

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

MINUTES OF THE COMMUNITY DEVELOPMENT COMMISSION

December 3, 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, Czarnecki, King, Marcotte, Wasowicz
Absent: Ciula, Rodriguez
A quorum was present.

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

JOURNAL OF

PROCEEDINGS: The minutes of the Community Development Commission
Meeting of November 5, 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 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 2019-23
Petitioner: 321 Irving Park, LLC
Location: 321 W. Irving Park Road
Request: Variation, Maximum Front Setback
Municipal Code Section 10 – 6 – 8 – 1
Variance, Maximum Corner Side Setback
Municipal Code Section 10 – 6 – 8 – 1
Variation, Maximum Driveway Width
Municipal Code Section 10 – 8 – 8 – 1
Variation, On-Site Pedestrian Circulation System
Municipal Code Section 10 – 8 – 7 – C
Site Plan Review
Municipal Code Section 10 – 3 – 2

Motion: Commissioner Wasowicz made a motion to open CDC Case No. 2019-23. Commissioner Marcotte seconded the motion.

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

Chairman Rowe opened CDC Case No. 2019-23 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 November 14, 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 November 15, 2019. Mr. Pozsgay stated on November 15, 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 four Variations to construct a 7,500 SF building to operate an O'Reilly Auto Parts store. Mr. Pozsgay stated they are requesting two Variations for setbacks: front and corner side. Mr. Pozsgay stated the maximum front and corner side setbacks for buildings located in the C-2 Commercial District are both 60'. Mr. Pozsgay stated the proposed building is located 89' from the front property line and 62.6' from the corner side property line. Mr. Pozsgay stated they are also requesting a variation for maximum driveway width from 26' to 30' and a variation to not connect the on-site pedestrian circulation system to the public right-of-way.

Frederick Thaete of Cage Civil Engineering, Adam Firsel, Contract Purchaser and Tim Flannigan, Attorney were all present and sworn in by Chairman Rowe. Mr. Firsel provided an overview of the proposed project with the Commission. Mr. Firsel stated the plan was to close on the property by the end of 2019 and apply for a demolition permit. Mr. Firsel stated construction would start in Spring 2020 and the opening would occur in Fall 2020.

Mr. Thaete stated he met with the repetitive from IDOT for the area and they had no issues with the proposed curb-cuts. Mr. Thaete stated a permit still needed to be filed with the State.

Commissioner King asked why the party wall was remaining. Mr. Firsel stated the party wall must remain as part of the current easement agreement with the property to the east.

Public Comment:

Chairman Rowe asked if there was any member of the Public that would like to comment on the proposed 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: Successful retail establishments require customer parking located immediately adjacent to the main entry points to the business. Due to the building dimensions and layout of an O'Reilly Auto Parts store, moving the building to meet the maximum setbacks would result in some of the parking being located in the rear of the building, most of the parking along the side and very few spaces located adjacent to the front door. This parking arrangement would be detrimental to the long-term viability of this operation. This request to keep the customer parking in the front of the building is a special circumstance applicable to this use and not necessary for all uses in the district. A restaurant or some of the other uses permitted in the C-2 zoning district could tolerate parking in the rear of the building and still have long-term viability.
- 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 application of the maximum building setback would severely limit the customer parking available in front of the building and would make operating the facility as a viable retail establishment difficult. A limit of a single row of parking in front of the building would have the same effect.

- 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 request for relief is specific to the physical character of the O'Reilly Auto Parts building and the need for customer parking in front of the building. The narrow width of the property severely limits the amount of parking immediately adjacent the front door should the development be limited to a single row in the front yard.

- 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 difficulty presented by the maximum setback requirement and single row of parking requirement is not the result of any act of the applicant or of any party with a present interest in the property.

- 5) **Preserve Rights Conferred by District:** A variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to such other properties.

Applicant's Response: This variance is necessary for the applicant to develop a viable retail establishment at this location. Granting the variance will not confer a special privilege ordinarily denied to such other properties as it would appear that similar variances were granted for the property to the west across Walnut Street and for the property to the south on the opposite side of Irving Park Road.

- 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 granting of the variance would permit customer parking to be located near the entrance to the facility. This variance is necessary for the property to be developed for the intended use.

- 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 alter the essential character of the locality. There are other properties in the vicinity that have setbacks exceeding the 60' maximum and the proposed development will blend well with these other retail developments.

- 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 development that the granting of this variance would facilitate is in line with the desires of the Bensenville Comprehensive Plan, specifically the desire to redevelop underutilized parcels in the Mid-Town/Irving Park Road Corridor.

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 variance requested is the minimum needed to locate appropriate parking immediately adjacent to the front door of the proposed facility. The requested relief will allow for the necessary perimeter landscaping, head in the parking adjacent Irvin Park Rd, a drive aisle and head-in parking adjacent the face of the building.

Mr. Pozsgay stated Staff recommends the Approval of the above Findings of Fact and therefore the Approval of the Variances to allow the construction of an O'Reilly Auto Parts store with the following conditions:

- 1) A DuPage County Stormwater Management Certification shall be provided for this project as the total land disturbing activity exceeds 5,000 SF;
- 2) An Illinois Department of Transportation (IDOT) permit shall be required if work is proposed within IL-19 right-of-way;
- 3) All existing utilities shall be disconnected and capped at the main;
- 4) A 5-feet wide ADA complaint public sidewalk shall be provided along the Walnut St frontage of the site;
- 5) A 7-feet wide stamped concrete ADA complaint public sidewalk shall be provided along the IL-19 frontage of the site. This sidewalk shall match the opposite side of IL-19 and be installed directly adjacent to the existing north side IL-19 C&G;
- 6) A plat of consolidation shall be required to combine the two existing lots;
- 7) 2 bicycle parking spaces shall be provided;
- 8) Applicant shall revise plans to meet Village standards for depth and width of parking spaces;
- 9) Root-mounted mechanical units shall be screened. Screening must equal the height of the tallest mechanical equipment installed on the roof of the building;
- 10) A minimum of one shade tree shall be provided per landscape island;
- 11) The trash enclosure be in line with buildings western façade rather than projecting out past the façade;
- 12) Stamped concrete walk shall continue east of the Irving Park Road curb cut;

- 13) Applicant shall provide tree sizes and reasons as to why mature trees are being removed on the property; and
- 14) Street trees shall be planted along Walnut Street.

There were no questions from the Commission.

Motion: Commissioner Marcotte made a motion to close CDC Case No. 2019-23. Commissioner Wasowicz seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed the Public Hearing at 6:51 p.m.

Motion: Commissioner Wasowicz made a combined motion to approve the Findings of Fact for CDC Case No. 2019-23 as presented by Staff and to approve the variance request, Maximum Front Setback. Commissioner Marcotte seconded the motion.

ROLL CALL: Ayes: Rowe, Czarnecki, King, Marcotte, 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. 2019-23 as presented by Staff and to approve the variance request, Maximum Corner Side Setback. Commissioner Wasowicz seconded the motion.

ROLL CALL: Ayes: Rowe, Czarnecki, King, Marcotte, 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. 2019-23 as presented by Staff and to approve the variance request, Maximum Driveway Width. Commissioner Wasowicz seconded the motion.

ROLL CALL: Ayes: Rowe, Czarnecki, King, Marcotte, 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. 2019-23 as presented by Staff and to approve the variance request, On-Site Pedestrian Circulation System. Commissioner Wasowicz seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Public Hearing: CDC Case Number 2019-24

Petitioner: Village of Bensenville

Request: Text Amendments, Municipal Code Section Title 10 (Zoning Ordinance):

Remove requirement that driveway aprons be constructed of concrete material, Section 10 – 8 – 8F – 2.

Eliminate Electrical generator as an accessory structure and include it in Mechanical equipment, Sections 10 – 7 – 4B and 10 – 11 – 2.

Remove Sheds from being allowed in all Commercial and Industrial Districts, Section 10 – 7 – 4B.

Add Outdoor storage area as a Special Use in the I – 1 Light Industrial District, Section 10 – 7 – 2.

Amend Motor vehicle sales to Motor vehicle sales, outdoor, 10 – 7 – 2.

Create a new use category for Motor Vehicle Sales, Indoor to be allowed in C – 2, I – 1 and I – 2 districts, Section 10 – 7 – 2.

Add that barbed wire fences must slope toward the interior of the property in Industrial districts, Section 10 – 7 – 4C – 7d – 4.

Allow Outdoor Storage Areas as an Accessory Use up to 25% of the lot in I – 1 and I – 2 districts. Above 25% is a special use in both districts, Sections Section 10 – 7 – 2 and 10 – 7 – 3W.

Motion: Commissioner Marcotte made a motion to open CDC Case No. 2019-24. Commissioner Wasowicz seconded the motion.

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

Chairman Rowe opened CDC Case No. 2019-24 at 6:54 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 November 14, 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 approved the new Zoning Code in late 2018, which was effective January 1, 2019. Mr. Pozsgay stated after a year of use, staff need to address several issues. Mr. Pozsgay stated some of the issues all under the doctrine of a "scrivener's error." Mr. Pozsgay stated this is the legal principle that a typographical error in a written contract may be corrected by oral evidence if the evidence is clear, convincing, and precise. Mr. Pozsgay stated these issues include the following:

- Correcting the wording "IBC" to "IRC" to reference the correct code in regard to swimming pools.
- Correcting the distance fire pits need to be from structures from 50ft to 15ft.
- Correcting the street tree density from 30ft to 40ft to match other areas of code.
- Correcting the mechanical screening from 6ft to 10ft to match other areas of code.

Mr. Pozsgay stated there are also several areas of the new zoning code that staff, through a year of practice, has decided needed modifying. Mr. Pozsgay stated the Text Amendments will be as follows:

1. Remove requirement that driveway aprons be constructed of concrete material, Section 10 – 8 – 8F – 2. Driveway Aprons.
2. Eliminate Electrical generator as an accessory structure and include it in Mechanical equipment, Section 10 – 7 – 4B Accessory Structure Use Table and Section 10 – 11 – 2 Definitions.
3. Remove Sheds from being allowed in all Commercial and Industrial Districts, Section 10 – 7 – 4B Accessory Structure Use Table.
4. Add Outdoor storage area as a Special Use in the I – 1 Light Industrial District, Section 10 – 7 – 2: Use Table.
5. Amend Motor vehicle sales to Motor vehicle sales, outdoor, 10 – 7 – 2: Use Table.
6. Create a new use category for Motor Vehicle Sales, Indoor to be allowed in C – 2, I – 1 and I – 2 districts, Section 10 – 7 – 2: Use Table.
7. Add that barbed wire fences must slope toward the interior of the property in Industrial districts, Section 10 – 7 – 4C – 7d – 4.
8. Allow Outdoor Storage Areas as an Accessory Use up to 25% of the lot in I – 1 and I – 2 districts. Above 25% is a special use in both districts, Sections Section 10 – 7 – 2 and 10 – 7 – 3W.

Commissioner King suggested removing the proposed Text Amendment to Eliminate Electrical generator as an accessory structure and include it in Mechanical equipment, Section 10 – 7 – 4B Accessory Structure Use Table and Section 10 – 11 – 2 Definitions.

Consensus from the Commission directed Staff to remove the proposed text amendment to eliminate electrical generator as an accessory structure and have Staff research what other Municipalities are currently allowing.

Mr. Pozsgay stated Staff recommends the Approval of the above Findings of Fact and therefore the Approval of the Text Amendments to the Municipal Code Section Title 10 (Zoning Ordinance).

Motion: Commissioner Marcotte made a motion to close CDC Case No. 2019-24. Commissioner Wasowicz seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed the Public Hearing at 7:08 p.m.

Motion: Commissioner Wasowicz made a motion to approve the proposed text amendments as presented except for the proposed Text Amendment to Eliminate Electrical generator as an accessory structure and include it in Mechanical equipment, Section 10 – 7 – 4B Accessory Structure Use Table and Section 10 – 11 – 2 Definitions. Commissioner Marcotte seconded the motion.

ROLL CALL: Ayes: Rowe, Czarnecki, 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 7:10 p.m.



Ronald Rowe, Chairman
Community Development Commission