



Legislation Details (With Text)

File #: 24-0189 **Version:** 1

Type: Ordinance **Status:** Passed

File created: 2/9/2024 **In control:** City Council

On agenda: 2/20/2024 **Final action:** 2/20/2024

Title: Pass the ordinance approving a variance from Section 3-3-11:2 to issue a Class D - Package Store liquor license to Garfield’s Beverage Warehouse NV LLC for the business located at 88 W. Gartner Avenue, Suite 104

Sponsors:

Indexes:

Code sections:

Attachments: 1. Legal Description, 2. Garfield's Variance Request, 3. Garfield's PPT_02.08.pdf, 4. Garfield's Variance 2024, 5. DRAFT LC Minutes 020824

Date	Ver.	Action By	Action	Result
2/20/2024	1	City Council	passed	

CITY COUNCIL AGENDA ITEM

ACTION REQUESTED:

Pass the ordinance approving a variance from Section 3-3-11:2 to issue a Class D - Package Store liquor license to Garfield’s Beverage Warehouse NV LLC for the business located at 88 W. Gartner Avenue, Suite 104

DEPARTMENT: Legal Department

SUBMITTED BY: Jennifer Bonner, Senior Assistant City Attorney

BOARD/COMMISSION REVIEW:

On February 8, 2024, the Liquor Commission considered Garfield’s Beverage Warehouse NV LLC d/b/a Garfield’s Beverage ("Garfield’s Beverage") request for a variance to allow an additional Class D - Package Store liquor license in the shopping center located at 88 W. Gartner Avenue and unanimously recommended City Council approval.

BACKGROUND:

The Class D - Package Store liquor license is an off-premises liquor license, which allows for the package sale of spirits, wine, and beer. The Naperville Municipal Code requires that licensees be in a shopping center containing at least 60,000 square feet with a limitation of one Class D - Package Store liquor license per shopping center.

The Naperville Plaza Shopping Center, located at 88 W. Gartner, includes a variety of uses, including Casey’s Foods, Trader Joe’s, Firestone Auto Care, Sherwin- Williams, fitness uses, fast food and restaurants. It previously housed two Class D - Package Store liquor license holders, Trader Joe’s and Peterson’s Spirits and Fine Wines, which were grandfathered in as predating the limitation of one Class D - Package Store liquor license per shopping center. The shopping center is 84,067 square

feet.

Recently, the City was contacted by Garfield's Beverage, who is seeking to open a package store in the suite vacated by Peterson's Spirits and Fine Wines. Due to the existing Class D - Package Store liquor license, a variance is required to allow for another Class D - Package store liquor license in the shopping center.

DISCUSSION:

Garfield's Beverage submitted a variance petition to allow an additional Class D - Package Store liquor license in the shopping center located at 88 W. Gartner Avenue. A copy of the variance petition is appended hereto.

The variance process for liquor licensing sets forth the following factors for consideration of a variance:

1. The variance is in harmony with the general purpose and intent of the Liquor Control Ordinance and the variance is not precedent setting; and
2. Strict enforcement of the Liquor Control Ordinances would result in practical difficulties due to special and/or unusual circumstances surrounding the party and circumstances substantially outside the petitioner's control; and
3. The variance, if granted, will not alter the essential character of the liquor establishment or underlying liquor license requirements and will not be a substantial detriment to adjacent property.

Garfield's Beverage is in a unique position in that it is seeking to locate in a suite that previously had a Class D - Package Store liquor license. It operates in ten other locations and has implemented measures to prevent underage sales.

If the variance is granted, Garfield's Beverage is still required to comply with all other conditions of the Class D - Package Store liquor license and the Naperville Municipal Code. The only exception would be to allow its operation in a shopping center with an existing Class D - Package Store liquor license.

Draft minutes from the February 8, 2024 Liquor Commission meeting are attached.

FISCAL IMPACT:

Corresponding receipt of liquor license annual fee and sales tax.