

Community Development Commission Meeting Minutes

June 4, 2019

Page 1

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

MINUTES OF THE COMMUNITY DEVELOPMENT COMMISSION

June 4, 2019

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, King, Marcotte, Rodriguez, Wasowicz
Absent: Ciula, Czarnecki
A quorum was present.

STAFF PRESENT: K. Fawell, K. Pozsgay, C. Williamsen

JOURNAL OF PROCEEDINGS: The minutes of the Community Development Commission Meeting of April 2, 2019 were presented.

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

All were in favor. Motion carried.

Senior Village Planner, Kurtis Pozsgay and Associate Planner, Kelsey Fawell were both present and sworn in by Chairman Rowe.

PUBLIC COMMENT: There was no Public Comment.

Public Hearing: CDC Case Number 2019-09
Petitioner: Julian E. Ramirez
Location: 647 John Street
Request: Preliminary & Final Plat of Subdivision
Municipal Code Section 11 – 3

Motion: Commissioner Marcotte made a motion to open CDC Case No. 2019-09. Commissioner Wasowicz seconded the motion.

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

Motion: Commissioner Marcotte made a motion to continue CDC Case Number 2019-09 until a later date. Commissioner Wasowicz seconded the motion.

ROLL CALL: Ayes: Rowe, King, Marcotte, Rodriguez, Wasowicz

Nays: None

All were in favor. Motion carried.

Public Hearing: CDC Case Number 2019-10
Petitioner: Hema Shastri
Location: 276 Barron Street
Request: Variance, Interior Side Yard Setback
Municipal Code Section 10 – 6 – 12 – 1

Motion: Commissioner Marcotte made a motion to open CDC Case No. 2019-10. Commissioner King seconded the motion.

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

Senior 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 16, 2019. 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 17, 2019. Mr. Pozsgay stated on May 17, 2019 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 would like to extend her roof into the interior side yard. Mr. Pozsgay stated she has previously extended her roof on other sections of her home.

Mr. Pozsgay stated she has been experiencing water damage in her basement over the years and is trying to move as much water away from the home as possible.

Ms. Hema Shastri was present and sworn in by Chairman Rowe. Ms. Shastri stated she has an issue with flooding at her home. Ms. Shastri is requesting an extension of her roof so rain will not build up on the side of her home and flood her basement. Ms. Shastri also stated the extended roof would help in the winter time when it snows. Ms. Shastri stated her husband and herself are not in physical shape to be shoveling snow and dealing with a flooded basement. Ms. Shastri stated what has already been done at the house has helped with flooding at her home.

Commissioner Rodriguez stated his objection to the proposed request. Commissioner Rodriguez explained that the petitioner cannot extend her roof to the fence line causing the water to fall onto her neighbors property. Ms. Shastri stated she spoke to her neighbor about the proposal and they have no objections.

Commissioner King suggested the applicant sign up for the Village's Senior Snow Removal Program if snow removal is that big of an issue on site.

Commissioner Wasowicz stated the proposed variance would not address the flooding issue on site. Commissioner Wasowicz stated a professional needs to be hired to seal the foundation and stop water from coming into the basement.

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 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.

Applicant's Response: The rear of the home faces towards the side yard. Property line is closer to home than other homes.

Staff Commentary: Homes with rear facing interior side yard is not unique.

- 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.

Applicant's Response: For many years the property has experienced water damage in the basement. Petitioner feels roof will carry water from foundation wall.

Staff Commentary: Petitioner has submitted no documentation or study that shows this will be effective.

- 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.

Applicant's Response: For many years the property has experienced water damage in the basement. Petitioner feels roof will carry water from foundation wall.

Staff Commentary: Petitioner has submitted no documentation or study that shows this will be effective.

- 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.

Applicant's Response: The special circumstances and practical difficulties or hardships have not resulted from any act of the applicant.

- 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.

Applicant's Response: Variance would be necessary for applicant to reduce the water damage in basement.

Variance does not 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.

Applicant's Response: Without Variance, applicant would be denied use / enjoyment of basement. Variance would allow applicant to mitigate water damage.

- 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.

Applicant's Response: The granting of the Variance will not impair environmental quality, property values, or public safety or welfare in the vicinity.

Staff Commentary: Staff is not aware of a side yard Variance granted to this great of an extent.

- 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.

Applicant's Response: The granting of a Variance will not interfere with the General Development Plan and other applicable adopted plans of the Village.

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.

Applicant's Response: Variance needed to extend roof, encroaching into interior side yard.

Staff Commentary: Petitioner has submitted no documentation or study that shows this will be effective.

Mr. Pozsgay stated Staff recommends the denial of the above Findings of Fact and therefore the denial of the request as presented.

There were no questions from the Commission.

Motion: Commissioner Marcotte made a motion to close CDC Case No. 2019-10. Commissioner Wasowicz seconded the motion.

ROLL CALL: Ayes: Rowe, King, Marcotte, Rodriguez, Wasowicz

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed the Public Hearing at 7:07 p.m.

Motion: Commissioner Marcotte made a combined motion to approve the Findings of Fact for CDC Case No. 2019-10 as presented by Staff and to approve the variance request as presented. Commissioner King seconded the motion.

ROLL CALL: Ayes: None

Nays: Rowe, King, Marcotte, Rodriguez, Wasowicz

All were in favor. Motion failed.

Public Hearing: CDC Case Number 2019-11

Petitioner: Manuel Aldama

Location: 420 West Green Street

Request: Variance, Fence in Corner Side Yard

Municipal Code Section 10 – 7 – 4C – 7

Motion: Commissioner Wasowicz made a motion to open CDC Case No. 2019-11. Commissioner Marcotte seconded the motion.

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

Motion: Commissioner Wasowicz made a motion to continue CDC Case Number 2019-11 until a later date. Commissioner Marcotte seconded the motion.

ROLL CALL: Ayes: Rowe, King, Marcotte, Rodriguez, Wasowicz

Nays: None

All were in favor. Motion carried.

Public Hearing: CDC Case Number 2019-12
Petitioner: M. Rizzi Real Estate, L.L.C. and Mario E. Rizzi Revocable Trust dated March 13, 1996
Location: 630-640 South Thorndale
Request: Preliminary & Final Plat of Consolidation Municipal Code Section 11 – 3, and

(2) Variances:
Parking Lot Perimeter Landscape,
Municipal Code Section 10 – 9 – 5B, and
Parking Location,
Municipal Code Section 10 – 6 – 19B – 4, and

Site Plan Review
Municipal Code Section 10 – 3 – 2

Motion: Commissioner Wasowicz made a motion to open CDC Case No. 2019-12. Commissioner Marcotte seconded the motion.

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

Senior 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 16, 2019.

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 17, 2019. Mr. Pozsgay stated on May 17, 2019 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 petitioners owned both 630 and 640 Thorndale Ave.; 630 Thorndale was acquired by the Tollway Authority (ISTHA) for the Elgin-O'Hare Western Access Tollway (EOWA). Mr. Pozsgay stated after design engineering it was determined that the EOWA did not require the full 630 Thorndale site. ISHTA is conveying a portion of the site back to the petitioners and consolidating it with 640 Thorndale Ave. Mr. Pozsgay stated the petitioners are requesting two variances for parking lot perimeter landscape and parking lot location in the front yard. Mr. Pozsgay stated the building located on the 640 Thorndale site has two truck docks on the north façade. Mr. Pozsgay stated these variances are needed due to the required additional paving for turning movements of trucks. Mr. Pozsgay stated the petitioners are also requesting a Site Plan Review.

Mr. Steve Helm, attorney for M. Rizzi Real Estate, L.L.C. and Mario E. Rizzi Revocable Trust dated March 13, 1996 was present and sworn in by Chairman Rowe. Mr. Helm stated he concurred with Mr. Pozsgay's presentation. Mr. Helm provided an update on how his clients were approached by the Tollway and offered the land back.

Commissioner Rodriguez asked if the submitted plat of survey was finale. Mr. Helm stated it is currently in a draft state and could not be finalized until his clients officially got the land back from the Tollway.

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 requests 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.

Applicant's Response: The Property has a unique and peculiar history that does not apply generally to other properties within the same industrial zoning district. The Property consists of the remainders of two I-2, general industrial zoning district parcels that were developed in tandem by their owner, Mario Rizzi ("Rizzi"). The northern parcel of the two ("Lot 7") was a 22,414 square-foot parcel with 140 feet of frontage on Thorndale Avenue. It was developed as a restaurant property in 1979 commonly known as "Bogies." Lot 7 was taken through eminent domain in Case No. 2014 ED 19, but as part of a negotiated settlement, the Toll Authority agreed to return a small portion of Lot 7 to Rizzi to be consolidated with the southern lot remainder ("Lot 6") and used as part of the remaining property at 630-640 West Thorndale Avenue, resulting in Rizzi's proposed "Consolidated Lot 1" on documents proposed by Registered Professional Engineer John Pezl.

The southerly part of the Property ("Lot 6") currently continues in its longtime use as a one-story masonry constructed building with two loading docks located at the northwest and northeast corners of the industrial building. This building was developed in 1979 in tandem with the adjacent restaurant parcel ("Lot 7"), and a portion of the northerly restaurant parcel had originally been planned and approved for use as need for truck maneuvering to access the two loading docks. This southerly part of the Property previously was a flag-shaped lot that contained 39,026 square feet and had 27.42 feet of frontage on West Thorndale Avenue. Out of the 39,026 square-foot parcel, 3,265 square feet was taken through eminent domain in Case No. 2014 ED 20, leaving a remainder of 35,761, which has in large part become the major part of the consolidated lot. Continuation of the ability to access the truck loading docks was a primary basis of the settlement between Mr.

Rizzi and the Toll Authority, as the Authority agreed to “give back” of a portion of Lot 7 to enable truck access to the former Lot 6 truck docks,

The Toll Authority engineers and attorney have reviewed the proposed plans and have concurred with the consolidated lot concept as well as the requested variances sought herein. It should be noted that the settlement between the parties that has been approved by the DuPage County trial court will also provide an easement over a portion of the Property that will enable the Toll Authority to access its stormwater detention basin to the west of the Property.

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.

Applicant’s Response: The literal application of the provisions of the two subject setback ordinances would clearly result in unnecessary and undue hardship for the applicant. Without the contemplated settlement, which has been approved by the DuPage County trial court Judge, and the variances being sought to enable utilizing the full consolidated lot for truck maneuvering and for parking as needed, undue hardship would exist and the property would no longer continue to function with the ability to utilize the industrial building.

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.

Applicant’s Response: The special circumstances and hardship relate only to the fact that the Toll Authority’s involuntary taking of the northern portion of the two-lot industrial property left Mr. Rizzi with one remaining lot that was no longer of sufficient size to properly serve the industrial building parcel at 630-640 West Thorndale

Avenue. The special circumstances and hardship do not involve any change in business or activity on the Property. Without the variances, Mr. Rizzi's pre-existing truck accessibility and use adequately served the property at 630-640 West Thorndale Avenue, and with the approval of the variances, that use will be able to continue.

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.

Applicant's Response: The special circumstances and practical difficulties or hardship that are the basis for the variances have not resulted from any act, undertaken subsequent to the adoption of this Ordinance or any other party with a present interest in the property. The variances are needed solely as a result of the eminent domain action of the Toll Authority, which agency is in support of the sought variances.

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.

Applicant's Response: Variances from the landscape and parking area requirements of the Village are necessary for applicant to enjoy a substantial property right for the continued use consistent with property rights possessed by other properties within the same I-2 zoning district. The variances would not confer any special privilege that would ordinarily be denied to such other I-2 zoned 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.

Applicant's Response: The subject Property located at 630-60 West Thorndale Avenue has long been utilized at its highest and best use as an industrial building site and has been a good resident of the Village. The granting of the variances will enable the Property to continue the reasonable use and enjoyment of the Property and will enable a continuation of a reasonable economic return for 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.

Applicant's Response: The essential character of the geographic area of the Rizzi property is and will remain light industrial. Immediately to the east of the Rizzi property is the Larsen Enterprises industrial use, and immediately to the south is industrial use property developed by Rizzi. Immediately to the west of the Rizzi Property is the Toll Authority storm water detention facility. The granting of the variances will not alter the essential character of the locality nor substantially impair environmental quality, property values, or public safety or welfare in the vicinity; rather, the granting of the variances will avoid truck turnarounds on the new frontage roads, as the Property with the variances will enable the delivery trucks to access the docks on the front of the building on the Property.

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.

Applicant's Response: The granting of Variances will be in harmony with the general purpose and intent of this Ordinance and of the General Development Plan and other applicable adopted plans of the Village of Bensenville, 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.

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.

Applicant's Response: The Variances being requested for approval are 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 variances sought constitute the minimum variances needed to enable the continued full and safe operation of truck deliveries to the property at the two existing docks that were developed and approved for that use.

Mr. Pozsgay stated Staff recommends the Approval of the above Findings of Fact and therefore the Approval of the requests as presented with the following conditions:

- 1) The proposed parking lot pavement section should match the VOB Parking lot standard;
- 2) A perimeter curb and gutter around the proposed parking lot should be installed. Final approval subject to Village Engineering;
- 3) The applicant shall utilize the VOB standards for catch basins.

There were no questions from the Commission.

Motion: Commissioner Marcotte made a motion to close CDC Case No. 2019-12. Commissioner King seconded the motion.

ROLL CALL: Ayes: Rowe, King, Marcotte, Rodriguez, Wasowicz

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed the Public Hearing at 7:29 p.m.

Community Development Commission Meeting Minutes

June 4, 2019

Page 14

Motion: Commissioner Marcotte made a combined motion to approve the Findings of Fact for CDC Case No. 2019-12 as presented by Staff and to approve the preliminary & final plat of consolidation request with Staff's recommendations. Commissioner Wasowicz seconded the motion.

ROLL CALL: Ayes: Rowe, King, Marcotte, Rodriguez, Wasowicz

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Marcotte made a combined motion to approve the Findings of Fact for CDC Case No. 2019-12 as presented by Staff and to approve the variance request for parking lot perimeter landscape with Staff's recommendations. Commissioner Wasowicz seconded the motion.

ROLL CALL: Ayes: Rowe, King, Marcotte, Rodriguez, Wasowicz

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Marcotte made a combined motion to approve the Findings of Fact for CDC Case No. 2019-12 as presented by Staff and to approve the variance request for parking location with Staff's recommendations. Commissioner Wasowicz seconded the motion.

ROLL CALL: Ayes: Rowe, King, Marcotte, Rodriguez, Wasowicz

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Marcotte made a combined motion to approve the Findings of Fact for CDC Case No. 2019-12 as presented by Staff and to approve the site plan review request for parking location with Staff's recommendations. Commissioner Wasowicz seconded the motion.

ROLL CALL: Ayes: Rowe, King, Marcotte, Rodriguez, Wasowicz

Nays: None

All were in favor. Motion carried.

Public Hearing: CDC Case Number 2019-13

Petitioner: Roman Masily, VIP Auto Transportation

Location: 155 Beeline Drive

Request: Special Use Permits to allow Truck Repair and Heavy Industrial Municipal Code Section 10 – 7 – 2; and

Variance, Truck Repair on less than 1-acre
Municipal Code Section 10 – 7 – 3BB

Motion: Commissioner Wasowicz made a motion to open CDC Case No. 2019-13. Commissioner King seconded the motion.

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

Rowe, King, Marcotte, Rodriguez, Wasowicz

Absent: Ciula, Czarnecki,

A quorum was present.

Senior 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 16, 2019. 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 17, 2019. Mr. Pozsgay stated on May 17, 2019 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 purchase the property he currently rents and expand his business. Mr. Pozsgay stated this includes a new building with drive in doors, which he says will help to clean up the issues with outdoor storage. Mr. Pozsgay stated the use was previously approved for a Special Use permit and Variance for Outdoor Storage.

Mr. Pozsgay stated the expansion of the use requires a new petition. Mr. Pozsgay stated the two Special Use Permit requests are for Truck Repair and Heavy Industrial. Mr. Pozsgay stated the Variance is for operating Truck Repair on less than an acre of land.

Mr. Pete Gallagher, on behalf of the applicant, was present and sworn in by Chairman Rowe. Mr. Gallagher stated he concurred with Mr. Pozsgay's presentation. Mr. Gallagher stated the applicant has been operating in the same location since 2012. Mr. Gallagher stated the applicant has saved enough money to purchase the property and redevelop the site to meet his business requirements. Mr. Gallagher stated there is currently an issue with the applicant having to park vehicles on the street simply because there is not enough room on site.

There were no questions from the Commission.

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 special use 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 Allowed Uses in the zoning district has been minimized.

Applicant's Response: There will be no adverse impact from traffic.

- 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: The use will have no adverse environmental impact.

- 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 use will blend in with existing character of neighborhood.

- 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 proposed use will not require any specific facilities or services.

- 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 proposed use will develop underused, undeveloped portion of property.

- 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: There are no other factors. This is compatible with similar speical use requests.

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.

Applicant's Response: 50% of the property has existing Variance approval. New buildings sought for other 50%.

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.

Applicant's Response: Variance will allow for expansion of existing Variance on property.

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.

Applicant's Response: Existing building is inadequate for property use.

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.

Applicant's Response: The variance is not the result of any action of the applicant.

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.

Applicant's Response: The variance confers the rights of the district and does not exceed any other properties in district.

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.

Applicant's Response: The variance is necessary for the use of the property. Property is currently underdeveloped.

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.

Applicant's Response: The variance will not alter the local character. The same use will continue.

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.

Applicant's Response: The variance will not conflict with intent of Ordinances.

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.

Applicant's Response: 50% of property is already approved by Variance.

Mr. Pozsgay stated Staff recommends the Approval of the above Findings of Fact and therefore the Approval of the requests as presented with the following conditions:

- 1) The Special Use Permits be granted solely to the VIP Auto Transportation and shall be transferred only after a review by the Community Development Commission (CDC) and approval of the Village Board. In the event of a re-occupancy of this property, the new occupants 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 occupant without amendment to the Special Use Permits, or if the CDC deems that the new occupant contemplates a change in use which is inconsistent with the Special Use Permits, the new occupant shall be required to petition for a new public hearing before the CDC for a new Special Use Permits;

- 2) Outdoor Storage of vehicles and/or equipment waiting for repair should be limited to no more than 25% of the lot;
- 3) Outdoor Storage shall occur on improved surfaces only;
- 4) A perimeter curb and gutter should be installed around the proposed parking lot;
- 5) If new sanitary service is required, the applicant needs to obtain IEPA-sanitary permit;
- 6) A landscape plan shall be submitted to and approved by Village staff.

There were no questions from the Commission.

Motion: Commissioner Wasowicz made a motion to close CDC Case No. 2019-13. Commissioner King seconded the motion.

ROLL CALL: Ayes: Rowe, King, Marcotte, Rodriguez, Wasowicz

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed the Public Hearing at 7:32 p.m.

Motion: Commissioner Marcotte made a combined motion to approve the Findings of Fact for CDC Case No. 2019-13 as presented by Staff and to approve the special use permits to allow truck repair and heavy industrial requests with Staff's recommendations. Commissioner King seconded the motion.

ROLL CALL: Ayes: Rowe, King, Marcotte, Rodriguez, Wasowicz

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Marcotte made a combined motion to approve the Findings of Fact for CDC Case No. 2019-13 as presented by Staff and to approve the variance request with Staff's recommendations. Commissioner Marcotte seconded the motion.

Community Development Commission Meeting Minutes

June 4, 2019

Page 21

ROLL CALL: Ayes: Rowe, King, Marcotte, Rodriguez, 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 Wasowicz made a motion to adjourn the meeting. Commissioner Marcotte seconded the motion.

All were in favor. Motion carried.

The meeting was adjourned at 7:52 p.m.



Ronald Rowe, Chairman
Community Development Commission