

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

MINUTES OF THE COMMUNITY DEVELOPMENT COMMISSION

June 2, 2020

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

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

**attended the meeting via conference phone*

JOURNAL OF PROCEEDINGS: The minutes of the Community Development Commission Meeting of the May 5, 2020 were presented.

Motion: Commissioner Marcotte made a motion to approve the minutes as presented. Commissioner King 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 2020-07
Petitioner: Mirjan Sadik, Gem Car Wash, LLC
Location: 904-910 West Irving Park Road
Request: (2) Variations, Maximum Driveway Width
Municipal Code Section 10 – 8 – 8 – 1
(3) Variations, Driveway Apron Width
Municipal Code Section 10 – 8 – 8 – F
Variation, Bailout Lane
Municipal Code Section 10 – 8 – 9 – D
Variation, Tree Replacement Standards
Municipal Code Section 10 – 9 – 2 – B

Variation, Tree Canopy Coverage
Municipal Code Section 10 – 9 – 5 A
Variation, Parking Lot Interior Landscape Islands
Municipal Code Section 10 – 9 – 5 – C
(2) Variation, Buffer Yard Requirements
Municipal Code Section 10 – 9 – 6
Variation, Outdoor Lighting Illumination Standards
Municipal Code Section 10 – 9 – 8 – C – 1.a

Motion: Commissioner King made a motion to open CDC Case No. 2020-07. Commissioner Marcotte seconded the motion.

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

Chairman Rowe opened CDC Case No. 2020-07 at 6:34 p.m.

Village Planner, Kelsey Fawell was present and previously sworn in by Chairman Rowe. Ms. Fawell stated a Legal Notice was published in the Bensenville Independent on May 14, 2020. Ms. Fawell 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. Ms. Fawell stated Village personnel posted a Notice of Public Hearing sign on the property, visible from the public way on May 15, 2020. Ms. Fawell stated on May 15, 2020 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. Ms. Fawell 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. Ms. Fawell stated the Petitioner is requesting a number of Variations in order to construct a car wash with a detailing garage at 904-910 W. Irving Park Road. Ms. Fawell stated this is a 1.5-acre site on which sit two single-family homes. Ms. Fawell stated the plan would require the vacation of the 33' ROW to the south. Ms. Fawell stated the Petitioner intends to dedicate 24' of right-of-way to the Village in order to bring Eastview up to current standards. Ms. Fawell stated The Petitioner currently operates a car wash on York Road in Elmhurst. Ms. Fawell stated the use of a car wash is permitted by right at the proposed location.

Mirjan Sadik, of Gem Car Wash was present via electric means and sworn in by Chairman Rowe. Mr. Sadik stated they are proposing a car wash on the site similar to the one they own on York Road in Elmhurst. Mr. Sadik stated a 33' curb cut on Irving Park Road has already been approved from IDOT.

Commissioner Wasowicz raised concern with the proposed curb cuts on Eastview, indicating that cars would have the ability to make a right hand turn onto Eastview when exiting the proposed carwash which would allow them to travel through a residential area and increasing traffic to the Residents.

Mr. Sadik stated that proposed curb cut would only be used as an emergency exit and that he expects cars would exit the property by making a left to get onto Irving Park Road.

Commissioner Wasowicz suggested the Commission add a condition that a no left turn sign be placed at the exit. Mr. Sadik stated he had no objection to that idea.

Ms. Fawell stated a traffic study was completed on behalf of the petitioner.

Ms. Fawell reviewed the Findings of Fact as presented in the Staff Report consisting of:

- 1) **Special Circumstances:** Special circumstances, fully described in the written findings, exist that are peculiar to the property for which the Variation is sought and that do not apply generally to other properties in the same zoning district. And these circumstances are not of so general or recurrent in nature as to make it reasonably practical to provide a general amendment to this Ordinance to cover them.

Applicant's Response: Based on layout of the property, we cannot contain a direct exit to the west side of the building. Therefore, we have created an emergency exit lane that is easily accessible to all that exits to the east side of the building coming out to Eastview. Based on the requirements of the village landscaping code, it would be impossible to maintain a functioning and free flowing vacuum area while also allowing for individual landscape parcels to be placed throughout the parking lot. Based on the number of trees currently located on the site, that will need to be removed, and the Tree Preservation Code of the Village, in order to construct a

building/business properly, it is impractical to coordinate directly with the Village Code. Having the standard 24-foot curb cut will make it impractical for constant flow of traffic. Our photometric plans indicate we will exceed the maximum illumination for our light posts. The light posts are needed in those locations to provide maximum visibility to our patrons. The location of our proposed building requires the light posts to be in those locations.

- 2) **Hardship or Practical Difficulties:** For reasons set forth in the findings, the literal application of the provisions of this Ordinance would result in unnecessary and undue hardship or practical difficulties for the applicant as distinguished from mere inconvenience.

Applicant's Response: Cannot create a direct exit west due to surrounding buildings. Landscape parcels placed accordingly throughout parking lot are impractical and can create an unsteady inflow and outflow of traffic within the designated vacuum area. Due to the tree size and quantity of trees currently located on the property, this makes complying with the Tree Preservation Code impractical. Having the standard 24-foot curb cut will make it impractical for contact flow of traffic. The location of our proposed building requires the light posts to be in those locations

- 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 the 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 have created an emergency exit lane that is easily accessible to all that exits to the east side of the building coming out to Eastview. Based on the dimensions of the designated parking lot/vacuum area adding landscape parcels will remove necessary working space for the property. The number of trees needed to be removed can never be replaced up to code based on a 6 to 1 factor (For every 1 removed, 6 need to be replanted). Based on the layout of the building, the dimensions of the land allow for the main entrance to the facility to be located on the north side of the property (busy highway), in order for the ingress and egress flow to the site to remain constant throughout business

operations (especially during peak times of operation) 1 entrance and 2 exit lanes are essential. Having the standard 24-foot curb cut will make it impractical for contact flow of traffic. The location of our proposed building requires the light posts to be in those locations.

- 4) **Not Resulting from Applicant Action:** The special circumstances and practical difficulties or hardship that are the basis for the Variation have not resulted from any act, undertaken subsequent to the adoption of this Ordinance 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 Variation, 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 that are the basis for the Variations have not resulted from any act of the applicant or of any other party with a present interest in the property. We have not begun any work on the property without receiving the proper permits and have been communicating with Staff regarding our plans for the property for months.

- 5) **Preserve Rights Conferred by District:** A Variation 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 Variations are necessary to enjoy a substantial property right possessed by other properties in the same zoning district and do not confer a special privilege ordinarily denied to such other properties. Some properties in the same zoning district have an emergency exit lane as we would, driveways and aprons that exceed width maximums, and lack the necessary landscaping requirements.

- 6) **Necessary for Use of Property:** The granting of a Variation is necessary not because it will increase the applicant's economic return, although it may have this effect, but because without a Variation 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 Variations are necessary for the use of property because without the Variations Gem Car Wash, LLC will be deprived of reasonable use or employment of, or reasonable economic return from, the property. Creating landscape parcels within the parking lot, based on the code, it would make it impossible to install the vacuum stations necessary to properly operate a car wash business. This will also create an unnecessary hazard to the patrons utilizing the services of the property. Complying with the various landscaping requirements would make the access to vacuums impractical for our patrons. The driveway Variations are necessary for this property to maintain a constant flow of traffic and for our patrons to access our lots safely.

- 7) **Not Alter Local Character:** The granting of the Variation 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 Variations will not alter the essential character of the locality nor will substantially impair environmental quality, property values, or public safety or welfare in the vicinity. Some properties in the same zoning district have an emergency exit lane as we would, driveways and aprons that exceed width maximums and lack the necessary landscaping requirements.

- 8) **Consistent with Title and Plan:** The granting of a Variation 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.

Applicant's Response: The granting of the Variations 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.

- 9) **Minimum Variation Needed:** The Variation 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: Each Variation requested is the minimum required to provide Gem Car Wash, LLC with relief from undue hardship or practical difficulties with reasonable use and enjoyment of the property.

Public Comment:

Ray Dominguez – 114 Parkside Street

Mr. Dominguez was present and sworn in by Chairman Rowe. Mr. Dominguez stated he also owns the vacant parcel across the street, by the retention pond. Mr. Dominguez stated he has resided at this property for the past fifty-seven years. Mr. Dominguez stated he is opposed to the proposed carwash. Mr. Dominguez asked how many cars travel on Irving Park Road daily. Mr. Dominguez stated should the carwash be approved, a concrete curb should be installed the would prevent cars exiting the property on Eastview to be able to make a right turn. Mr. Dominguez asked what the proposed hours would be. Mr. Dominguez stated the carwash would be busy all summer long.

Mr. Sadik stated he did not have a copy of the traffic study but believes the study indicated roughly 28,000 cars daily travel on Irving Park Road. Mr. Sadik stated the proposed hours would be 7:00 a.m. – 9:00 p.m. Monday – Saturday and 7:00 a.m. – 8:00 p.m. on Sundays. Mr. Sadik stated maybe ten days a year a carwash is busy and its mainly in the wintertime after a snow event.

Mr. Pozsgay stated copies of the traffic study would be printed after the meeting for those in attendance.

Andrzej Krzywicki – 924 West Irving Park Road

Mr. Krzywicki was present and sworn in by Chairman Rowe. Mr. Krzywicki stated he has resided at his condo since 1997. Mr. Krzywicki stated there is too much noise in the area already from O'Hare Airport and travelers on Irving Park Road. Mr. Krzywicki stated the proposed fence will do nothing to keep the noise down. Mr. Krzywicki stated there are speeders along Irving Park Road as well. Mr. Krzywicki stated he is opposed to the proposed carwash.

Damir Catic-Bekira– 922 West Irving Park Road

Mr. Catic-Bekira was present and sworn in by Chairman Rowe. Mr. Catic-Bekira stated there are speeders along Irving Park Road. Mr. Catic-Bekira stated he is opposed to the proposed carwash.

John Wronkiewicz – 926 West Irving Park Road
*(submitted online prior to
the meeting; read into the record by Kurtis Pozsgay)*

Mr. Wronkiewicz wrote: *First off, zoning of these two properties was changed without the petitioner ever notifying any of the surrounding residents of a pending zoning change nor posting signage regarding it on either property. The petitioner somehow managed to sneak this by. This raises red flags about the integrity of the petitioner, and the manner in which they will perform construction of and operate this business they are proposing. I urge the board members to disallow the continuation of this project because the petitioner did not follow the full legal steps required to get to this point. However, should the board allow this project to continue I urge the board to require the following changes: 1) Require a 10' solid fence be erected on the South and West property lines instead of a 6' fence. The amount of light pollution and especially noise pollution created by this business will have a huge negative affect the surrounding residents' right to use of enjoyment of their residences. 2) Remove and disallow any driveways connected to Irving Park Rd (IL-19) and require that driveways only be connected to Eastview Ave. Having a driveway off of Irving Park Rd will cause stoppages of traffic and greatly impact the flow of traffic on a major roadway such as Irving Park Rd. This will cause unnecessary traffic buildups and increased risk to motorists. This will also cause an increased risk to the high volume of pedestrian traffic along Irving Park Rd. Having the driveways come solely off of Eastview Ave would be the safer way to go. 3) Require that business operations begin no sooner than 9am and cease no later than 7pm. This will also help alleviate the added noise of this business and the surrounding residents' right to use of enjoyment. 4) Require that existing mature trees along the South and West lot lines remain. This will also help reduce light and noise pollution caused by this business and lessen the negative affect of the surrounding residents' right to use of enjoyment. Thank you to the Board members for your time and consideration to the surrounding residents of this project.*

Mr. Pozsgay stated the zoning of the property was done years ago as part of the Village's Comprehensive Plan and Residents were notified then.

Ms. Fawell stated Staff recommends the Approval of the above Findings of Fact as they pertain to the Variation request for Maximum Driveway Width and therefore the Approval of the Variation at 904-910 W. Irving Park Road.

Ms. Fawell stated Staff recommends the Approval of the above Findings of Fact as they pertain to the Variation request for Driveway Apron Width and therefore the Approval of the Variation at 904-910 W. Irving Park Road.

Ms. Fawell stated Staff recommends the Approval of the above Findings of Fact as they pertain to the Variation request for lack of Bailout Lane and therefore the Approval of the Variation at 904-910 W. Irving Park Road.

Ms. Fawell stated Staff recommends the Approval of the above Findings of Fact as they pertain to the Variation request for relief from Tree Replacement Standards and therefore the Approval of the Variation at 904-910 W. Irving Park Road.

Ms. Fawell stated Staff recommends the Denial of the above Findings of Fact as they pertain to the Variation request for Tree Canopy Coverage and therefore the Denial of the Variation at 904-910 W. Irving Park Road.

Ms. Fawell stated Staff recommends the Approval of the above Findings of Fact as they pertain to the Variation request for Parking Lot Interior Landscape Islands and therefore the Approval of the Variation at 904-910 W. Irving Park Road.

Ms. Fawell stated Staff recommends the Denial of the above Findings of Fact as they pertain to the Variation request for Buffer Yards and therefore the Denial of the Variation at 904-910 W. Irving Park Road.

Ms. Fawell stated Staff recommends the Denial of the above Findings of Fact as they pertain to the Variation request for Outdoor Lighting Illumination Standards and therefore the Denial of the Variation at 904-910 W. Irving Park Road.

Ms. Fawell stated Staff recommends the Approval of the above-recommended Variation requests be approved with the following conditions:

1. A sanitary inspection manhole will be required along with a triple basin;

2. A 5-foot wide ADA compliant public sidewalk will be required along the Eastview Ave frontage of the site;
3. A 7-foot wide stamped concrete ADA compliant public sidewalk exists along the IL-19 frontage of the site. Any disturbed sidewalk will need to be replaced in kind;
4. A plat of consolidation may be required to combine the two existing lots. The applicant must dedicate 25-feet of public rights-of-way to the Village along Eastview Ave for the purpose of widening the existing Eastview Ave to meet the Village's local roads standard. The plat of consolidation can include the ROW dedication on the same plat. A 24-foot dedication is being proposed on the plans which needs to be revised to 25-feet;
5. The developer will be required to widen Eastview Ave per Village standards. The widening will also include construction of a 5-foot wide ADA complaint public sidewalk along Eastview Ave frontage of the site. This will require design and construction of the widening. The developer shall bare all financial costs associated with such improvements;
6. The property shall be in accordance with Section 10 – 7 – 3 – C, use standards for a car wash;
7. The property shall be in accordance with Section 10 – 9 – 5 – A Parking Lot Landscaping: Tree Canopy Coverage, Section 10 – 9 – 5 – B Parking Lot Perimeter Landscape, and Section 10 – 9 – 6 Buffer Yards;
8. The Petitioner shall submit a landscape plan to be approved by the Zoning Administrator; and
9. A 6' privacy fence shall be erected on the west and south property lines.

Chairman Rowe asked that the following two conditions also be added:

- No left turn sign placed by exits along Eastview Avenue.
- Hour of operation is limited to 7:00 a.m. – 9:00 p.m. Monday – Saturday and 7:00 a.m. – 8:00 p.m. on Sundays

Motion: Commissioner Wasowicz made a motion to close CDC Case No. 2020-07. Commissioner Marcotte seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed CDC Case No. 2020-07 at 7:26 p.m.

Motion: Commissioner Wasowicz made a combined motion to approve the Findings of Fact and Variance Request for Maximum Driveway Width. Commissioner Marcotte seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Marcotte made a combined motion to approve the Findings of Fact and Variance Request for Driveway Apron Width. Commissioner Wasowicz seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Wasowicz made a combined motion to approve the Findings of Fact and Variance Request for Bailout Lane. Commissioner Marcotte seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Wasowicz made a combined motion to approve the Findings of Fact and Variance Request for Tree Replacement Standards. Commissioner Marcotte seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Marcotte made a combined motion to approve the Findings of Fact and Variance Request for Tree Canopy Coverage. Commissioner King seconded the motion.

ROLL CALL: Ayes: None

Nays: Rowe, Ciula, King, Marcotte, Wasowicz

Motion failed.

Motion: Commissioner Marcotte made a combined motion to approve the Findings of Fact and Variance Request for Lot Interior Landscape Islands. Commissioner Wasowicz seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Motion: Commissioner King made a combined motion to approve the Findings of Fact and Variance Request for Buffer Yard Requirements. Commissioner Marcotte seconded the motion.

ROLL CALL: Ayes: None

Nays: Rowe, Ciula, King, Marcotte, Wasowicz

Motion failed.

Motion: Commissioner King made a combined motion to approve the Findings of Fact and Variance Request for Outdoor Lighting Illumination Standards. Commissioner Marcotte seconded the motion.

ROLL CALL: Ayes: None

Nays: Rowe, Ciula, King, Marcotte, Wasowicz

Motion failed.

**Report from
Community
Development:**

Ms. Fawell 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 King seconded the motion.

All were in favor. Motion carried.

The meeting was adjourned at 7:36 p.m.

A handwritten signature in black ink, appearing to be 'RR', is written over a horizontal line.

Ronald Rowe, Chairman
Community Development Commission