

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

MINUTES OF THE COMMUNITY DEVELOPMENT COMMISSION

August 6, 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, Ciula, Czarnecki, King, Marcotte, Rodriguez, Wasowicz
Absent: None
A quorum was present.

STAFF PRESENT: K. Pozsgay, C. Williamsen

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

Senior Village Planner, Kurtis Pozsgay was present and sworn in by Chairman Rowe.

PUBLIC COMMENT: There was no Public Comment.

Continued Public Hearing: CDC Case Number 2019-17
Petitioner: Norbert Piskorz
Location: 177 Henderson Street
Request: Variance, Porch in Interior Side Yard Setback
Municipal Code Section 10 – 6 – 22

Motion: Commissioner Marcotte made a motion to re-open CDC Case No. 2019-17. Commissioner Marcotte seconded the motion.

Chairman Rowe re-opened CDC Case No. 2019-17 at 6:31 p.m.

ROLL CALL : Upon roll call the following Commissioners were present:
Rowe, Ciula, Czarnecki, King, Marcotte, Rodriguez, Wasowicz
Absent: None
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 June 13, 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 June 14, 2019. Mr. Pozsgay stated on June 14, 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 requesting a Variance to build a porch in their interior side yard. Mr. Pozsgay stated plans indicate the proposed porch will be encroaching 1.35 feet into the 6-foot side yard setback.

Ms. Beata Piskorz, property owner, was present and sworn in by Chairman Rowe. Ms. Piskorz stated her goal was to improve her property and have a place her family can sit outside and enjoy their time together.

Commissioner Wasowicz asked what type of material would be used to construct the deck. Ms. Piskorz stated wood.

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: We need this wood deck because we have never had an outside area to gather as a family and we are already close to the property line.

- 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: Without this porch, we would not be able to gather outside during a rainy day or a really hot day.

- 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: We need this wood deck because we have never had an outside area to gather as a family and we are already close to the property line.

- 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: No, not resulting from applicant action.

- 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: No, it does not confer a special privilege ordinarily denied to such because there are a bunch of porches in my neighborhood.

- 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: It is necessary for us to have this porch so we have a nice outside space to be with our family/friends.

- 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 of my neighborhood.

- 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 is consistent with the title and 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.

Applicant's Response: The minimum Variance we need is to build a little bit into our side yard.

Mr. Pozsgay stated Staff recommends the Approval of the above Findings of Fact and therefore the Approval of the Variance to build a porch in the interior side yard with the following conditions:

- 1) The drainage should be designed as such that it will not adversely impact the neighboring properties; and
- 2) The applicant must obtain all proper building permits.

There were no questions from the Commission.

Motion: Commissioner Wasowicz made a motion to close CDC Case No. 2019-17. Commissioner Marcotte seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed the Public Hearing at 6:36 p.m.

Motion: Commissioner Marcotte made a combined motion to approve the Findings of Fact for CDC Case No. 2019-17 as presented by Staff and to approve the variance request as presented. Commissioner Wasowicz seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Public Hearing: CDC Case Number 2019-19
Petitioner: Jose Fernandez
Location: 197 Grace Street
Request: Variance, Paved Parking Area
Municipal Code Section 10 – 8 – 8 – G.4

Motion: Commissioner Marcotte made a motion to open CDC Case No. 2019-19. Commissioner King seconded the motion.

Chairman Rowe opened CDC Case No. 2019-19 at 6:37 p.m.

ROLL CALL : Upon roll call the following Commissioners were present:
Rowe, Ciula, Czarnecki, King, Marcotte, Rodriguez, Wasowicz
Absent: None
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 July 18, 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 July 19, 2019. Mr. Pozsgay stated on July 19, 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 requesting a Variance to allow a 10 x 40 paved parking area in the interior side yard nonadjacent to the garage. Mr. Pozsgay stated the petitioner has been parking on the unimproved area and was issued a correction notice. Mr. Pozsgay stated the house is uniquely positioned, being at Mr. Pozsgay stated the very rear of the lot. Mr. Pozsgay stated there is a one car attached garage to the south of the house. There is not enough room in front of the garage for a parking spot.

Mr. Jose Fernandez, property owner, was present and sworn in by Chairman Rowe. Mr. Fernandez stated with his age and sickness, maintaining the gravel is becoming an issue. Mr. Fernandez asked the commission to consider his request for a 10x40 pavement.

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 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: We purchased our property in 1995, we were told by the owner and realtor that there is a gravel driveway for 2 cars by the side of the house. We have been using it since then. There's attached garage for one car where we park our car, but no room for another in front of it. We are back next to the alley. My husband has been fighting Multiple Myeloma and there is times my daughters would need to stay overnight to help me take care of him. They would use the side driveway to park. We have 10 grandchildren and in a regular basis my family is always visiting. I also babysit my grandchildren, especially the toddlers and infants. Having the driveway will be helpful for my family with young children to visit and for my family that stay overnight to have where to park their cars.

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: Practical difficulties if we don't have a driveway on the side of the house. My family with young children would park in front of the house during the inclement weather and do a lengthy walk to the rear of the house. It would be very difficult for my husband to walk that lengthy walk when he can't park his car in the garage. He has a handicap for parking to be able to walk short distances. Having the side driveway will help him easy access to walk in and out of the house.

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: By allowing us to build asphalt driveway to the side of the house, it will be providing easy access for my husband who's fighting cancer to get in and out house on the days his not feeling well. Also, for my growing family to visit and park their cars; and to park overnight when needed.

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: It will difficult for me or my husband to help my grandchildren get in and out of the car if we are not able to have the side driveway. The long lengthy walk from the front of the house to the rear house entrance is very difficult especially when there is snow and/or ice. I have severe osteoporosis and a bad fall for me would be badly broken bones. It is our concern for our wellbeing/health.

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: As property owners I feel I have the right to request permit to have asphalt driveway. We have the attached garage for one car and no room to park a car in front of it because we are next to the alley. We notice that other neighbors have cars parked where ever they would find room; on their grass or the side of the house where their cars are almost halfway blocking the alley. I like to have a driveway where my cars can be parked to the Village Ordinance.

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 project is requested solely for the wellbeing for my husband and I and, my visiting family needs. Not for any economic return.

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: Providing us the approval for variances, will not impair the environmental quality of our property. All codes will be followed as indicated to us.

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 approval of the variance will be in harmony with the general purpose with this ordinance and will not change any general development of 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.

Applicant's Response: Having the asphalt side driveway is the minimum variance needed to help my husband and I maintain easy access to our home. To avoid falls from our lengthy walking distance from the front of the house to enter our home. Also, to keep us active in our grandchildren and children lives, since we are limited to our driving due to my husband's health and I don't.

Mr. Pozsgay stated Staff recommends the Approval of the above Findings of Fact and therefore the Approval of the Variance to allow a paved parking area nonadjacent to the garage:

- 1) The paved parking area shall be installed in a vee-shape that slopes to the east in order to keep runoff water away from the neighboring property; and
- 2) The paved parking area shall be 10 feet by 20 feet.

Chairman Rowe suggested allowing the paved parking area to be 10 feet by 40 feet. There were no objections from the Commission.

Motion: Commissioner Marcotte made a motion to close CDC Case No. 2019-19. Commissioner King seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed the Public Hearing at 6:59 p.m.

Motion: Commissioner Marcotte made a combined motion to approve the Findings of Fact for CDC Case No. 2019-19 as presented by Staff and to approve the variance request as presented. Commissioner Wasowicz seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed the Public Hearing at 6:47 p.m.

Motion: Commissioner Marcotte made a combined motion to approve the Findings of Fact for CDC Case No. 2019-19 as presented by Staff and to approve the variance request as presented and to allow the paved parking area to be 10 feet by 40 feet. Commissioner Wasowicz seconded the motion.

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

All were in favor. Motion carried.

The meeting was adjourned at 6:51 p.m.

A handwritten signature in black ink, appearing to read 'R. Rowe', is written over a horizontal line.

Ronald Rowe, Chairman
Community Development Commission