAL AGREEMENT AND CONSENT

TO: The Village of Lincolnwood, Illinois ("**Village**");

WHEREAS, Next Touhy, LLC ("**Owner**"), are the record title owners of that certain property located in the B2 General Business District, commonly known as 4007 West Touhy Avenue, in the Village ("**Property**"); and

WHEREAS, Ordinance No. 2013-3048, adopted by the Village President and Board of Trustees on April 16, 2013 ("**Ordinance**"), grants variations from "The Village of Lincolnwood Zoning Ordinance" to the Owner in connection with the redevelopment and reuse of the Property; and

WHEREAS, Section Eight of the Ordinance provides, among other things, that the Ordinance will be of no force or effect unless and until the Owner shall have filed, within 30 days following the passage of the Ordinance, its unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in the Ordinance;

NOW, THEREFORE, the Owner does hereby agree and covenant as follows:

1. The Owner shall, and does hereby, unconditionally agree to, accept, consent to, and abide by each and all of the terms, conditions, limitations, restrictions, and provisions of the Ordinance.
2. The Owner acknowledges that public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the revocation provided for in the Ordinance, and agrees not to challenge any such revocation on the grounds of any procedural infirmity or a denial of any procedural right.
3. The Owner acknowledges and agrees that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's granting of variations for the Property or its adoption of the Ordinance, and that the Village's approvals do not, and shall not, in any way, be deemed to insure the Owner against damage or injury of any kind and at any time.
4. The Owner shall, and does hereby agree to, hold harmless and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with the Village's adoption of the Ordinance granting the variations for the Property.

[SIGNATURE PAGE FOLLOWS]

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OVERSIZE EXHIBIT

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**FORWARD ORIGINAL
DOCUMENT TO PLAT
COUNTER IMMEDIATELY
AFTER RECORDING FOR
SCANNING**

11 pages
6 Doubles
Total 23 82 00