

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

MINUTES OF THE COMMUNITY DEVELOPMENT COMMISSION

August 7, 2018

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

ROLL CALL : Upon roll call the following Commissioners were present:
Rowe, Ciula, Czarnecki, Marcotte, King, Wasowicz
Absent: Rodriguez
A quorum was present.

STAFF PRESENT: K. Pozsgay, C. Williamsen,

JOURNAL OF PROCEEDINGS: The minutes of the Special Community Development Commission Meeting of June 23, 2018 were presented.

Motion: Commissioner King made a motion to approve the minutes as presented. Commissioner Marcotte seconded the motion.

All were in favor. Motion carried.

PUBLIC COMMENT: There was no Public Comment

Continued Public Hearing: CDC Case Number 2018-08
Petitioner: Thornton's, Inc.
Location: 601 N. IL Route 83
Request: A Conditional Use Permit Amendment to Ordinance Ord. No. 53A-2012 to allow for the construction of two additional truck fueling stations, and Variance, stacking; Municipal Code Section 10 – 11 – 11.

Motion: Commissioner Wasowicz made a motion to re-open CDC Case No. 2018-08. Commissioner Marcotte seconded the motion.

ROLL CALL : Upon roll call the following Commissioners were present:
Rowe, Ciula, Czarnecki, Marcotte, King, Wasowicz
Absent: Rodriguez
A quorum was present.

Chairman Rowe re-opened the Public Hearing at 6:32 p.m.

Chairman Rowe swore in Village Planner, Kurtis Pozsgay.

Village Planner, Kurtis Pozsgay, was present and previously sworn in by Chairman Rowe. Mr. Pozsgay stated a Legal Notice was published in the Bensenville Independent on May 17, 2018. Mr. Pozsgay 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. Mr. Pozsgay stated Village personnel posted a Notice of Public Hearing sign on the property, visible from the public way on May 18, 2018. Mr. Pozsgay stated on May 18, 2018 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. Mr. Pozsgay 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. Mr. Pozsgay stated the Petitioner is seeking to amend a previously approved Conditional Use Permit to allow a Gasoline and Diesel Fuel Service Station. Mr. Pozsgay stated the Petitioner wants to add two (2) additional Diesel Fuel service lanes. Mr. Pozsgay stated they also propose to make enhancements to the truck exit by further attempting to restrict left turns onto Foster Avenue, which have been a problem even with the current configuration constructed to limit the movement.

Todd Smutz of Thornton's, Inc. and Eric Tracy of Kimley-Horn & Associates, Inc. were both present and sworn in by Chairman Rowe. Mr. Smutz stated they have worked with the neighborhood and Staff to revise their original plan of wanting to expand to the south to expand to the north. Mr. Smutz stated nothing facing Marshall Road will change on the property, the fence will remain in place.

Chairman Rowe asked what could be done to prevent trucks from making a left turn onto Foster Avenue. Mr. Tracy stated he was working with Staff to find a solution. Mr. Tracy stated higher curbs on site can prevent the issue.

Commissioner Wasowicz raised concern with Mr. Tracy's comments regarding higher curbs indicating truck driver in the Chicagoland area jump curbs all the time.

Public Comment:

Chairman Rowe asked if there was any member of the Public that would like to speak on behalf of the case.

Diane Burda – 581 Marshall Road

Ms. Burda was present and sworn in by Chairman Rowe. Ms. Burda addressed the Commission with her concern regarding trucks exiting the property through the entrance and making a left turn onto Foster Avenue. Ms. Burda asked the Commission to address the issue with Thornton's.

Carlos Pinzon – Fas Fuel – 1188 Foster Avenue

Mr. Pinzon was present and sworn in by Chairman Rowe. Mr. Pinzon stated in 2016 Fas Fuel was denied permission to expand their operation to add diesel fueling on site because according to the Village there was no demand in the area. Mr. Pinzon stated there is clearly a need for diesel fuel in the area since the proposal is for an expansion on diesel tanks. Mr. Pinzon stated Fas Fuel was against any medians being installed on Foster Avenue, as it would affect their operations as well.

Mr. Pozsgay reviewed the approval criteria for the proposed conditional use permit amendment request 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.
Applicant's Response: The project is proposing to restrict exiting left turns from the store to increase safety on Foster Avenue.
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.
Applicant's Response: There will not be any adverse environmental effects.
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.

Applicant's Response: The character of the neighborhood will not be altered.

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.

Applicant's Response: The expansion will not affect the use of public services and facilities.

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.

Applicant's Response: The expansion of two diesel fuel canopies will allow Thorntons to better serve the existing corridor.

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.

Applicant's Response: No response.

Mr. Pozsgay reviewed the approval criteria for the proposed variance request 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.

Response: Space does not exist on the site to provide additional stacking for the proposed fuel positions. The proposed fuel positions will allow Thorntons to serve customers more efficiently and allow for more customers to be served in less time which will help to alleviate stacking.

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.

Response: Adhering to the stacking requirements would result in a hardship for Thorntons. Thorntons would not be able to provide the additional dispensers at the store.

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.

Response: The stacking area between the entrance to the fuel dispenser area and the fuel canopy does not have adequate space to allow for the additional stacking requirements.

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.

Response: The special circumstances have not been created by the applicant and are existing site conditions.

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.

Response: Given the unique site constraints, granting of the variance does not provide special privilege to the development.

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.

Response: The granting of the variance is necessary for Thorntons to be able to provide additional fueling lanes to serve customers more efficiently.

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.

Response: The granting of the Variance will not alter the essential character of the area.

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.

Response: The granting of the Variance will be consistent with the existing conditional use. The variance will provide Thorntons the ability to serve their customers more effectively.

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.

Response: The variance requested is the minimum variation needed. Thorntons would not be able to provide the additional dispensers at the store.

Mr. Pozsgay stated Staff recommends the approval of the above Findings of Fact and therefore the approval of the Conditional Use Permit Amendment and Variance with the following condition:

1. The property be developed in substantial compliance with the plans submitted Kimley-Horn, Inc. dated 03.01.18 and revised 06.21.18;
2. New fueling lanes to be developed on north side of property as proposed in revised plans, away from homes to the south;
3. Applicant works with homes to the south to address light from signage;
4. Applicant fixes fence along Foster Avenue;
5. Applicant works with engineering on final changes to site plan regarding truck movements onto Foster Avenue.

There were no questions from the Commission.

Motion: Commissioner Marcotte made a motion to close CDC Case No. 2018-08. Commissioner Wasowicz seconded the motion.

ROLL CALL: Ayes: Rowe, Ciula, Czarnecki, Marcotte, King, Wasowicz

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed the Public Hearing at 6:53 p.m.

Motion: Commissioner Marcotte made a combined motion to approve the Findings of Fact for CDC Case No. 2018-08 as presented by Staff and to approve the Amendment to Conditional Use Permit and Variance. Commissioner Wasowicz seconded the motion.

ROLL CALL: Ayes: Rowe, Ciula, Czarnecki, Marcotte, King, Wasowicz

Nays: None

All were in favor. Motion carried.

Public Hearing: CDC Case Number 2018-12

Petitioner: Lincolnwood Gas & Food, Inc.

Location: 1301 West Irving Park Road

Request: Conditional Use Permit (Service Station)

Motion: Commissioner Marcotte made a motion to open CDC Case No. 2018-12. Commissioner Wasowicz seconded the motion.

ROLL CALL : Upon roll call the following Commissioners were present:

Rowe, Ciula, Czarnecki, Marcotte, King, Wasowicz

Absent: Rodriguez

A quorum was present.

Chairman Rowe opened the Public Hearing at 6:54 p.m.

Motion: Commissioner Marcotte made a motion to continue CDC Case No. 2018-12 until September 4, 2018. Commissioner King seconded the motion.

ROLL CALL: Ayes: Rowe, Ciula, Czarnecki, Marcotte, King, Wasowicz

Nays: None

All were in favor. Motion carried.

Public Hearing: CDC Case Number 2018-17

Petitioner: Kamil Matyja

Location: 751 South Center Street

Request: Variance, Shed Size, Municipal Code Section 10-14-12B-3

Motion: Commissioner Marcotte made a motion to open CDC Case No. 2018-17. Commissioner Wasowicz seconded the motion.

ROLL CALL : Upon roll call the following Commissioners were present:

Rowe, Ciula, Czarnecki, Marcotte, King, Wasowicz

Absent: Rodriguez

A quorum was present.

Chairman Rowe opened the Public Hearing at 6:55 p.m.

Village Planner, Kurtis Pozsgay, was present and previously sworn in by Chairman Rowe. Mr. Pozsgay stated a Legal Notice was published in the Bensenville Independent on July 19, 2018. Mr. Pozsgay 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. Mr. Pozsgay stated Village personnel posted a Notice of Public Hearing sign on the property, visible from the public way on July 20, 2018. Mr. Pozsgay stated on July 20, 2018 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. Mr. Pozsgay 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. Mr. Pozsgay stated the Petitioner had a stop work order for building a new shed with attached deck without a permit. Mr. Pozsgay stated he was replacing an old tired shed. Mr. Pozsgay stated the new shed is larger than allowed by code. Mr. Pozsgay stated the shed is 257 square feet and the attached deck with roof is 128 square feet. The maximum allowed shed size by code is 160 square feet.

Mr. Kamil Matyja, property owner was present and sworn in by Chairman Rowe. Mr. Matyja reviewed the proposed plans with the Commission.

Commissioner King asked if there was electricity ran to the shed. Mr. Matyja stated no electricity would be ran to the shed.

Commissioner Wasowicz asked what the flooring of the shed would be. Mr. Matyja stated the floor will be made of plywood and 2x4's.

Commissioner Czarnecki asked if a car would be parked in the shed. Mr. Matyja stated no, just a lawn mower and other yard tools.

Public Comment:

Chairman Rowe asked if there was any member of the Public that would like to speak on behalf of the case. There were none.

Mr. Pozsgay reviewed the approval criteria for the proposed variance request 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.

Response: Plans to build a new shed started when my old shed completely gave out. I applied for a variance because it is approximately 100 sq. ft. bigger as determined by the village. I'm hoping to get the permits approved so that I can beautify my little piece of Bensenville.

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.

Response: If I would have to reconfigure the size of my shed, it will be at great cost to my family and me. Also I would like to get it done as soon as possible because all my yard and gardening tools are covered by a tarp on my 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.

Response: The main reason I'm applying for the variance is because the shed exceeds approximately 100 sq. ft. more then allowed by village ordinance.

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.

Response: There has not been any action taken, on our part, to proceed with construction. We now know that a Variance is needed in order to proceed with obtaining the permit, for construction to resume.

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.

Response: A lot of the sheds in my neighborhood that are newer have been built to exceed the village ordinance and I would like to enjoy the same right to improve and enhance my property while living in Bensenville.

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.

Response: Without the variance, I will not be able to enjoy the additional space I need to make my yardwork, gardening and honestly my life a little bit easier. In other words I would have to make costly and time consuming changes to the shed.

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.

Response: The shed, will not in any way impair the environmental quality or welfare of the vicinity in which I live in and it will have little to no effect on the property value because an old shed was on the property when I bought it.

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.

Response: If this Variance is granted, it will, in no way, interfere with the General Development Plan adopted by the Village of Bensenville.

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.

Response: If the Variance is approved, we will be able to proceed with our plans to obtain a permit and resume construction without incurring additional costs.

Mr. Pozsgay stated Staff recommends the approval of the findings of fact as they appear above and therefor recommend approval of the request with the following conditions:

1. Complete building plans shall be provided.
2. Shed must meet all current building code standards.
3. Shed must be moved outside of the easement.
4. Shed must not impede any exiting drainage or cause any drainage issues to neighboring sites.

There were no questions from the Commission.

Motion: Commissioner Marcotte made a motion to close CDC Case No. 2018-17. Commissioner Ciula seconded the motion.

ROLL CALL: Ayes: Rowe, Ciula, Czarnecki, Marcotte, King, Wasowicz

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed the Public Hearing at 7:03 p.m.

Motion: Commissioner Wasowicz made a combined motion to approve the Findings of Fact for CDC Case No. 2018-17 as presented by Staff and to approve the Variance. Commissioner Marcotte seconded the motion.

ROLL CALL: Ayes: Rowe, Ciula, Czarnecki, Marcotte, King, Wasowicz

Nays: None

All were in favor. Motion carried.

Report from Community

Development: Mr. Pozsgay reviewed both recent CDC cases along with upcoming cases.

ADJOURNMENT: There being no further business before the Community Development Commission, Commissioner Marcotte made a motion to adjourn the meeting. Commissioner King seconded the motion.

All were in favor. Motion carried.

The meeting was adjourned at 7:13 p.m.



Ronald Rowe, Chairman
Community Development Commission