

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

MINUTES OF THE COMMUNITY DEVELOPMENT COMMISSION

November 2, 2021

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, Chambers, King, Marcotte, 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 the October 5, 2021 were presented.

Motion: Commissioner King made a motion to approve the minutes as presented. Commissioner Chambers 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 2021-29
Petitioner: Nancy and Nella Mariani
Location: 600 South County Line Road
Request: Special Use Permit, Outdoor Storage
Municipal Code Section 10-7-2-1

Motion: Commissioner Wasowicz made a motion to open CDC Case No. 2021-29. Commissioner Chambers seconded the motion.

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

Chairman Rowe opened CDC Case No. 2021-29 at 6:32 p.m.

Village Planner, Kelsey Fawell was present and sworn in by Chairman Rowe. Ms. Fawell stated a Legal Notice was published in the Daily Herald on October 14, 2021. 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 October 15, 2021. Ms. Fawell stated on October 14, 2021 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 Petitioners are seeking a Special Use Permit to allow outdoor storage in excess of 25% at 600 S County Line Road, at which currently sits a multi-tenant industrial building. Ms. Fawell stated outdoor storage up to 25% of a lot is permitted by right as an accessory use, any additional area may be sought via approval of a SUP. Ms. Fawell stated the area they are proposing to pave (correction notices have been issued for parking/storage on gravel) is 24,777SF, approximately 59% of the gross lot area. Ms. Fawell stated storage is predominantly used for semi-trailer and bobcat parking.

Nella Mariani, property owner, was present and sworn in by Chairman Rowe. Ms. Mariani stated they are trying to sell the bobcats that are currently on the property so they will not be included in the outdoor parking. Ms. Mariani stated the property is fenced and screened. Ms. Mariani stated they would prefer not to pave the parking lot but the Village has written a correction notice for parking on an unapproved surface.

Commissioner Wasowicz raised concern with potential flooding on the site if it were to be paved. Ms. Fawell stated engineering had no comments in the Staff Report and that anything regarding stormwater would be addressed during permitting.

Ms. Mariani stated the property does not currently flood and that there is a stormwater sewer already on site.

Public Comment

Joseph Peconio – 1001 Glendale Street, Bensenville, Illinois

Mr. Peconio was present and sworn in by Chairman Rowe. Mr. Peconio was present with the property owner of 620 County Line Road. Mr. Peconio stated the property owner of 620 County Line Road was present to object to the proposed paving of the lot.

Amy Mariani-Cortez – 600 S. County Line Road

Ms. Mariani-Cortez was present and sworn in by Chairman Rowe. Ms. Mariani-Cortez stated she was one of three who own the property. Ms. Mariani-Cortez explained the history between her father and the owner of 620 South County Line Road.

Ms. Fawell reviewed the Findings of Fact for the proposed special use permit as presented in the Staff Report consisting of:

- 1) **Public Welfare:** The proposed special use will not endanger the health, safety, comfort, convenience and general welfare of the public.
Applicant's Response: **The proposed special use will not endanger the health, safety, comfort, convenience and general welfare of the public because it meets all criteria as found from the CDC, Section 10-7-3X in Outdoor Storage Area and section 10-9-7 of Screening Requirement.**
- 2) **Neighborhood Character:** The proposed special use is compatible with the character of adjacent properties and other property within the immediate vicinity of the proposed special use.
Applicant's Response: **The proposed special use is compatible with the character of adjacent properties and other property within the vicinity of the proposed special use. This area/location is industrial in nature and similar businesses are located near the building also having yard space in rear of building.**
- 3) **Orderly Development:** The proposed special use will not impede the normal and orderly development and improvement of adjacent properties and other property within the immediate vicinity of the proposed special use.

Applicant's Response: The proposed special use will not impede the normal and orderly development and improvement of adjacent properties and other property within the immediate vicinity of the proposed special use because the area is used for storage as it has been for the past 20+ years. It will be used for parking of vehicles and semi-trucks not to interfere with the daily operation of nearby businesses or residences.

4) **Use of Public Services and Facilities:** The proposed special use will not require utilities, access roads, drainage and/or other 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 special use will not require utilities, access roads, drainage and/or other 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.

5) **Consistent with Title and Plan:** The proposed special use is consistent with the intent of the Comprehensive Plan, this title, and the other land use policies of the Village.

Applicant's Response: The proposed special use is consistent with the intent of the Comprehensive Plan, this title, and the other land use policies of the Village. As stated above, the special use meets all of the criteria stated in Village Code as brought to my attention by Scott Viger. The rear yard will be paved once this permit is accepted.

Ms. Fawell stated Staff recommends the Denial of the above Findings of Fact and therefore the Denial of the Special Use Permit for Outdoor Storage at 600 S County Line Road.

1. The property is only permitted an outdoor storage area of 25%. The outdoor storage area shall be in accordance with the requirements set forth in Section 10-7-3.X of the Village Zoning Code.

There were no questions from the Commission.

Motion: Commissioner Wasowicz made a motion to close CDC Case No. 2021-29. Commissioner Chambers seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed CDC Case No. 2021-29 at 6:54 p.m.

Motion: Commissioner Chambers made a combined motion to approve the Findings of Fact and Approval of a Special Use Permit, Outdoor Storage, Municipal Code Section 10-7-2-1 with the above mentioned conditions of approval. Commissioner King seconded the motion.

ROLL CALL: Ayes: None

Nays: Rowe, Chambers, King, Marcotte, Wasowicz

Motion Failed.

Public Hearing: CDC Case Number 2021-30
Petitioner: Victoria Gonzalez
Location: 151 South Addison Street
Request: Variation, Paved Parking Area
Municipal Code Section 10 – 8 – 8.G – 4

Motion: Commissioner Chambers made a motion to open CDC Case No. 2021-30. Commissioner Wasowicz seconded the motion.

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

Chairman Rowe opened CDC Case No. 2021-30 at 6:56 p.m.

Village Planner, Kelsey Fawell was present and sworn in by Chairman Rowe. Ms. Fawell stated a Legal Notice was published in the Daily Herald on October 14, 2021. 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 October 15, 2021. Ms. Fawell stated on October 14, 2021 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 seeking a Variation in order to pave a 7.5' by 28.5' paved parking area adjacent to the north side of a detached garage, as well as increasing an existing parking area to 22.48' by 28.6' at the rear southeast corner of the lot. Ms. Fawell stated the parcel is home to a 2-unit residential building. Ms. Fawell stated the Variation is being sought in response to correction notices received at the property for parking on gravel.

Ms. Fawell stated the Village Zoning Ordinance permits areas of 10' by 20' per vehicle parking space (20' by 20' maximum) adjacent to the entrance of a detached garage. Ms. Fawell stated each zoning lot may have two paved parking areas that are located on one side of the garage, but not on both sides.

Victoria Gonzalez, Property Owner, was present and sworn in by Chairman Rowe. Ms. Gonzalez reviewed the proposed plans.

There were no questions from the Commission.

Public Comment

Chairman Rowe asked if there were any members of the Public that would like to make comment. There were none.

Ms. Fawell reviewed the Findings of Fact for the proposed Variation for a Paved Parking Area in the Staff Report consisting of:

1. **Public Welfare:** The proposed Variation will not endanger the health, safety, comfort, convenience, and general welfare of the public.

Applicant's Response: When dealing with a snow storm it would be in the best interest for our neighbors, public safety, comfort and convenience reasons to push the snow onto/into our yard from the approved asphalt location instead of on to the fence of our neighbors or in the alley blocking public alley. We believe properly paving the areas requested will keep the alley cleaner and easier to maintain for both public and applicant.

We would also like a much needed traffic sign/reflective marker placed on the electrical pole to help guide the public with an appropriate safe turn when coming down the alley both ways. Our alley is very complicated as shown in our land survey. We would like our friends, neighbors and family to feel safe when approaching our alley.

2. **Compatible with Surrounding Character:** The proposed Variation is compatible with the character of adjacent properties and other property within the immediate vicinity of the proposed Variation.

Applicant's Response: "We have found No Other Property" with the very rare and unique 'z' shaped property line and alley in comparison to ours. We have several neighbors that have paved alleys and in our opinion looks very clean, appealing and easier to maintain. We have owned our property for 4 months now and it has been difficult to remove the weeds growing in the alley most are small trees, the property we have purchased has not been properly maintained and we are here to step up and do our best. Our alley looks very dirty and unappealing, The weeds are grow back extremely fast after removed so paving is a necessity.

3. **Undue Hardship:** The proposed Variation alleviates an undue hardship created by the literal enforcement of this title.

Applicant's Response: The property does not have a driveway. The current condition is not the best, safe or convenient use of the property and alley. Access to our property will be more convenient if pavement is approved. Current setup is very impractical. We feel properly paved asphalt in our alley will solve all of the issues listed for both the petitioner and the public.

4. **Unique Physical Attributes:** The proposed Variation is necessary due to the unique physical attributes of the subject property, which were not deliberately created by the applicant.

Applicant's Response: The shape of our alley is very rare and unique to anyone else's in our area. I believe we are the only residents that have the "Z" shaped Alley. It is impossible due to the shape of our property lines and alley for us to put asphalt right next to the garage we would have to asphalt the area that is gravel and dirt as shown in the land survey. And as expressed in the above statements paving would be in the best interest for safety and convenience.

5. **Minimum Deviation Needed:** The proposed Variation represents the minimum deviation from the regulations of this title necessary to accomplish the desired improvement of the subject property.

Applicant's Response: We have abnormal deviation angles as shown in the land survey. Improvements of paving the back of our property will bring order and quality to the alleyway, there is a need for conforming. This will not only help improve for petitioner but it will also help the public. This will also lead, guide and help local businesses (such as green street restaurant customers) with better direction. We've seen many of their customers confused and unsafely backing out of the alley thinking it's a dead-end.

6. **Consistent with Ordinance and Plan:** The proposed Variation is consistent with the intent of the Comprehensive Plan, this title, and the other land use policies of the Village.

Applicant's Response: The intent for the land improvements are not only for us the petitioner but also for the people in the town of Bensenville, we will add quality form to a non-conforming area. We are seeking a better use and continuous flow to strengthen the reputation and curb appeal of Bensenville. Our Neighbors in the back of us all have condos and townhouses, they deserve a good clean view as do we all.

Ms. Fawell stated Staff recommends the Approval of the above Findings of Fact and therefore the Approval of the Variation for a Paved Parking Area at 151 S Addison Street with the following conditions:

- 1) The paved parking area shall be in accordance with Staff's designed dated 10.19.21;
- 2) The area shall be in-line with the existing parking area on the site; and
- 3) The area shall be pitched in a manner so as not to negatively impact neighboring properties and the pitch should be directed toward the drainage structure in the alley.

There were no questions from the Commissions.

Motion: Commissioner Wasowicz made a motion to close CDC Case No. 2021-30. Commissioner Rowe seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed CDC Case No. 2021-30 at 7:05 p.m.

Motion: Commissioner Wasowicz made a combined motion to approve the Findings of Fact and Approval of a Variation, Paved Parking Area, Municipal Code Section 10-8-8.G-4 with Staff's Recommendations. Commissioner Chambers seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Public Hearing: CDC Case Number 2021-31
Petitioner: Mike Burcker
Location: 1201-1221 West Irving Park Road
Request: Variation, Electronic Message Sign Location
Municipal Code Section 10-10-5.B-4.a-3
Variation, Monument Sign Height
Municipal Code Section 10-10-5-8.c

Motion: Commissioner Wasowicz made a motion to open CDC Case No. 2021-31. Commissioner Chambers seconded the motion.

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

Chairman Rowe opened CDC Case No. 2021-31 at 7:06 p.m.

Village Planner, Kelsey Fawell was present and sworn in by Chairman Rowe. Ms. Fawell stated a Legal Notice was published in the Daily Herald on October 14, 2021. 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 October 15, 2021. Ms. Fawell stated on October 14, 2021 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 proposing to install an EMC Sign at Plaza 83, 1201-1221 W Irving Park Road. Ms. Fawell stated the freestanding sign with 8 tenant panels is intended to replace an existing 12' monument sign at the property. Ms. Fawell stated the Village Zoning Ordinance prohibits electronic message signs located within one mile of the property line of a lot containing an existing EMC. Ms. Fawell stated there are 8 EMCS currently on Irving Park Road.

Ms. Fawell stated a Variation was approved for an EMC at this property in 2020, and these plans are in accordance with what was approved. Ms. Fawell stated due to impacts of COVID-19, the property owner temporarily halted the project, consequently causing the Variation to expire and be revoked. Ms. Fawell stated this occurs when a building permit has not been obtained within one year after the approval of the Variation.

Mike Burcker of Signarama was present and sworn in by Chairman Rowe. Mr. Burcker stated he was hired by the property owner to install the proposed sign. Mr. Burcker stated the proposed sign will be placed in the exact same spot at the current sign.

There were no questions from the Commission.

Public Comment

Chairman Rowe asked if there were any members of the Public that would like to make comment. There were none.

Ms. Fawell reviewed the Findings of Fact for the proposed variations in the Staff Report consisting of:

1. **Public Welfare:** The proposed Variation will not endanger the health, safety, comfort, convenience, and general welfare of the public.

Applicant's Response: This variance will not endanger the health, safety, comfort, convenience and general welfare of the public. This sign is to be constructed at the same location of the current monument sign and is intended to upgrade the character of the area using modern stone and brickwork to surround the sign which will also match the façade of the soon to be upgraded property. This does not generally apply to the other properties as they are not planning on fully upgrading the façade of the entire property. We are looking for an entire facelift to greatly enhance the appearance of the property as a whole. As for safety, although this EMC has been designed to adjust to a high brightness in the event of the sun potentially washing out the messages, it also has an automatic dimmer. The EMC will automatically dim accordingly as day turns to night to provide a lower lit readable message, yet still remaining a non distraction and a safety to drivers.

2. **Compatible with Surrounding Character:** The proposed Variation is compatible with the character of adjacent properties and other property within the immediate vicinity of the proposed Variation.

Applicant's Response: This variance is compatible with the character of adjacent properties. This proposed construction is intended to actually enhance the scenic feature of this location by using natural looking stone and eliminating the non natural aspect of the current monument sign. This variance will be of similar character, style and allowance of digital signage as the properties in the vicinity and it will also be within if not exceeding the quality of other digital signage in the immediate area such as the monument at Asti Deli at 1410 Irving Park Rd, and O'Hare Auto Body at 1316 Irving Park Rd.

3. **Undue Hardship:** The proposed Variation alleviates an undue hardship created by the literal enforcement of this title.

Applicant's Response: This variance alleviates an undue hardship and will be served adequately by essential public facilities and services such as streets, utilities, drainage, police and fire, refuse disposal, parks, libraries and schools. This EMC has the technology that in the event of an emergency of weather, Amber Alert or such public announcements, it can be imported to the digital screen immediately addressing to the public notifying such events as they occur. This variance and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets. We do hope and anticipate this EMC to draw up more business and taxable revenues for the current tenants while at the same time keeping the flow of traffic as it has always been.

4. **Unique Physical Attributes:** The proposed Variation is necessary due to the unique physical attributes of the subject property, which were not deliberately created by the applicant.

Applicant's Response: This proposed variation is necessary due to the unique physical attributes of the subject property. Not only will the new construction enhance the scenic aspect, it will directly relate to the physical character of the upgraded building plans for the near future. It will reflect the modern aspect of what we are trying to achieve across the entire property. The EMC proposed is frameless and streamlined in its construction with edge to edge advertising and will enhance the businesses and tenants that reside within the building. We do hope and anticipate this EMC to draw up more business and taxable revenues for the current tenants. The clarity of our proposed EMC will have an even more crisp image than these other locations due to constructing the highest pitch available in the industry, providing a very clean professional look.

5. **Minimum Deviation Needed:** The proposed Variation represents the minimum deviation from the regulations of this title necessary to accomplish the desired improvement of the subject property.

Applicant's Response: The proposed variation represents the minimum deviation from the regulations of this title necessary to accomplish the desired improvement of the subject property. We feel that the variance is sufficient enough for a visually pleasing EMC in regards to this specific location. Due to the fact that we are not altering the current footprint of the sign and not exceeding any height, width or square footage requirements, we feel this is a minimal request of deviation from the current regulations.

6. **Consistent with Ordinance and Plan:** The proposed Variation is consistent with the intent of the Comprehensive Plan, this title, and other land use policies of the Village.

Applicant's Response: The proposed variation is consistent with the intent of the Comprehensive Plan, this title and the other land use policies of the Village. The proposed use and development complies with all additional standards imposed on it by the provision of this Code authorizing such use such as having the proper lighting and UL listing, time intervals between message changes and keeping a clean professional standard of advertising for not only the current tenants, but for the

property itself. It will be in harmony with the general purpose of this ordinance by the reasons mentioned above not only for property improvement, tenant business improvement, appearance improvement, but also will be in line with other monument signs in the area with the main purpose of enhancing business, taxable dollars and overall beautification and impact.

Ms. Fawell stated Staff recommends the Approval of the above Findings of Fact and therefore the Approval of the Variation to allow an electronic message sign at 1201-1221 W Irving Park Road with the following conditions:

1. Freestanding sign shall be accordance with submitted plans dated 09.17.2021, except as amended herein;
2. The sign shall have a maximum height of 8 feet;
3. The sign shall be erected in the same location as the existing monument sign;
4. A landscape plan shall be submitted during permit application;
5. Illuminated signs shall be turned off 30 minutes after close of business;
6. Temporary signage shall no longer be permitted at this property; and
7. Series lighting and illuminated tubing shall be removed from tenant windows.

Ms. Fawell stated Staff recommends the Denial of the above Findings of Fact and therefore the Denial of the Variation to grant in increase in maximum allowable monument sign height at 1201-1221 W Irving Park Road.

There were no questions from the Commission.

Motion: Commissioner Wasowicz made a motion to close CDC Case No. 2021-31. Commissioner Chambers seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed CDC Case No. 2021-31 at 7:14 p.m.

Motion: Commissioner Chambers made a combined motion to approve the Findings of Fact and Approval of a Variation, Electronic Message Sign Location, Municipal Code Section 10-10-5.B-4.a-3 with Staffs Recommendations. Commissioner Wasowicz seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Chambers made a combined motion to approve the Findings of Fact and Approval of a Variation, Monument Sign Height, Municipal Code Section 10-10-5-8.c. Chairman Rowe seconded the motion.

ROLL CALL: Ayes: None

Nays: Rowe, Chambers, King, Marcotte, Wasowicz

Motion Failed.

Public Hearing: CDC Case Number 2021-32
Petitioner: Patricia Anne Sutton & Lee M. Semmerling
Location: 424 Diana Court
Request: Variation, Fence in Front Yard
Municipal Code Section 10-7-4C-7a

Motion: Commissioner Chambers made a motion to open CDC Case No. 2021-32. Commissioner Wasowicz seconded the motion.

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

Chairman Rowe opened CDC Case No. 2021-32 at 7:16 p.m.

Village Planner, Kelsey Fawell was present and sworn in by Chairman Rowe. Ms. Fawell stated a Legal Notice was published in the Daily Herald on October 14, 2021. 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 October 15, 2021. Ms. Fawell stated on October 14, 2021 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 a Variation is being sought to allow a 5' decorative aluminum fence in the front yard at 424 Diana Court. Ms. Fawell stated the Petitioners have concerns regarding trespassing, as they state that people typically walk through their front yard to access Creekside Park.

Patricia Anne Sutton & Lee M. Semmerling, property owners, were present and sworn in by Chairman Rowe. Ms. Sutton submitted a packet to the Commission regarding comments to the Staff Report and pictures. The packet has been attached to the minutes as "Exhibit A". Ms. Sutton stated they are requesting the front yard fence because the property is constantly trespassed on from visitors of the park. Mr. Semmerling stated the vacant property next door is in a floodplain and does not see it being able to have a house on site. Ms. Sutton stated they just learned that the property next door is not property of the Park District and is currently for sale.

Commissioner Chambers stated he attended a recent event at the park and witnessed visitors trespassing on the petitioner's property.

Commissioner Wasowicz suggested the petitioners meet with the Park District regarding the use of the vacant lot as part of the park.

Public Comment

Chairman Rowe asked if there were any members of the Public that would like to make comment. There were none.

Ms. Fawell reviewed the Findings of Fact for the proposed variation in the Staff Report consisting of:

1. **Public Welfare:** The proposed Variation will not endanger the health, safety, comfort, convenience, and general welfare of the public.

Applicant's Response: Having a fence along the east side of our property that is adjacent to Creekside Park will not endanger health, safety, comfort, convenience, or general welfare of the public. In fact, it will improve safety. People regularly cut through our property from the village sidewalk, heading into the park and traveling to the Redmond Recreational Area, both on foot as well as on bikes/ scooters/ skateboards/ ATVs, some traveling at high speed. The land slopes steeply down on that side of the property and there are several trees. People, especially youth, risk falls and injury when taking the shortcut across our property. We have had to deal with unattended youth who were hanging and climbing on our trees, asking them to leave since they were at risk of getting hurt. Trespass with bikes or other wheeled devices also risk running into the trees and experiencing significant injury due to the slope of the land.

It will not inconvenience the public because they will be encouraged to follow the sidewalk a few feet more to its end and proceed to the park, as they should, without trespassing on our land. The lines of sight are not limited with the type of fencing proposed either (decorative aluminum, 5-foot height). Also, we have planned for easy access to the retention pond and utility easements on the north by providing two extra-wide gates (at additional expense to us).

2. **Compatible with Surrounding Character:** The proposed Variation is compatible with the character of adjacent properties and other property within the immediate vicinity of the proposed Variation.

Applicant's Response: The fencing will be attractive and complement our brick and cedar house style and that of our adjacent neighbors on one side. The side where the fence will be along Creekside Park (eastern property line) is adjacent only to open land (the park, which extends to the creek) and should enhance the property Look while clearly delineating the property line.

The proposed decorative aluminum fencing is consistent with a couple other houses in the area that use that type of fencing and is much more attractive than the solid PVC, solid wood, and chain link fencing that are more common in our area (including the solid wood fence of our immediately adjacent neighbors to the west). The decorative aluminum is also long lasting with little maintenance, so will remain more attractive over time, especially compared to the solid wood style fences in the area that wear out and become less attractive as they age.

Since we are not enclosing the front of the yard by our adjacent neighbors, the front of the house will still have a clean look and direct access to the garage and front door.

3. **Undue Hardship:** The proposed Variation alleviates an undue hardship created by the literal enforcement of this title.

Applicant's Response: We have had a chronic and increasing problem with trespass plus have had damage to our trees and landscaping from trespassers. We have seen people slip on the slope and have become increasingly concerned about homeowners' liability if anyone were injured while trespassing.

We want to reduce the risk of unneeded conflict. We have had to deal with unattended youth who were hanging and climbing on our trees, asking them to leave since they were at risk of getting hurt. We have also found broken branches, some 4+ inches diameter, from times when we were not there to monitor our property. We recently had participants of a park district event in Creekside Park objecting to moving off our property when they sat eating under our trees. These people were not residents of the immediate neighborhood and were not respectful of our property as our neighbors have been. They interfered with our normal use of our property and were argumentative as we conducted our activities on our property.

Our property extends over 30 feet beyond the garage. Limiting the fence to stop at the foundation edge by the garage would leave a large area where the slope is the steepest unprotected and is the area where the most trespass occurs. The fence will make it clear where the park ends and our property begins, reducing our risk and

liability much more than ending the fence at the garage corner.

The restriction of fencing to the edge of the house foundation also requires the fence be installed adjacent to the garage in an area where the land slopes steeply, making the fence installation more difficult, problematic, and less attractive. It also makes it harder to place a side gate in that area.

4. **Unique Physical Attributes:** The proposed Variation is necessary due to the unique physical attributes of the subject property, which were not deliberately created by the applicant.

Applicant's Response: The restriction of fencing to the edge of the house foundation also requires the fence be installed adjacent to the garage in an area where the land slopes steeply, making the fence installation more difficult and less attractive. It also makes it harder to place a side gate in that area, without risking inconsistent opening or blocking of the garage when open. The land has the existing grade as when the house was built and when we bought the house as only the second owners.

The lot immediately adjacent to our land used to be a vacant lot in our small subdivision that apparently now has been taken over by the Park District after the former owner stopped paying property taxes. That adjacent lot is flood plain, so would not be developed. Our lot is above the flood plain. While we agree that the park is a good use of the land, we were not contacted at all when the park district officially acquired the lot to increase the size of the park. In fact, they placed picnic benches close to the property line recently, which encourages park users to be near and cross the property line.

5. **Minimum Deviation Needed:** The proposed Variation represents the minimum deviation from the regulations of this title necessary to accomplish the desired improvement of the subject property.

Applicant's Response: We are following the requirement to stay within our property lines. We are extending along the adjacent section with Creekside Park to address the trespass issue and reduce our liability risk as homeowners. We are not asking to extend any further than what will naturally direct the public along the sidewalk and onto the park without trespass. A shorter length of fencing would still encourage the trespass and continue to cause us excess homeowner liability.

6. **Consistent with Ordinance and Plan:** The proposed Variation is consistent with the intent of the Comprehensive Plan, this title, and the other land use policies of the Village.

Applicant's Response: Our proposed fence plan is consistent with the Comprehensive plan and land use policies. It provides a decorative solution with clean lines and open lines of sight, while also addressing our homeowner needs for risk reduction and security. It also supports the concept of potential future home-sharing, allowing us the option to age in place. It does this by providing a secure space for our dog, as well as for any pets of those who may share our home as we age. (We have already done home sharing for around 10 years with elderly relatives until they passed away or required full time skilled nursing.)

Ms. Fawell stated Staff recommends the Denial of the above Findings of Fact and therefore the Denial of the Variation for a Fence in the Front Yard at 424 Diana Court.

There were no questions from the Commission.

Motion: Commissioner King made a motion to close CDC Case No. 2021-32. Commissioner Wasowicz seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed CDC Case No. 2021-32 at 7:39 p.m.

Motion: Commissioner Chambers made a combined motion to approve the Findings of Fact and Approval of a Variation, Fence in Front Yard, Municipal Code Section 10-4-4C-7a. Commissioner Wasowicz seconded the motion.

ROLL CALL: Ayes: Chambers

Nays: Rowe, King, Marcotte, Wasowicz

Motion Failed.

Public Hearing: CDC Case Number 2021-33

Petitioner: Paul Cruse III

Location: 400 Spruce Avenue

Request: Variation, Fence in Corner Side Yard
Municipal Code Section 10-7-4C-7a

Motion: Commissioner Chambers made a motion to open CDC Case No. 2021-33. Commissioner Marcotte seconded the motion.

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

Chairman Rowe opened CDC Case No. 2021-33 at 7:40 p.m.

Village Planner, Kelsey Fawell was present and sworn in by Chairman Rowe. Ms. Fawell stated a Legal Notice was published in the Daily Herald on October 14, 2021. 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 October 15, 2021. Ms. Fawell stated on October 14, 2021 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 a Variation is being sought to allow a 6' vinyl privacy fence in the corner side yard at 400 N Spruce Avenue. Ms. Fawell stated this existing fence extends past the façade of the home by approximately 15 feet (straddling the property line), and was erected without authorization from the Village: Ms. Fawell stated in May of 2020, the Petitioner received a permit to erect a fence in the rear and interior side yards, but violated the terms of that permit when it was put up in the corner side yard.

Paul Cruse III, property owner, was present and sworn in by Chairman Rowe. Mr. Cruse stated he would ask that the fence remain as is.

There were no questions from the Commission.

Public Comment

Chairman Rowe asked if there were any members of the Public that would like to make comment. There were none.

Ms. Fawell reviewed the Findings of Fact for the proposed variation in the Staff Report consisting of:

1. **Public Welfare:** The proposed Variation will not endanger the health, safety, comfort, convenience, and general welfare of the public.

Applicant's Response: Location of the fence is in line within the boundaries of property. In addition the placement of the fence does not impede or restrict access to any public easements or utility equipment. Fence does not alter current sidewalk or walkways.

2. **Compatible with Surrounding Character:** The proposed Variation is compatible with the character of adjacent properties and other property within the immediate vicinity of the proposed Variation.

Applicant's Response: Yes, current fence is a new, modern vinyl fence that matches the color of the house as well as the neighboring properties.

3. **Undue Hardship:** The proposed Variation alleviates an undue hardship created by the literal enforcement of this title.

Applicant's Response: The literal enforcement of this title would cost economic hardship by requiring us to move 3% of our current fence. In addition it would cost undo hardship to the value of our property, by reducing usable size of the backyard. Lastly it would hinder character and aesthetic of neighboring properties by damaging the lawn and surrounding flora.

4. **Unique Physical Attributes:** The proposed Variation is necessary due to the unique physical attributes of the subject property, which were not deliberately created by the applicant.

Applicant's Response: The original builder of the property built it in a way which gives the property two fronts. Our address is on the side of Spruce Avenue where the garage is located. The front door is located on the Stoneham side, making an awkward sight line from where the front of the property which makes it unsightly to align the fence to the home if were to follow the title's literal description.

5. **Minimum Deviation Needed:** The proposed Variation represents the minimum deviation from the regulations of this title necessary to accomplish the desired improvement of the subject property.

Applicant's Response: Keeping the fence in the current location is 12ft from following the literal enforcement of the title, but falls more in line with sight lines and character of the property.

6. **Consistent with Ordinance and Plan:** The proposed Variation is consistent with the intent of the Comprehensive Plan, this title, and the other land use policies of the Village.

Applicant's Response: Yes, this falls in line with the character of the neighborhood, therefore increases values of the property and neighboring properties, while not impeding public easements or utility equipment.

Ms. Fawell stated Staff recommends the Approval of the above Findings of Fact and therefore the Approval of the Variation for a Fence in the Corner Side Yard at 400 Spruce Avenue with the following conditions:

1. The Property Owner shall schedule and inspection completed by the Village to verify the exact location of corner side lot line. If the existing fence extends past the property line, it shall be relocated; and
2. The portion of the fence located in the corner side yard shall have a 5' height of solid material; the remaining 1' shall be lattice.

Commissioner Marcotte suggested the fence remain as is.

Motion: Commissioner Marcotte made a motion to close CDC Case No. 2021-33. Commissioner Wasowicz seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Rowe closed CDC Case No. 2021-33 at 7:48 p.m.

Motion: Commissioner Marcotte made a combined motion to approve the Findings of Fact and Approval of a Variation, Fence in Corner Side Yard, Municipal Code Section 10-7-4C-7a with Staff's Recommendations except the one foot lattice requirement. Commissioner Chambers seconded the motion.

ROLL CALL: Ayes: Chambers, Marcotte

Nays: Rowe, King, Wasowicz

Motion Failed.

Motion: Commissioner Wasowicz made a combined motion to approve the Findings of Fact and Approval of a Variation, Fence in Corner Side Yard, Municipal Code Section 10-7-4C-7a with Staff's Recommendations. Commissioner Chambers seconded the motion.

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

Nays: None

All were in favor. Motion carried.

**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 7:53 p.m.



Ronald Rowe, Chairman
Community Development Commission

CDC Hearing for 424 Diana Ct. 11/2/2021

Case 2021-32

HEARING DATE: November 2, 2021

CASE #: 2021 – 32

PROPERTY: 424 Diana Court

PROPERTY OWNER: Patricia Anne Sutton & Lee M. Semmerling

APPLICANT: Same

SITE SIZE: 0.25 AC

BUILDING SIZE: N/A

PIN NUMBER: 03-24-402-014

ZONING: R-2 Single-Unit Dwelling District

REQUEST: Variation, Fence in Front Yard

Municipal Code Section 10-7-4C-7a

Applicant Response to Staff Report Comments

Note that in the Summary of the staff report, staff stated: “

The Petitioners have concerns regarding trespassing, as they state that people typically walk through their front yard to access Creekside Park.”

Note that we specifically stated the trespass is related to people heading to Redmond Recreational Complex and Creekside Park, not just Creekside Park.

Planning

Response to Comment 4

“4) It should be noted that the vacant property directly to the east of the subject parcel is zoned for single-family residential, and is not a part of Creekside Park.”

We understand now that the lot is still not owned by the Bensenville Park District (BPD). BPD has repeatedly alleged to us that they owned the lot and it was part of the park district. BPD has repeatedly behaved as if they own the land. They have mowed the land for the entire time we lived here (over 12 years). They approached us with a concern they had back in 2012, when we were trying to contact the actual property owner. BPD seemed unaware that they were not the owners, even though the original owner who developed our small subdivision had contacted us after we bought our house. That original owner eventually stopped paying taxes on the lot and it was later sold for taxes. The people / group that bought it for taxes contacted us once but not in many years.

This summer, BPD put up a Creekside Park sign, plus added picnic benches, including a few on what we now know is still the vacant lot. BPD then held an Eco Day event at Creekside Park and used most of the adjacent lot for the event. We had figured BPD had finally acquired the lot and they indicated that to us when they were setting up for the event. While we have had frequent trespass for people heading to Redmond Recreational Area, since we moved in, the trespass became worse during and after the Creekside Park event.

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See pictures from the BPD Eco Days event showing use of the lot. During the event, some participants moved onto out lot under our trees to eat the food provided at the event.



Well after we filed our request, the current lot owner put a for-sale sign up, which is when we realized BPD *still* doesn't own the property. There were BPD picnic tables on the lot area until after the for-sale sign was put up. Had we known that at the time of requesting the variance, we would have stated our comments slightly differently; however, the trespass and risk issues remain the same.

Note that Creekside Park and the adjacent lot are floodplain and we have observed major flooding across the entire park and the lot. Building on that lot is unlikely and would require special construction variances. The access issues will remain, until and *only if* that lot is ever used for residential (unlikely).

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Response to Comment 5

“5) While corner side yard fence Variations are commonly requested, requests for fences in the front yard are not.

“a. A Variation to grant a fence in the front yard was granted to 620 W Grove Avenue in August of 2020. The subject was unique in that the side of the home faces the front yard, while the front door faces the corner side yards.”

Whether common or not, we are aware of fences in the very front of home entrances, which are much more obtrusive than the side fence we are requesting. For example, on the other side of the creek from our house, neighbors did have an actual front fence approved, in front of their front door, which faces the street. It apparently meets the requirement of not going past the front foundation. It also is 6 foot high, as opposed to our proposed 5-foot height. Our plan is more attractive and less obtrusive.

Photos of neighboring home on Diana Ct. with front fence:

From front:



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Neighbor fence from Side:

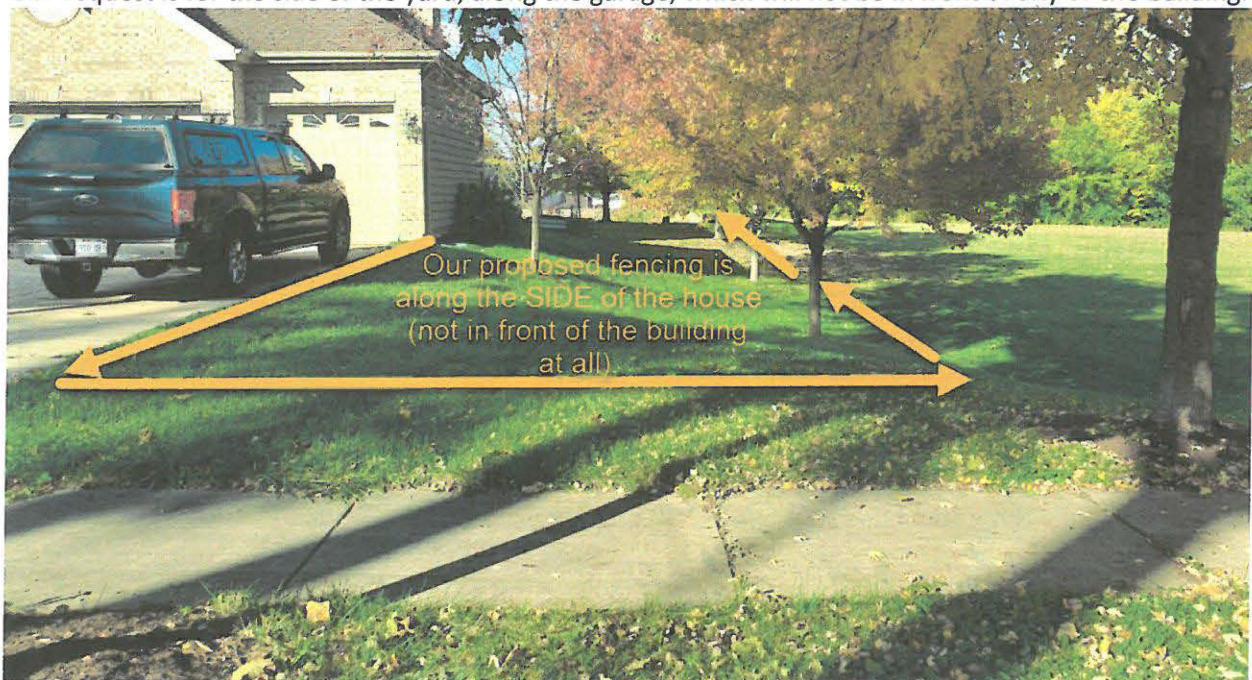


While this installation may comply with the technical requirements related to the house foundation and was allowed, it does have fencing in the very front yard, at the entrance, in front of the residence. It fits the definition of a front yard fence. This neighbor's fence was constructed several years after we purchased our property.

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Case 2021-32

Our request is for the side of the yard, along the garage, which will not be in front of any of the building.



Our request does not include fencing in the front area by the entrance. All lawn in front of the actual residence will be open and unobstructed.



Response to Comment 6

“6) According to §10-7-4-C.7, fences are prohibited to be located in front and corner side yards.
“a. Additionally, residential fences are allowed a maximum height of 6 feet; the proposed is 5.”

Note that our proposal complies with the height requirement, and is less than the maximum, as well as less than the nearby front fence of a neighbor.

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Response to Variation Approval Standards Table

Variation Approval Standards	Meets Standard	
	<i>Yes</i>	<i>No</i>
1. Public Welfare	X	
2. Compatible with Surrounding Character	X	
3. Undue Hardship	What are criteria?	X
4. Unique Physical Attributes		X
5. Minimum Deviation Needed	What is minimum?	X
6. Consistent with Ordinance and Plan	X	

The staff determined that 3 or 6 standards have been met. We have the following questions and comments on the three standards staff believe are not met.

Standard 3 Undue Hardship

What are the criteria for determining hardship?

We understand that the damage we have experienced to our landscaping and trees alone is not enough for undue hardship, however, we believe the safety/injury and liability risks should be sufficient to constitute undue hardship. We are at risk of being liable for injury to trespassers. We would be devastated if a young person were injured, especially when we wanted to prevent that risk. The slope of our yard in that area is steep and the area becomes slippery when wet or snowy (also see photos under comments on Standard 4). We regularly observe youth running, cycling, and skating along the sidewalk and cutting across our driveway and lawn in that area at high speed to access the open space adjacent to our property, increasing the risk of slips or falls, including adjacent to our trees, where injuries could be greater. The fence will also deter youth from climbing and hanging on our trees, which is another risk for injury if they fall from the tree.

We want to prevent such risks, rather than wait to address it after something serious occurs. Not allowing us to prevent such risk seems arbitrary and we would have undue hardship when an injury occurred.

Standard 4 Unique Physical Attributes

The slope of our yard in the area where we are requesting a side yard fence is steep, especially between the edge of the garage and the property line. This slope causes the increased safety/injury/liability risk. Ending the fence at the foundation by the garage does nothing to reduce our risk, since the trespass is in the sloped area.

In addition, ending the fence at the foundation by the end of the garage puts the fence in a very steep angle, complicating the installation and the maintenance. The wider gate planned for access in that area (needed to allow maintenance and access to the retention pond behind our house) would end up at a strong angle downward if it must extend out from the edge of the garage. The trees also complicate the access for equipment with that gate design.

CDC Hearing for 424 Diana Ct. 11/2/2021

Case 2021-32



Standard 5 Minimum Deviation Needed

What is the minimum required? We will not be able to address the safety/injury/liability risk if we do not extend past the foundation by the garage to the property line. Limiting the fence to the garage will leave the area where most of the trespass occurs open and still encourage trespass. Having the fence along the driveway also discourages trespass across the driveway to the grass, because a straight line down to the open space is no longer available, directing people along the sidewalk to the open land naturally, eliminating the short cuts that encourage the trespass.

If this variation is not allowed, what are our options for managing the trespass and the safety/injury/liability risk? Why would the Village want to continue this risk when we as homeowners are willing to proactively manage the risk at our own expense before a serious injury occurs?