

**VILLAGE OF LONG GROVE**

**ORDINANCE NO. 2023-O- \_\_\_\_**

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR  
EXPANDED PERMANENT OUTDOOR DINING  
(Joanie's Pizza 215-235 Robert Parker Coffin Road)**

Adopted by the  
President and Board of Trustees  
of  
the Village of Long Grove  
this \_\_\_\_ day of June, 2023

Published in pamphlet form by direction  
and authority of the Village of Long Grove,  
Lake County, Illinois  
this \_\_\_\_ day of June, 2023

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**AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR  
EXPANDED PERMANENT OUTDOOR DINING  
(Joanie's Pizza 215-235 Robert Parker Coffin Road)**

**WHEREAS**, New Midwest Capital LLC ("**Owner**") are the record owners of the property located at 215235 Robert Parker Coffin Road ("**Property**") within the Mill Pond Development, which Property is legally described in Exhibit A, attached hereto and made a part hereof; and

**WHEREAS**, the Property is located in the B-1 Historic Business District under the Long Grove Zoning Code ("**Zoning Code**") and is currently improved with two buildings; and

**WHEREAS**, the predecessor to Owner in 2015 sought and obtained from the Village of Long Grove (the "**Village**") a special use permit to establish permanent outdoor dining on the then-existing wooden deck located on the Property as an ancillary use (the "**2015 Authorized Special Use**") to a prior restaurant use ("**Restaurant Use**"); and

**WHEREAS**, Owner currently leases a portion of the Property for restaurant uses to "Joanie's Pizza" (the "**User**") (together, the Owner and User shall hereinafter be referred to as the "**Applicant**"); and

**WHEREAS**, Applicant desires to expand the area for permanent outdoor dining on the Property in the manner presented in the plans accompanying the Applicant's application for a special use permit, which are attached hereto as Exhibit B (the "**Plans**"), so as to increase the outdoor seating by 24 seats on a new 39'x15' deck extension at the north end of the building; and

**WHEREAS**, Section 5-4-5(A)(3) of the Zoning Code authorizes permanent outdoor dining that is ancillary to a primary restaurant use in the B-1 District only pursuant to a special use permit and subject to certain standards; and

**WHEREAS**, the Applicant has applied to the Village for an amendment to the 2015 Authorized Special Use to expend the permanent outdoor dining pursuant to Section 5-4-5(A)(3) of the Zoning Code in accordance with the Plans ("**Amended SUP Request**"); and

**WHEREAS**, pursuant to notice duly published in the *Daily Herald*, the Long Grove Plan Commission & Zoning Board of Appeals (“**PCZBA**”) conducted a public hearing on May 2, 2023 (which hearing was continued until June 6, 2023) regarding the Amended SUP Request; and

**WHEREAS**, following the commencement of the public hearing, Applicant presented a supplemental landscaping plan, which is attached hereto as Exhibit B-1 (the “**Supplemental Landscaping**”); and

**WHEREAS**, the PCZBA having fully heard and considered the testimony by all those attending the public hearing who wished to testify, made the following findings:

- A. The Property is located in the B-1 Historic Business District.
- B. The Applicant operates a restaurant on the Property, known as the Joanie’s Pizza.
- C. The Applicant proposes the Amended SUP Request in conformity with the Plans and the Supplemental Landscaping, per the application that Applicant had filed with the Village.
- D. The evidence demonstrates that, subject to the conditions set forth in this Ordinance, the Amended SUP Request will be an integral part of the principal restaurant use on the Property and meets all other standards set forth in Section 5-4-5(A)(3) of the Zoning Code.
- E. The evidence demonstrates that, subject to the terms and conditions set forth in this Ordinance, the Amended SUP Request:
  - i. Is necessary for the public convenience;
  - ii. Is so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected;
  - iii. Will not cause substantial injury to the value of other lots in the neighborhood;
  - iv. Conforms to the applicable regulations of the B-1 Historic District except as otherwise provided in this Ordinance; and
  - v. Meets all standards for the issuance of a special use permit pursuant to Section 5-11-17(E) of the Zoning Code.

**WHEREAS**, at the conclusion of the public hearing, the PCZBA recommended that the Amended SUP Request be granted, subject to the conditions set forth in this Ordinance; and

**WHEREAS**, the President and Board of Trustees have considered the Plans, Supplemental Landscaping, and other materials submitted by the Applicant, the evidence presented at the public hearing, and the recommendation of the PCZBA and, being fully advised

in the premises, have determined that it is in the best interests of the Village and its residents to grant the Applicant the Amended SUP Request, subject to the terms and conditions of this Ordinance as hereinafter set forth;

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LONG GROVE, COUNTY OF LAKE, STATE OF ILLINOIS,**  
as follows:

**SECTION ONE.**      **Recitals.** The foregoing recitals are hereby incorporated into and made a part of this Ordinance as if fully set forth herein.

**SECTION TWO.**      **Grant of Special Use Permit for Permanent Outdoor Dining.**  
Pursuant to Sections 5-4-5(A)(3) and 5-11-7 of the Zoning Code, and subject to the limitations therein and the conditions set forth in this Ordinance, the Village hereby grants a special use permit to the Applicant to permit the Applicant to establish and maintain the Amended SUP Request on the Property, subject to the conditions set forth in Section Three of this Ordinance. The 2015 Authorized Special Use is hereby merged into and superseded by this Ordinance.

**SECTION THREE.**      **Conditions on Approval.** The special use permit granted pursuant to Section Two of this Ordinance shall be, and is hereby, conditioned upon and limited by the following conditions, the violation of any of which shall, in the reasonable discretion of the President and Board of Trustees, be grounds for the repeal and revocation of the special use permit without further notice or hearing:

- A. **No Authorization of Work.** This Ordinance does not authorize commencement of any work on the Property. Except as otherwise specifically provided in writing in advance by the Village, no work of any kind shall be commenced on the Property pursuant to the approvals granted in this Ordinance except only after all permits, approvals, and other authorizations for such work have been properly applied for, paid for, and granted in accordance with applicable law.
- B. **Compliance with Plans.** The Applicant shall establish and maintain the Amended SUP Request in the location depicted on the Plans attached to this Ordinance as Exhibit B and will operate the Amended SUP Request in strict conformity therewith.

- C. Outdoor Seating Capacity. Applicant and the Amended SUP Request shall be limited to a maximum of seating for forty patrons upon the outdoor decking of the Property as depicted on the Plans.
- D. Expanded Outdoor Seating Area. The expanded outdoor seating area for the Amended SUP Request shall conform strictly to the Plans, except as hereinafter provided. Notwithstanding the preceding sentence, the Plans shall be subject to review by the Village's Architectural Commission in accordance with the Zoning Code, and the Plans shall be deemed modified based on the review and determination resulting from such architectural review.
- E. Supplemental Landscaping. As a condition of a final certificate of occupancy for the expanded outdoor dining area, and in no event later than June 15, 2024, Applicant shall install two additional trees near the parking lot on the Property in conformity with the plan for Supplemental Landscaping attached hereto as Exhibit B-1. Applicant shall be required to maintain such Supplemental Landscaping in a good and healthful condition. In the event that the Supplemental Landscaping is not maintained in a good and healthful condition, Applicant shall be required to replace it within 120 days in accordance with plans and specifications approved by the Village Manager (in consultation with the Village Forester), and thereafter maintain any replacement of the Supplemental Landscaping. Such maintenance and replacement responsibilities shall remain in force for the duration of the approvals granted in this Ordinance. Any failure to satisfy the obligations in this Subsection may result in daily fines as a violation of the Village Zoning Code, and may also result in the revocation of this Ordinance as hereinabove set forth.
- F. Operational Restrictions. The Amended SUP Request and outdoor dining areas shall not be used or operated after 9:00 p.m. on any day, and they shall not be used or operated except during the regular business hours of the User. In addition, at no time may (i) lighting be installed to illuminate the outdoor seating area, or (ii) amplified sound be used in connection with the outdoor seating area.
- G. Compliance with Laws. All uses and activities relating to the Amended SUP Request shall be performed in accordance with all applicable laws, codes, ordinances, and regulations, including the terms and provisions of this Ordinance.
- H. Termination. If the primary restaurant use on the Property is terminated, abandoned, or changed to a non-restaurant use, then the special use permit approved by this Ordinance shall immediately terminate. Any change in the User shall be subject to approval by resolution of the Village Board.
- I. Fees and Costs. The Applicant shall be responsible for paying all applicable fees relating to the granting of the approvals set forth herein in accordance with the Zoning Code. In addition, the Applicant shall reimburse the Village for all of its costs (including without limitation engineering, planning, and legal expenses) incurred in connection with the review, consideration, approval, implementation, or enforcement of this Ordinance. Any amount not paid within 30 days after delivery of a demand in writing for such payment shall, along with

interest and the costs of collection, become a lien upon the Property, and the Village shall have the right to foreclose such lien in the name of the Village as in the case of foreclosure of liens against real estate.

- G. Binding Effect; Transferees. The rights and obligations set forth in this Ordinance shall be binding on the Applicant, any and all of the Applicant's heirs, successors, and assigns of all or any portion of the Property. To the extent that a successor becomes bound to the obligation created herein pursuant to a transferee assumption agreement acceptable to the Village, and such successor demonstrates to the Village that it has the financial viability to meet the obligations herein, the Applicant shall be released from its obligations under this Ordinance to the extent of the transferee's assumption of such liability. The failure of the Applicant to provide the Village with an enforceable transferee assumption agreement as herein provided shall result in the Applicant remaining fully liable for all of its obligations under this Ordinance but shall not relieve the transferee of its liability for all such obligations as a successor to Applicant.

**SECTION FOUR:** **Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law; provided, however, that this Ordinance shall be of no force or effect unless and until the Applicant has caused a duly authorized person to execute and thereafter file with the Village the unconditional agreement and consent in the form attached hereto as Exhibit C and by this reference incorporated herein and made a part hereof; provided further that, if the Applicant does not so file its unconditional agreement and consent within 60 days following the passage of this Ordinance, the Village Board may, in its discretion and without public notice or hearing, deem such failure as a withdrawal of the application, and repeal this Ordinance and thereby revoke the special use permit and other approvals granted in this Ordinance. Upon this Ordinance having full force and effect, the Village Clerk shall cause it to be recorded in the Office of the Lake County, Illinois Recorder of Deeds.

PASSED this \_\_\_ day of June, 2023.

AYES:           ( )

NAYS:           ( )

ABSENT:       ( )

APPROVED this \_\_\_\_ day of June, 2023.

\_\_\_\_\_  
Village President

ATTEST:

\_\_\_\_\_  
Village Clerk

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

THAT PART OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SECTION 30, TOWNSHIP 43 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED BY A LINE DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE CENTER LINE OF DUNDEE-HALF DAY ROAD AT THE SOUTHEAST CORNER OF WILLIAM UMBDENSTOCK SUBDIVISION, THE PLAT OF WHICH WAS RECORDED AS DOCUMENT 991876; THENCE NORTHEASTERLY ALONG THE CENTER LINE OF SAID ROAD 50.75 FEET, MORE OR LESS, TO THE NORTHEASTERLY CORNER OF LOT 2, OF FANNINGS SUBDIVISION THE PLAT OF WHICH WAS RECORDED AS DOCUMENT 1157511; THENCE SOUTH ALONG THE EAST LINE OF LOT 2, 10.20 FEET MORE OR LESS TO THE NORTHWESTERLY CORNER OF THAT PART DESCRIBED BY THAT DEED RECORDED MAY 4, 1876 AS IN BOOK 56 OF DEEDS, PAGE 540; THENCE NORTHEASTERLY ALONG THE NORTHERLY LINE OF SAID PROPERTY, 136.62 FEET TO THE NORTHEASTERLY CORNER THEREOF; THENCE NORTHWESTERLY AT RIGHT ANGLES TO SAID LAST DESCRIBED LINE, 390.29 FEET; THENCE NORTHWESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, 310.34 FEET TO THE EASTERLY LINE OF WILLIAM UMBDENSTOCK SUBDIVISION FIRST ADDITION, THE PLAT OF WHICH WAS RECORDED AS DOCUMENT 1257888; THENCE SOUTHWESTERLY ALONG THE NORTHEASTERLY LINE OF SAID SUBDIVISION AND THE NORTHEASTERLY LINE OF WILLIAM UMBDENSTOCK SUBDIVISION AFORESAID, TO THE PLACE OF BEGINNING IN LAKE COUNTY, ILLINOIS.

PINs:15-30-100-032, 15-30-100-033



**EXHIBIT B**

**PLANS**

**EXHIBIT B-1**

**SUPPLEMENTAL LANDSCAPING**

**EXHIBIT C**

**UNCONDITIONAL AGREEMENT AND CONSENT**

Pursuant to Section Four of Long Grove Ordinance No. 2023-O-\_\_\_, and to induce the Village of Long Grove to grant the approvals provided for in such Ordinance, the undersigned acknowledges for itself and its successors and assigns in interest to the Property that the undersigned:

1. has read and understands all of the terms and provisions of said Ordinance No. 2023-O-\_\_\_;
2. hereby unconditionally agrees to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of this Ordinance, the Zoning Code, and all other applicable codes, ordinances, rules, and regulations;
3. 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 issuance of any permits for use of the Property, and that the Village's issuance of any permit does not, and shall not, in any way, be deemed to insure the Applicant against damage or injury of any kind and at any time;
4. acknowledges that the 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 revocation on the grounds of any procedural infirmity or any denial of any procedural right;
5. agrees to and do hereby hold harmless, defend, 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 these parties with respect to Property or any Village action respecting the development thereof, including without limitation the adoption of the Ordinance or granting the approvals to the Owner pursuant to the Ordinance, except as may arise from the Village's gross negligence or willful misconduct, and provided that the Village shall assert its available immunities in connection with such claims; in the event that the Village elects to retain separate counsel in defense of any such claims, the undersigned hereby agrees to reimburse the Village for its attorneys' fees and costs incurred in connection of such defense of claims; and
6. represents and acknowledges that the person signing this Unconditional Agreement and Consent is duly authorized to do so on behalf of the Applicant.

**NEW MIDWEST CAPITAL LLC**

**USER:** \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

