

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

MINUTES OF THE COMMUNITY DEVELOPMENT COMMISSION

October 1, 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, Wasowicz
Absent: Ciula, Czarnecki, Rodriguez
A quorum was present.

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

JOURNAL OF PROCEEDINGS: The minutes of the Community Development Commission Meeting of August 6, 2019 were presented.

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

All were in favor. Motion carried.

Village Manager, Evan Summers, Senior Village Planner, Kurtis Pozsgay and Village Planner, Kelsey Fawell were present and sworn in by Chairman Rowe.

PUBLIC COMMENT: There was no Public Comment.

Public Hearing: CDC Case Number 2019-18
Petitioner: Valla Flow Striking, LLC
Location: 540 North York Road
Request: Special Use Permit, Indoor Recreation
Municipal Code Section 10 – 7 – 2 – 1

Motion: Commissioner Wasowicz made a motion to open CDC Case No. 2019-18. Commissioner Marcotte seconded the motion.

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

Chairman Rowe opened CDC Case No. 2019-18 at 6:33 p.m.

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 September 12, 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 September 13, 2019. Mr. Pozsgay stated on September 13, 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 Special Use Permit to allow Indoor Recreation at 540 N. York Road, which is in a multi-tenant industrial building in an existing I-2 Industrial District. Mr. Pozsgay stated the facility will offer Mixed Martial Arts training for professional athletes as well classes for children and adults.

Mr. Piera Valle, Owner of Valle Flow Striking, LLC was present and sworn in by Chairman Rowe. Mr. Valle provided a background of his martial arts career to the Commission and provided a background of those he has coached as well.

Commissioner Rowe asked what the age groups are of proposed use. Mr. Valle stated classes start at five years old.

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) **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: Valle Flow Striking will not have any adverse impact on 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: There will be no adverse environmental effects including abnormal amounts of noise, glare, odor, dust, waste disposal, from the use of our gym.

- 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: Valle Flow Striking will fit harmoniously with the existing character of existing businesses and surroundings.

- 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: Valle Flow Striking will not place undue burden upon existing development in the area and will not generate disproportionate demand for new services or 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: Valle Flow Striking focuses on providing men and women of all ages a place to focus on physical fitness while learning all other aspects of martial arts – including mental focus, self-discipline and respect. It also provides a true form of self-defense that will stick with them for the rest of their lives.

- 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: Many of the children entolled in our kids' program reside in Bensenville – and they, along with their parents, can attest to the assets we bring to the community. We look forward to opening our business here and to provide even more members of the community a place that encourages a healthy lifestyle.

Mr. Pozsgay stated Staff recommends the Approval of the above Findings of Fact and therefore the Approval of the Special Use Permit for Valle Flow Striking, LLC with the following conditions:

1. The Special Use Permit be granted solely to the Valle Flow Striking, LLC 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 Hearing 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 Permit, or if the CDC deems that the new occupant contemplates a change in use which is inconsistent with the Special Use Permit, the new occupant shall be required to petition for a new public hearing before the CDC for a new Special Use Permit.

There were no questions from the Commission.

Motion:

Commissioner King made a motion to close CDC Case No. 2019-18. Commissioner Wasowicz seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed the Public Hearing at 6:42 p.m.

Motion: Commissioner Wasowicz made a combined motion to approve the Findings of Fact for CDC Case No. 2019-18 as presented by Staff and to approve the special use request as presented. Commissioner Marcotte seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Public Hearing: CDC Case Number 2019-21
Petitioner: Armando Perez
Location: 14 North York Road
Request: Variation, Monument Sign Location
Municipal Code Section 10 – 10 – 5 – 8.a

Motion: Commissioner King made a motion to open CDC Case No. 2019-21. Commissioner Marcotte seconded the motion.

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

Chairman Rowe opened CDC Case No. 2019-21 at 6:43 p.m.

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 September 12, 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 September 13, 2019. Mr. Pozsgay stated on September 13, 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 Variation to allow a monument sign located two feet from the front lot line.

Mr. Armando Perez, property owner, was present and sworn in by Chairman Rowe. Mr. Perez reviewed the proposed sign with the Commission and thanked Village Staff for their help on the proposal.

There were no questions from the Commission.

Public Comment:

Paul De Michele – 275 Rodeck Lane, Bensenville, Illinois

Mr. De Michele was present and sworn in by Chairman Rowe. Mr. De Michele stated he was supportive of the proposed request.

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 Property is located on York Rd in the business district. The previous sign which was existing non-conforming was not visible. It was located behind the deck and stair case.

- 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: My State Farm Agency will be located on the main floor. I need to have a sign for the business.

- 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: There are several factors as to why I am requesting the Variance from 5 feet to 2 feet set back. The parking lot is to the south of the property. I want to make sure the sign does not block the sight for vehicles entering or exiting. There is a handicap ramp that is close to the property line. Installing the sign behind the ramp would cover the entire sign. The staircase to the front entrance is also on the north side of the building. Traffic traveling southbound on York would not be able to see it. Putting the sign 5 feet back in the middle of the property would result in no visibility.

- 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: I removed the existing non-conforming sign due to it being damaged. There has been no action from applicant, I consulted with the Village Staff to get feedback on options.

- 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: This request is consistent with other business signs in the area.

- 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: This request will not increase the applicant's 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: This request will not alter local character.

- 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: This request is consistent with the Ordinance 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: I am requesting 2 feet from the property line rather than 5 feet. This sign will be visible on both sides and will not interfere with visibility.

Mr. Pozsgay stated Staff recommends the Approval of the above Findings of Fact and therefore the Approval of the Variation for Armando Perez with the following conditions:

1. Sign must be in compliance with plans prepared by Targin Sign Systems dated 08.19.19.
2. 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. 2019-21. Commissioner Marcotte seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed the Public Hearing at 6:52 p.m.

Motion: Commissioner Marcotte made a combined motion to approve the Findings of Fact for CDC Case No. 2019-21 as presented by Staff and to approve the variance request as presented. Commissioner Wasowicz seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Public Hearing: CDC Case Number 2019-20

Petitioner: Village of Bensenville

Location: N/A

Request: Creation of regulations allowing for the operation of Adult-Use Cannabis Business Establishments, Sections 10 – 7 (Zoning Ordinance) and 10 – 11 (Definitions).

Motion: Commissioner Marcotte made a motion to open CDC Case No. 2019-20. Commissioner King seconded the motion.

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

Rowe, King, Marcotte, Wasowicz

Absent: Ciula, Czarnecki, Rodriguez

A quorum was present.

Chairman Rowe opened CDC Case No. 2019-20 at 6:53 p.m.

Senior Village Planner, Kurtis Pozsgay and Village Manager, Evan Summers were present and previously sworn in by Chairman Rowe. Mr. Pozsgay stated a Legal Notice was published in the Bensenville Independent on September 12, 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 the Village is looking to create definitions, use categories and use standards to allow for Adult-Use Cannabis Business Establishments. Mr. Pozsgay stated the new zoning will apply to any Commercial or Industrial property in the Village. Mr. Pozsgay stated the ordinance will create a Special Use category in these districts. Mr. Pozsgay stated it will also create use standards and new definitions for each Adult-Use Cannabis Business Establishment.

Mr. Pozsgay stated the State of Illinois enacted the Cannabis Regulation and Tax Act (Act), which pertains to the possession, use, cultivation, transportation and dispensing of adult-use cannabis, which became effective June 25, 2019. Mr. Pozsgay stated the law will take effect January 1, 2020. Mr. Pozsgay stated Municipalities need to act, in one way or the other, regarding the new business uses. Mr. Pozsgay stated Staff is recommending regulating the business uses with the below standards:

1. Compliance with State Regulations. Adult-Use Cannabis Business Establishments must comply with all applicable rules and regulations enacted by the State of Illinois, including licensing and registration requirements. When such state regulations are amended, such regulations control over this Ordinance.
2. Minimum Spacing: An adult use-cannabis business establishment shall not be located within five hundred feet (500') of any day care center, elementary school, middle school, high school, park, or any use where large numbers of minors regularly travel or congregate. An adult-use cannabis business establishment shall not be located within one thousand five hundred feet (1,500') of another adult-use cannabis business establishment.
3. Hours of Operation. The hours of operation of the establishment shall be limited to between 8:00 AM and 10:00 PM.
4. Location of Transactions. All transactions shall occur entirely inside the facility. No transactions may be permitted through an exterior walk-up window or drive through facility.
5. Security. The site design shall incorporate adequate security measures, such as exterior lighting, surveillance cameras, and/or fencing.
6. On-site consumption. The on-site consumption of cannabis in all its forms is strictly prohibited.

Mr. Pozsgay also reviewed the proposed definitions as proposed:

ADULT-USE CANNABIS BUSINESS ESTABLISHMENT:

An adult-use cannabis cultivation center, craft grower, processing organization, infuser organization, dispensing organization or transporting organization.

ADULT-USE CANNABIS CRAFT GROWER:

A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS CULTIVATION CENTER:

A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS DISPENSING ORGANIZATION:

A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS INFUSER ORGANIZATION OR INFUSER:

A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS PROCESSING ORGANIZATION OR PROCESSOR:

A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

ADULT-USE CANNABIS TRANSPORTING ORGANIZATION OR TRANSPORTER:

An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

Public Comment:

Brian Harmon – 4N251 Hawthorne, Bensenville, Illinois

Mr. Harmon was present and sworn in by Chairman Rowe. Mr. Harmon stated he was opposed to the proposed text amendment. Mr. Harmon submitted a letter to the Commission. The letter is attached to the minutes as “Exhibit A”.

Fernando Lucero – 311 Diana Court, Bensenville, Illinois

Mr. Lucero was present and sworn in by Chairman Rowe. Mr. Lucero stated he was opposed to the proposed text amendment.

Mr. Pozsgay stated Staff recommends Approval of the Adult-Use Cannabis Business Establishments regulations and definitions.

There were no questions from the Commission.

Motion: Commissioner Marcotte made a motion to close CDC Case No. 2019-20. Commissioner Wasowicz seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed the Public Hearing at 7:28 p.m.

Motion: Commissioner Marcotte made a motion to approve the text amendment request as presented. Commissioner King seconded the motion.

ROLL CALL: Ayes: Rowe, King, Marcotte, 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 7:30 p.m.



Ronald Rowe, Chairman
Community Development Commission

To: Village of Bensenville, Community Development Commission, Elected Officials

From: Brian Harmon (Owner (119 Gerry Steven Ct, Bensenville, IL; 4N251 Hawthorne Avenue, Bensenville, IL [Pre-annexation agreement signed]; 4N180 Ridgewood Ave, Bensenville, IL [Pre-Annexation agreement signed]))

Subject: Cannabis Business Ordinance Amendment (Hearing October 1, 2019 @ 6:30pm CST)

Date: September 30, 2019

Community Development Commission,

I am writing this letter to be read at the October 1, 2019 Hearing regarding the Amendment for an Ordinance to allow Cannabis Business Establishment(s) within 500 feet of any day care center, elementary school, middle school, high school, park, or any use where large numbers of minors regularly travel or congregate. This ordinance is being heard after the September 24, 2019 board meeting where a 3% tax was approved for marijuana purchases.

I disagree with the distance of a Cannabis Business Establishment within the ordinance. I also disagree how a Cannabis Business Establishment supports a "Financially Sound Village"; "Major Business/Corporate Center"; or "Vibrant Major Corridors". The Ordinance does not support "Quality Customer Oriented Services"; a "Safe and Beautiful Village"; or "Enrich the lives of Residents" as indicated on page 3.

I have reviewed the 2015 Bensenville Comprehensive Plan and the current ordinance would allow for a Cannabis Business Establishment to be located on East Green Street near our Post Office located on a major future corridor and roadway under development; Commercial Centers that are under development; and near heavily populated areas in the southern part of the City of Bensenville. For example, the ordinance will allow for a Cannabis Business Establishment to be opened on Entry Drive and Grand Avenue in Southern Bensenville near multiple school bus stops, restaurants, grocery stores, and ice cream shops.

I'm concerned how having a Cannabis Business Establishment so close to residential properties may affect future commercial or residential development. For example, many Businesses and people will begin to travel through Bensenville using the York / Irving Park /Green Street corridors to access the future Western O'Hare Airport terminal. Perhaps future development to access the Western O'Hare Airport Terminal will be similar to development east of O'Hare Airport in Rosemont, Des Plaines, and Schiller Park complementing the 2015 Comprehensive Plan.

I'm requesting the Village of Bensenville add "residential parcels" to the current Ordinance Amendment and increase the distance from 500 feet to 1500 feet. This would allow for the Village to support any future industrial scale Cannabis Business Establishments that could occupy existing Industrial properties while supporting future residential / commercial development.

Sincerely,

Brian Harmon

Village Resident and Property Owner