

Village of Bensenville
Board Room
12 South Center Street
DuPage and Cook Counties
Bensenville, IL, 60106

MINUTES OF THE COMMUNITY DEVELOPMENT COMMISSION

January 18, 2016

CALL TO ORDER: The meeting was called to order by Chairman Moruzzi at 6:30p.m.

ROLL CALL : Upon roll call the following Commissioners were present:
Moruzzi, Rowe, Pisano, Rodriguez, Majeski
Absent: Janowiak, Tellez
A quorum was present.

STAFF PRESENT: V. Benham, S. Viger, C. Williamsen

JOURNAL OF PROCEEDINGS:

The minutes of the Community Development Commission
Meeting of December 7, 2015 were presented.

Motion: Commissioner Majeski made a motion to approve the minutes as
presented. Commissioner Rowe seconded the motion.

All were in favor. Motion carried.

Public Hearing: CDC Case Number 2015-29
Petitioner: James and Aretta Baker
Location: 349 South Walnut Street
Request: Variance to Install a Fence within the Cornier Side Yard

Motion: Commissioner Rowe made a motion to open CDC Case No. 2015-
29. Commissioner Majeski seconded the motion.

ROLL CALL : Upon roll call the following Commissioners were present:
Moruzzi, Rowe, Pisano, Rodriguez, Majeski
Absent: Janowiak, Tellez
A quorum was present.

Chairman Moruzzi opened the Public Hearing at 6:33 p.m.

Chairman Moruzzi held a mass swearing in for those who planned
to speak during the Public Hearing.

Village Planner, Victoria Benham, was present and previously sworn in by Chairman Moruzzi. Mrs. Benham stated a Legal Notice was published in the Bensenville Independent on Thursday December 31, 2015. Mrs. Benham stated a certified copy of the Legal Notice is maintained in the CDC file and is available for viewing and inspection at the Community & Economic Development Department during regular business hours. Mrs. Benham stated Village personnel posted two Notice of Public Hearing signs on the property, visible from the public way on Wednesday, December 30, 2015. Mrs. Benham stated on Wednesday, December 30, 2015 Village personnel mailed from the Bensenville Post Office via First Class Mail a Notice of Public Hearing to taxpayers of record within 250' of the property in question. Mrs. Benham stated an affidavit of mailing executed by C & ED personnel and the list of recipients are maintained in the CDC file and are available for viewing and inspection at the Community & Economic Development department during regular business hours. Mrs. Benham stated the applicants/owners James and Aretta Baker are desirous of extending a chain link fence south to the property line within the subject corner side yard. Mrs. Benham stated the Bakers had previously requested and were granted in Ordinance #41-2012, variances for a fence and parking pad in the corner side yard that encroached approximately 6 feet into the corner side yard. Mrs. Benham stated although the Bakers never constructed the previously approved variance, the applicants are back for an expansion of the variation which involves only the chain link fence extension into the corner side yard to the property line and no parking pad.

Mr. James Baker and Mrs. Aretta Baker were both present and previously sworn in by Chairman Moruzzi. Mr. Baker referenced other installed fences in Bensenville, similar to his request. Mr. Baker asked the Commission to drive by the house on the corner of Foley and Grove. Mr. Baker stated the ordinance granted to them in 2012 didn't make any sense to him and that is why he never completed the work. Mr. Baker stated he personally met with Staff asking for permission to install the split fence that is currently on the property and was told he could. Mr. Baker stated strangers come up on his deck in the back of his house because there is no barrier between the house and the ally. Mr. Baker stated strangers are walking through their back yard and stealing fruits from their garden. Mr. Baker stated a main reason he and his wife would like a fence is so they can purchase a dog for privacy and protection. Mr. Baker stated he is ill with terminal cancer and wants to have a plan in place for his wife for her protection and privacy.

Mrs. Baker stated they love their neighbors and do not want to relocate to meet their goals.

Mrs. Benham read the petitioners findings of fact into the record for the proposed variance consisting of:

1. **Special Circumstances:** Special circumstances exist that are peculiar to the property for which the variances are sought and that do not apply generally to other properties in the same zoning district. Also, these circumstances are not of so general or recurrent a nature as to make it reasonable and practical to provide a general amendment to this Title to cover them. The extension of the fence into the actual corner side yard is a special circumstance due to the location of the garage and deck.
2. **Hardship Or Practical Difficulties:** For reasons set forth in the findings, the literal application of the provisions of this Title would result in unnecessary and undue hardship or practical difficulties for the applicant as distinguished from mere inconvenience. The hardship in fence location is due to the location of the existing 2 car-detached garage and deck limiting the grass area in the subject property's rear yard.
3. **Circumstances Relate To Property:** The special circumstances and hardship relate only to the physical character of the land or buildings, such as dimensions, topography or soil conditions. They do not concern any business or activity of present or prospective owner or occupant carries on, or seeks to carry on, therein, nor to the personal, business or financial circumstances of any party with interest in the property. The subject property being a corner lot incurs certain construction difficulties in the accommodation of the corner side yard. It does not concern any financial circumstances with any party of interest with the property.

4. **Not Resulting From Applicant Action:** The special circumstances and practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this Title or any applicable amendment thereto, of the applicant or of any other party with a present interest in the property. Knowingly authorizing or proceeding with construction, or development requiring any variance, permit, certificate, or approval hereunder prior to its approval shall be considered such an act. Fence: The location of the detached garage and deck limit the grass in the property's rear yard area.
5. **Preserve Rights Conferred By District:** A variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to such other properties. A variance is necessary to enjoy substantial property right to allow a fence in the corner side yard.
6. **Necessary For Use Of Property:** The grant of a variance is necessary not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of reasonable use or enjoyment of, or reasonable economic return from, the property. Without the granting of a variance to construct a fence in the corner side yard, the applicant will be deprived of reasonable use of the subject property.
7. **Not Alter Local Character:** The granting of the variance will not alter the essential character of the locality nor substantially impair environmental quality, property values or public safety or welfare in the vicinity. Granting the requested variances would not alter the essential character of the locality due to an encroachment into the corner side yard of the Washington Street block on which the subject property resides.
8. **Consistent With Title And Plan:** The granting of a variance will be in harmony with the general purpose and intent of this Title and of the general development plan and other applicable adopted plans of the Village, as viewed in light of any changed conditions since their adoption, and will not serve in effect to substantially invalidate or nullify any part thereof. New fence construction in the corner side yard is consistent with the general development plan.

9. **Minimum Variance Needed:** The variance approved is the minimum required to provide the applicant with relief from undue hardship or practical difficulties and with reasonable use and enjoyment of the property. The minimum variance has been requested by the applicant.

Commissioner Rodriguez asked if the petitioner is still seeking the parking pad that was approved in 2012. Mr. Baker stated they are not requesting a parking pad on the property.

Commissioner Rodriguez asked what if the Village were to install a sidewalk in front of their property in the future. Mr. Baker stated he was all in favor for a sidewalk in front of his property and understands the need for one in the area. Mr. Baker stated he does not see an issue with his proposal if the Village were to install a sidewalk in the future.

Commissioner Rowe stated if the proposed fence were to be approved, there is no need for the split fence on the property. Mr. Baker stated it would be too much work for him to remove the concrete that was poured into the ground for the split fence.

Mr. Majeski asked if the Bakers were open to a compromise in order to receive their variance. Mrs. Baker stated “sure”.

Public Comment:

Chairman Moruzzi asked if there was any member of the Public that would like to speak in regards to CDC Case No. 2015-29.

Robert Hjelmgren – 159 Henderson Street

Mr. Hjelmgren was present and sworn in by Chairman Moruzzi. Mr. Hjelmgren stated he has been friends with the Bakers for several years and is speaking in favor of their proposed request. Mr. Hjelmgren stated the proposed fence will help with the security of their property. Mr. Hjelmgren stated the Bakers cannot have a dog in there is no fence to contain the dog in.

Mrs. Benham reviewed the Village Staff Report and stated Staff recommends the denial of the above Findings of Fact and the proposed variance. Mrs. Benham stated Staff recommends approval of the findings of facts presented by Village Staff consisting of:

1. **Special Circumstances:** Special circumstances exist that are peculiar to the property for which the variances are sought and that do not apply generally to other properties in the same zoning district. Also, these circumstances are not of so general or recurrent a nature as to make it reasonable and practical to provide a general amendment to this Title to cover them. The extension of the fence to the property line of the actual corner side yard is not a special circumstance as the property is located on a local street. Relief previously granted to allows the encroachment of a fence into the corner side yard by 6 feet.
2. **Hardship Or Practical Difficulties:** For reasons set forth in the findings, the literal application of the provisions of this Title would result in unnecessary and undue hardship or practical difficulties for the applicant as distinguished from mere inconvenience. There is no additional hardship, only an inconvenience if the fence cannot be extended further into the corner side yard as it is to accommodate a future pet for the applicant.
3. **Circumstances Relate To Property:** The special circumstances and hardship relate only to the physical character of the land or buildings, such as dimensions, topography or soil conditions. They do not concern any business or activity of present or prospective owner or occupant carries on, or seeks to carry on, therein, nor to the personal, business or financial circumstances of any party with interest in the property. There is not a special circumstance related to the physical character of the land or buildings. The property is a corner lot generating a corner side yard similar to others in the Village.
4. **Not Resulting From Applicant Action:** The special circumstances and practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this Title or any applicable amendment thereto, of the applicant or of any other party with a present interest in the property. Knowingly authorizing or proceeding with construction, or development requiring any variance, permit, certificate, or approval hereunder prior to its approval shall be considered such an act. The basis for the variance has resulted from the applicant's actions. The construction of a split rail fence within the corner side yard without previous approval and the request that the variance be granted based on the desire to have a pet is the direct result of the applicant's actions.

5. **Preserve Rights Conferred By District:** A variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to such other properties. The applicant is able to enjoy a substantial property right possessed by other properties and based on the previous variance granted. The extension to the property line would confer a special privilege ordinarily denied to such other properties.
6. **Necessary For Use Of Property:** The grant of a variance is necessary not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of reasonable use or enjoyment of, or reasonable economic return from, the property. The applicant has previously been granted a variance that extends a fence 6' into the corner side yard, therefore the extension to the property line will not deprive the applicant of the reasonable use or enjoyment of the property.
7. **Not Alter Local Character:** The granting of the variance will not alter the essential character of the locality nor substantially impair environmental quality, property values or public safety or welfare in the vicinity. Granting the requested variances would alter the essential character of the locality due to an encroachment into the corner side yard of the Washington Street block on which the subject property resides.
8. **Consistent With Title And Plan:** The granting of a variance will be in harmony with the general purpose and intent of this Title and of the general development plan and other applicable adopted plans of the Village, as viewed in light of any changed conditions since their adoption, and will not serve in effect to substantially invalidate or nullify any part thereof. The general intent of the fence prohibitions in front and corner side yards is to provide a unified, open and clear appearance. The erection of the requested fencing is not consistent with the Village Plan's intent.
9. **Minimum Variance Needed:** The variance approved is the minimum required to provide the applicant with relief from undue hardship or practical difficulties and with reasonable use and enjoyment of the property. The minimum variance has not been requested by the applicant in terms of fence construction. The request has been to extend the fence 16 additional feet into the corner side yard. Staff believes the minimum fence variance would be 6' into the corner side yard.

Mrs. Benham stated if the variance request were to be approved by the Commission, Staff recommends the following conditions:

1. The fence shall be 4 feet in height and constructed of black vinyl coated chain link fence.
2. No plant material or any other permanent or temporary structures shall be erected in such a manner to impede the vision clearance requirements of the corner side yard.
3. The split rail fencing be removed.

Chairman Moruzzi stated he spoke with the Director of Public Works, Joe Caracci, and he was informed that the current split fence on the property is not far away from where a sidewalk could be installed one day. Chairman Moruzzi raised concern with the proximity of the proposed fence and the distance to the potential sidewalk. Chairman Moruzzi stated Mr. Caracci is asking a condition be added that would require the proposed fence to be setback a minimum of three feet from the southern property line and shall be aligned with the garage setback on the east. Chairman Moruzzi stated he was more comfortable with a five foot setback from the southern property line.

Commissioner Rodriguez suggested the three foot setback from the southern line, as requested by Village Staff. The Commissioners concurred.

Commissioner Rowe asked if the split fence were to be required to be removed, would it be acceptable to Staff that the concrete installed remained in place. Mr. Viger stated it would be allowed to remain in place as long as the split fence were to be removed.

Mr. Baker stated there is a six in cushion of dirt and grass from the top of the concrete installed and would be easy to cover it up.

Commissioner Majeski stated the main focus of the proposed variance should be on security to the Bakers.

Motion: Commissioner Majeski made a motion to close CDC Case No. 2015-29. Commissioner Pisano seconded the motion.

ROLL CALL: Ayes: Moruzzi, Rowe, Pisano, Rodriguez, Majeski

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing for CDC Case No. 2015-29 at 7:16 p.m.

Motion: Commissioner Rowe made a motion to approve the findings of fact for the proposed variance as presented by Staff consisting of:

1. **Special Circumstances:** Special circumstances exist that are peculiar to the property for which the variances are sought and that do not apply generally to other properties in the same zoning district. Also, these circumstances are not of so general or recurrent a nature as to make it reasonable and practical to provide a general amendment to this Title to cover them. The extension of the fence to the property line of the actual corner side yard is not a special circumstance as the property is located on a local street. Relief previously granted to allows the encroachment of a fence into the corner side yard by 6 feet.
2. **Hardship Or Practical Difficulties:** For reasons set forth in the findings, the literal application of the provisions of this Title would result in unnecessary and undue hardship or practical difficulties for the applicant as distinguished from mere inconvenience. There is no additional hardship, only an inconvenience if the fence cannot be extended further into the corner side yard as it is to accommodate a future pet for the applicant.
3. **Circumstances Relate To Property:** The special circumstances and hardship relate only to the physical character of the land or buildings, such as dimensions, topography or soil conditions. They do not concern any business or activity of present or prospective owner or occupant carries on, or seeks to carry on, therein, nor to the personal, business or financial circumstances of any party with interest in the property. There is not a special circumstance related to the physical character of the land or buildings. The property is a corner lot generating a corner side yard similar to others in the Village.

4. **Not Resulting From Applicant Action:** The special circumstances and practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this Title or any applicable amendment thereto, of the applicant or of any other party with a present interest in the property. Knowingly authorizing or proceeding with construction, or development requiring any variance, permit, certificate, or approval hereunder prior to its approval shall be considered such an act. The basis for the variance has resulted from the applicant's actions. The construction of a split rail fence within the corner side yard without previous approval and the request that the variance be granted based on the desire to have a pet is the direct result of the applicant's actions.
5. **Preserve Rights Conferred By District:** A variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to such other properties. The applicant is able to enjoy a substantial property right possessed by other properties and based on the previous variance granted. The extension to the property line would confer a special privilege ordinarily denied to such other properties.
6. **Necessary For Use Of Property:** The grant of a variance is necessary not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of reasonable use or enjoyment of, or reasonable economic return from, the property. The applicant has previously been granted a variance that extends a fence 6' into the corner side yard, therefore the extension to the property line will not deprive the applicant of the reasonable use or enjoyment of the property.
7. **Not Alter Local Character:** The granting of the variance will not alter the essential character of the locality nor substantially impair environmental quality, property values or public safety or welfare in the vicinity. Granting the requested variances would alter the essential character of the locality due to an encroachment into the corner side yard of the Washington Street block on which the subject property resides.

8. **Consistent With Title And Plan:** The granting of a variance will be in harmony with the general purpose and intent of this Title and of the general development plan and other applicable adopted plans of the Village, as viewed in light of any changed conditions since their adoption, and will not serve in effect to substantially invalidate or nullify any part thereof. The general intent of the fence prohibitions in front and corner side yards is to provide a unified, open and clear appearance. The erection of the requested fencing is not consistent with the Village Plan's intent.
9. **Minimum Variance Needed:** The variance approved is the minimum required to provide the applicant with relief from undue hardship or practical difficulties and with reasonable use and enjoyment of the property. The minimum variance has not been requested by the applicant in terms of fence construction. The request has been to extend the fence 16 additional feet into the corner side yard. Staff believes the minimum fence variance would be 6' into the corner side yard.

Commissioner Rodriguez seconded the motion.

ROLL CALL: Ayes: Moruzzi, Rowe

Nays: Pisano, Rodriguez, Majeski

Motion failed.

Motion: Commissioner Rowe made a motion to approve the proposed variance with Staff's recommendation consisting of:

1. The fence shall be 4 feet in height and constructed of black vinyl coated chain link fence.
2. No plant material or any other permanent or temporary structures shall be erected in such a manner to impede the vision clearance requirements of the corner side yard.
3. The split rail fencing be removed.

and the additional condition:

4. The fence shall be set back a minimum of 3 feet from the southern property line and shall be aligned with the garage setback on the east.

Commissioner Majeski seconded the motion.

ROLL CALL: Ayes: Pisano, Rodriguez, Majeski

Nays: Moruzzi, Rowe

Motion carried.

Public Hearing: CDC Case Number 2015-30
Petitioner: Doctor Rooter and Plumbing
Location: 11 Gateway
Request: Conditional Use Permit to Allow a Contractor's and Construction Office and a Parking Variance to Reduce Required Parking from 8 to 4.

Motion: Commissioner Majeski made a motion to open CDC Case No. 2015-30. Commissioner Rowe seconded the motion.

ROLL CALL : Upon roll call the following Commissioners were present:
Moruzzi, Rowe, Pisano, Rodriguez, Majeski
Absent: Janowiak, Tellez
A quorum was present.

Chairman Moruzzi opened the Public Hearing at 7:23 p.m.

Village Planner, Victoria Benham, was present and previously sworn in by Chairman Moruzzi. Mrs. Benham stated a Legal Notice was published in the Bensenville Independent on Thursday December 31, 2015. Mrs. Benham stated a certified copy of the Legal Notice is maintained in the CDC file and is available for viewing and inspection at the Community & Economic Development Department during regular business hours. Mrs. Benham stated Village personnel posted two Notice of Public Hearing signs on the property, visible from the public way on Wednesday, December 30, 2015. Mrs. Benham stated on Wednesday, December 30, 2015 Village personnel mailed from the Bensenville Post Office via First Class Mail a Notice of Public Hearing to taxpayers of record within 250' of the property in question. Mrs. Benham stated an affidavit of mailing executed by C & ED personnel and the list of recipients are maintained in the CDC file and are available for viewing and inspection at the Community & Economic Development department during regular business hours. Mrs. Benham stated the applicant, Doctor Rooter and Plumbing, Inc. is requesting a Conditional Use Permit to allow a Contractors and Construction Office to operate their business as a plumbing contractor at 11 Gateway Road.

Mrs. Benham stated the property in question is located on the north side of Gateway Road just west of York Road and is approximately half an acre in size with a single story 6,000 Sq. Ft. building.

Mr. Miguel Ayala, owner of Doctor Rooter and Plumbing was present and sworn in by Chairman Moruzzi. Mr. Ayala read the findings of facts into the record for the proposed conditional use permit consisting of:

- 1. Traffic:** The proposed use will not create any adverse impact of types or volumes of traffic flow not otherwise typical of permitted uses in the zoning district has been minimized. The amount of area traffic would be a minimum due to only one person being at the location. All others are dispatched from their residences.
- 2. Environmental Nuisance:** The proposed use will not have negative effects of noise, glare, odor, dust, waste disposal, blockage of light or air or other adverse environmental effects of a type or degree not characteristic of the historic use of the property or permitted uses in the district. No waste will be stored on site and therefore will not generate an environmental nuisance.
- 3. Neighborhood Character:** The proposed use will fit harmoniously with the existing character of existing permitted uses in its environs. Any adverse effects on environmental quality, property values or neighborhood character beyond those normally associated with permitted uses in the district have been minimized. The proposed use will fit harmoniously with the existing character of the neighborhood. The applicant has invested in the improvement of the external aesthetics of the property with landscaping, new windows and additional maintenance. No adverse effects are anticipated.
- 4. Use of Public Services and Facilities:** The proposed use will not require existing community facilities or services to a degree disproportionate to that normally expected of permitted uses in the district, nor generate disproportionate demand for new services or facilities in such a way as to place undue burdens upon existing development in the area. The proposed use will not require existing community facilities or services to a degree disproportionate to those normally expected uses within the district. The property will be utilized as an office and dispatch center.

- 5. Public Necessity:** The proposed use at the particular location requested is necessary to provide a service or a facility which is in the interest of public convenience, and will contribute to the general welfare of the neighborhood or community. The proposed use will contribute to the general welfare of the industrial and residential communities. The proposed operations will provide plumbing services for the area.
- 6. Other Factors:** The use is in harmony with any other elements of compatibility pertinent in the judgment of the commission to the conditional use in its proposed location. Other factors to be considered at the Community Development Commission's discretion.

Commissioner Majeski asked how long Doctor Rooter and Plumbing had been in business for. Mr. Ayala stated they have been in business for 12 years and are moving from Schaumburg because of the location of Bensenville to highways.

Commissioner Rodriguez asked how many vehicles were owned by the company. Mr. Ayala stated they owned five vehicles and that there were stored at the employee's homes.

Commissioner Rowe asked if Doctor Rooter and Plumbing had any plans of storing the vehicles on site. Mr. Ayala stated not at this time.

Public Comment:

Chairman Moruzzi asked if there was any member of the Public that would like to speak in regards to CDC Case No. 2015-30. There were none.

Mrs. Benham stated Staff recommends the approval of the above Findings of Fact and the Conditional Use Permit subject to the following conditions:

1. The Conditional Use Permit be granted solely to Doctor Rooter and Plumbing, Inc. and shall be transferred only after a review by the Community Development Commission (CDC) and approval of the Village Board. In the event of the sale or lease of this property, the proprietors shall appear before a public meeting of the CDC. The CDC shall review the request and in its sole discretion, shall either; recommend that the Village Board approve of the transfer of the lease and / or ownership to the new proprietor without amendment to the Conditional Use Permit, or if the CDC deems that the new proprietor contemplates a change in use which is inconsistent with the Conditional Use Permit, the new proprietor shall be required to petition for a new public hearing before the CDC for a new Conditional Use Permit.
2. The conditional use as a Contact and Construction Office shall cease on July 1, 2021.
3. The applicant shall submit a letter of intent to have a fire alarm installed.
4. Staff recommends that the applicant update the parking configuration to meet the zoning and ADA requirements in no less than 6 months from the date of approval.

Mrs. Benham stated Staff respectfully recommends denial of the Variance request based on the findings of facts consisting of:

1. **Special Circumstances:** Special circumstances exist that are peculiar to the property for which the variances are sought and that do not apply generally to other properties in the same zoning district. Also, these circumstances are not of so general or recurrent a nature as to make it reasonable and practical to provide a general amendment to this Title to cover them. There is no special circumstance that exists that differentiates the property from others within the zoning district prohibiting the applicant from meeting the zoning requirements for parking.
2. **Hardship Or Practical Difficulties:** For reasons set forth in the findings, the literal application of the provisions of this Title would result in unnecessary and undue hardship or practical difficulties for the applicant as distinguished from mere inconvenience. The proposed request is not based on unnecessary or undue hardship. There is adequate space on the property to stripe the additional parking spaces and would merely be an inconvenience to establish existing space for parking.

3. **Circumstances Relate To Property:** The special circumstances and hardship relate only to the physical character of the land or buildings, such as dimensions, topography or soil conditions. They do not concern any business or activity of present or prospective owner or occupant carries on, or seeks to carry on, therein, nor to the personal, business or financial circumstances of any party with interest in the property. There are no special circumstances relating to the physical character of the land or building.
4. **Not Resulting From Applicant Action:** The special circumstances and practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this Title or any applicable amendment thereto, of the applicant or of any other party with a present interest in the property. Knowingly authorizing or proceeding with construction, or development requiring any variance, permit, certificate, or approval hereunder prior to its approval shall be considered such an act. The requested parking variance is resulting from the applicant's inaction in establishing the four additional parking spaces on the existing property.
5. **Preserve Rights Conferred By District:** A variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to such other properties. A variance is not necessary to enjoy substantial property right to provide parking on-site.
6. **Necessary For Use Of Property:** The grant of a variance is necessary not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of reasonable use or enjoyment of, or reasonable economic return from, the property. A variance is not necessary for the reasonable use or enjoyment of the property.
7. **Not Alter Local Character:** The granting of the variance will not alter the essential character of the locality nor substantially impair environmental quality, property values or public safety or welfare in the vicinity. Granting the variance would not alter the essential character of the locality nor impair the environmental quality of neighboring properties.

8. **Consistent With Title And Plan:** The granting of a variance will be in harmony with the general purpose and intent of this Title and of the general development plan and other applicable adopted plans of the Village, as viewed in light of any changed conditions since their adoption, and will not serve in effect to substantially invalidate or nullify any part thereof. The granting of the proposed variance is not consistent with the Comprehensive Plan as there is adequate space on site to accommodate the parking.
9. **Minimum Variance Needed:** The variance approved is the minimum required to provide the applicant with relief from undue hardship or practical difficulties and with reasonable use and enjoyment of the property. The minimum variance has not been requested by the applicant as the four additional parking spaces can be accommodated on the existing site.

There were no question from the Commissioners.

Motion: Commissioner Majeski made a motion to close CDC Case No. 2015-30. Commissioner Rowe seconded the motion.

ROLL CALL: Ayes: Moruzzi, Rowe, Pisano, Rodriguez, Majeski

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing for CDC Case No. 2015-30 at 7:38 p.m.

Motion: Commissioner Rowe made a motion to approve the findings of fact for the conditional use permit consisting of:

1. **Traffic:** The proposed use will not create any adverse impact of types or volumes of traffic flow not otherwise typical of permitted uses in the zoning district has been minimized. The amount of area traffic would be a minimum due to only one person being at the location. All others are dispatched from their residences.

2. **Environmental Nuisance:** The proposed use will not have negative effects of noise, glare, odor, dust, waste disposal, blockage of light or air or other adverse environmental effects of a type or degree not characteristic of the historic use of the property or permitted uses in the district. No waste will be stored on site and therefore will not generate an environmental nuisance.
3. **Neighborhood Character:** The proposed use will fit harmoniously with the existing character of existing permitted uses in its environs. Any adverse effects on environmental quality, property values or neighborhood character beyond those normally associated with permitted uses in the district have been minimized. The proposed use will fit harmoniously with the existing character of the neighborhood. The applicant has invested in the improvement of the external aesthetics of the property with landscaping, new windows and additional maintenance. No adverse effects are anticipated.
4. **Use of Public Services and Facilities:** The proposed use will not require existing community facilities or services to a degree disproportionate to that normally expected of permitted uses in the district, nor generate disproportionate demand for new services or facilities in such a way as to place undue burdens upon existing development in the area. The proposed use will not require existing community facilities or services to a degree disproportionate to those normally expected uses within the district. The property will be utilized as an office and dispatch center.
5. **Public Necessity:** The proposed use at the particular location requested is necessary to provide a service or a facility which is in the interest of public convenience, and will contribute to the general welfare of the neighborhood or community. The proposed use will contribute to the general welfare of the industrial and residential communities. The proposed operations will provide plumbing services for the area.
6. **Other Factors:** The use is in harmony with any other elements of compatibility pertinent in the judgment of the commission to the conditional use in its proposed location. Other factors to be considered at the Community Development Commission's discretion.

Commissioner Rodriguez second the motion

ROLL CALL: Ayes: Moruzzi, Rowe, Pisano, Rodriguez, Majeski

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Majeski made a motion to approve the findings of fact for the proposed variance as presented by Staff consisting of:

1. **Special Circumstances:** Special circumstances exist that are peculiar to the property for which the variances are sought and that do not apply generally to other properties in the same zoning district. Also, these circumstances are not of so general or recurrent a nature as to make it reasonable and practical to provide a general amendment to this Title to cover them. There is no special circumstance that exists that differentiates the property from others within the zoning district prohibiting the applicant from meeting the zoning requirements for parking.
2. **Hardship Or Practical Difficulties:** For reasons set forth in the findings, the literal application of the provisions of this Title would result in unnecessary and undue hardship or practical difficulties for the applicant as distinguished from mere inconvenience. The proposed request is not based on unnecessary or undue hardship. There is adequate space on the property to stripe the additional parking spaces and would merely be an inconvenience to establish existing space for parking.
3. **Circumstances Relate To Property:** The special circumstances and hardship relate only to the physical character of the land or buildings, such as dimensions, topography or soil conditions. They do not concern any business or activity of present or prospective owner or occupant carries on, or seeks to carry on, therein, nor to the personal, business or financial circumstances of any party with interest in the property. There are no special circumstances relating to the physical character of the land or building.

4. **Not Resulting From Applicant Action:** The special circumstances and practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this Title or any applicable amendment thereto, of the applicant or of any other party with a present interest in the property. Knowingly authorizing or proceeding with construction, or development requiring any variance, permit, certificate, or approval hereunder prior to its approval shall be considered such an act. The requested parking variance is resulting from the applicant's inaction in establishing the four additional parking spaces on the existing property.
5. **Preserve Rights Conferred By District:** A variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to such other properties. A variance is not necessary to enjoy substantial property right to provide parking on-site.
6. **Necessary For Use Of Property:** The grant of a variance is necessary not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of reasonable use or enjoyment of, or reasonable economic return from, the property. A variance is not necessary for the reasonable use or enjoyment of the property.
7. **Not Alter Local Character:** The granting of the variance will not alter the essential character of the locality nor substantially impair environmental quality, property values or public safety or welfare in the vicinity. Granting the variance would not alter the essential character of the locality nor impair the environmental quality of neighboring properties.
8. **Consistent With Title And Plan:** The granting of a variance will be in harmony with the general purpose and intent of this Title and of the general development plan and other applicable adopted plans of the Village, as viewed in light of any changed conditions since their adoption, and will not serve in effect to substantially invalidate or nullify any part thereof. The granting of the proposed variance is not consistent with the Comprehensive Plan as there is adequate space on site to accommodate the parking.

9. **Minimum Variance Needed:** The variance approved is the minimum required to provide the applicant with relief from undue hardship or practical difficulties and with reasonable use and enjoyment of the property. The minimum variance has not been requested by the applicant as the four additional parking spaces can be accommodated on the existing site.

Commissioner Rowe seconded the motion.

ROLL CALL: Ayes: Moruzzi, Rowe, Pisano, Rodriguez, Majeski

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Rowe made a motion to approve the proposed conditional use permit with Staff recommendations consisting of:

1. The Conditional Use Permit be granted solely to Doctor Rooter and Plumbing, Inc. and shall be transferred only after a review by the Community Development Commission (CDC) and approval of the Village Board. In the event of the sale or lease of this property, the proprietors shall appear before a public meeting of the CDC. The CDC shall review the request and in its sole discretion, shall either; recommend that the Village Board approve of the transfer of the lease and / or ownership to the new proprietor without amendment to the Conditional Use Permit, or if the CDC deems that the new proprietor contemplates a change in use which is inconsistent with the Conditional Use Permit, the new proprietor shall be required to petition for a new public hearing before the CDC for a new Conditional Use Permit.
2. The conditional use as a Contactor and Construction Office shall cease on July 1, 2021.
3. The applicant shall submit a letter of intent to have a fire alarm installed.
4. Staff recommends that the applicant update the parking configuration to meet the zoning and ADA requirements in no less than 6 months from the date of approval.

Commissioner Majeski seconded the motion.

ROLL CALL: Ayes: Moruzzi, Rowe, Pisano, Rodriguez, Majeski

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Rowe made a motion to approve the proposed variance. Chairman Moruzzi seconded the motion.

ROLL CALL: Ayes: None

Nays: Moruzzi, Rowe, Pisano, Rodriguez, Majeski

All were in favor. Motion failed.

Report from Community Development

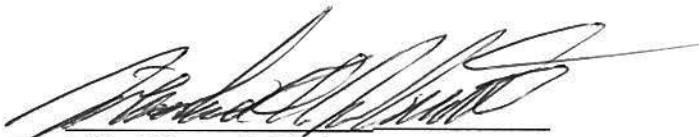
Mrs. Benham reviewed both recent CDC cases along with upcoming cases.

ADJOURNMENT:

There being no further business before the Community Development Commission, Commissioner Rowe made a motion to adjourn the meeting. Commissioner Majeski seconded the motion.

All were in favor. Motion carried.

The meeting was adjourned at 7:45 p.m.



Mike Moruzzi, Chairman
Community Development Commission