

**CITY OF BELVIDERE
PLANNING AND ZONING COMMISSION
Minutes
Tuesday July 14, 2020
City Council Chambers
401 Whitney Boulevard
6:00 pm**

ROLL CALL

Members Present:

Alissa Maher, VCHM
Carl Gnewuch
Art Hyland
Robert Cantrell
Andrew Racz
Paul Engelman
Natalie Mulhall

Staff Present:

Gina DelRose, Community Development Planner
Cathy Crawford, Administrative Assistant

Vice-Chair Maher called the meeting to order at 6:06 p.m.

MINUTES: It was moved and seconded (Cantrell/Racz) to approve the minutes of the May 12, 2020 meeting. The motion carried with a 7-0 roll call vote.

PUBLIC COMMENT: None

UNFINISHED BUSINESS: None

NEW BUSINESS:

2020-04: Rodriguez, 704 E. Pleasant Street: Application of property owner, Jonathan Rodriguez, 1943 Sawyer Road, Belvidere, IL 61008 for a special use for a two-family residence at 704 East Pleasant Street within the SR-6, Single-family Residential-6 District (Belvidere Zoning Ordinance Sections 150.105(B)(3)(B)(2) Two-Flat/Duplex/Twin House and 150.904 Special Use Reviews and Approval Procedures).

The public hearing opened at 6:09 p.m.

Gina DelRose was sworn in. Ms. DelRose stated that notices were sent to property owners within 250 feet by certified mail on June 24, 2020 and the case was published in the Boone County Journal on June 26, 2020. Ms. DelRose summarized the staff report dated July 7, 2020. Ms. DelRose stated the subject property was condemned by the City of Belvidere for multiple code violations, none of which involved the structural integrity of the house. It was discovered that the house had been illegally converted to a two-family residence sometime in the past. Shortly after the condemnation order, the house was purchased by the applicant who has been working closely with the Building Department to bring the house back into code

compliance. The applicant is seeking the special use permit to bring the previously created apartment into compliance.

The conversion of single-family residences into two-family residences was allowable until the adoption of the 1994 Zoning Ordinance, when the requirement was that a special use permit must be obtained. It is not uncommon, therefore, for larger homes within the older City neighborhoods to find two-family residences. The proximity of non-residential land uses to older neighborhoods also encourages a mix of residential structures.

Gina DelRose stated the property is developed with an older residential structure that is undergoing repairs. The structure exceeds lot size requirements and has ample space to construct sufficient on-site parking for tenants while still adhering to greenspace requirements.

Gina DelRose stated the staff is not aware of any negative impacts the previously converted residences have created and the installation of on-site parking will lessen the number of vehicles parking on the street. The inspection process with the Belvidere Building Department will ensure code compliance. The staff, therefore, recommends approval of the case subject to one condition, as follows:

1. The property shall be brought into compliance with current building codes. Building plans shall be submitted to the appropriate department for review and approval. Plans include but are not limited to any structural changes such as electric, HVAC and plumbing.

The Vice-Chair invited questions for the staff.

Carl Gnewuch said the provided map did not seem to allow for adequate parking space.

Gina DelRose stated the code requires 180 square feet with a minimum width of ten feet per parking space. It can be a long driveway that is ten feet wide and 54-feet deep for three parking spaces.

There were no further questions from commissioners, the applicant, or other interested parties.

The applicant stated he had nothing to add.

The public hearing was closed at 6:14 p.m.

It was moved and seconded (Cantrell/Hyland) to accept the findings of fact as presented in the staff report. The motion carried with a 7-0 roll call vote.

It was moved and seconded (Hyland/Gnewuch) to recommend approval of Case 2020-04 subject to the condition stated. The motion carried with a 7-0 roll call vote.

Gina DelRose stated the case would go before the City Council on July 20, 2020 for a first reading and on August 3, 2020 for a second reading and vote.

2020-05: Olson, 1901-1943 N. State Street: Application of Kevin Olson, 1935 N. State Street, Belvidere, IL 61008 on behalf of property owner Poon & Le, LLC for three variances at 1901-1943 North State Street within the GB, General Business District (Belvidere Zoning Ordinance Sections 150.105(C)(5)(G)(1)(B) Minimum Landscape Surface Ratio: 15%, 150.105(C)(5)(G)(2)(C) Minimum Setbacks: Building to Front or Street Side Lot Line 20 feet. 150.105(C)(5)(G)(2)(C) Minimum Setbacks: Minimum Paved Surface Setback 5 feet and 150.909 Variance Review). The variances will allow for the required landscape surface ratio to be reduced from 15% to 4.8%, the required front yard building setback (for 1943 North State Street only) to be reduced from 20 feet to zero feet to allow for a patio with a garden wall and the required pavement setback of 5 feet to be reduced to zero feet.

The public hearing opened at 6:16 p.m.

Gina DelRose was sworn in. Ms. DelRose stated that certified mail notices were sent to property owners within 250 feet of the subject property on June 24, 2020 and the case was published in the Boone County Journal on June 26, 2020. Ms. DelRose summarized the staff report of July 7, 2020.

The subject properties are part of one large commercial development in which multiple buildings share vehicle circulation and parking areas. Although the properties meet the minimum zoning regulations for the General Business zoning district, many of the interior lot line setbacks and individual landscape surface ratios have been disregarded as the site was continually improved. The applicant plans to make significant improvements as well as the building of an accessory storage building to benefit the other on-site businesses. To achieve these improvements, the requested variances are needed to bring the existing property into compliance with the Belvidere Zoning ordinance as well as the granting of additional variances.

The former Happy Wok Building at 1943 North State Street is 1,900 square feet and located approximately 30 feet from the front property line. The front yard is currently developed with a concrete walkway and freestanding sign. The property slopes downward toward the sidewalk and is surrounded by vehicle circulation areas. The applicant wishes to renovate the building and add an outdoor seating area in the front yard; this seating area is proposed to mirror the width of the building and extend to the front property line instead of the 10 feet that is permitted (requiring the zero-foot variance request). This area will be enclosed by a permanent wall structure that will adhere to the requirements for fencing so as not to create a line-of-sight issue for vehicles.

The northwest property is developed with a parking area and greenspace. The greenspace is the remaining portion of undeveloped land between the three parcels. The applicant proposes to develop a 3,200 square foot building with additional parking to alleviate storage needs of the existing businesses located in the adjacent multi-tenant building. The building cannot be turned into a self-storage unit without an approved special use which limits its ability to be used by on-site businesses only. In order to construct the storage building, the maximum allowable lot coverage of 85% must be increased to 95.2% and this requires a variance also. Regardless of the increased lot coverage, all stormwater management requirements shall be met in order to prevent run-off onto neighboring properties and rights-of way.

The final variance being requested would reduce the pavement setback from five feet to zero feet. Two of the three lots involved with the development already have pavement extending to all property lines. The northwest property has pavement that extends to the property line. The variance will serve to bring the existing conditions into compliance with the Zoning Ordinance; it will not necessarily allow additional pavement to extend to the property line.

Variances of the kind proposed are often needed to bring older developments into compliance with current building and zoning codes. The planning staff is not aware of any negative impacts the existing paved areas have created. Allowing the current vehicle patterns to remain will have no impact on neighboring properties' access to light and air or the traffic in those areas.

The outdoor seating area is proposed to be 1,000 square feet which is not excessive in size. A walled-in patio area creates a significantly smaller impact than an actual building constructed on the lot line and will adhere to line-of-sight requirements. The storage building will benefit the existing buildings. The staff recommends approval of Case 2020-05.

The Vice-Chair invited questions from the commissioners for Ms. DelRose.

Paul Engelman clarified that the outdoor seating area would be in front of the existing Happy Wok Restaurant.

Gina DelRose said it would be an outdoor patio seating area entered from inside the building.

Paul Engelman clarified the location of the accessory storage building and the lighting requirements.

Gina DelRose stated that any areas that have parking requires at least 0.2 foot candles and cannot exceed 0.5 foot candles at the property line. As part of the permit review, there would be a site plan review that would need to be reviewed and approved by the building, planning, fire and public works departments.

Paul Engelman asked if it is correct that the applicant would not need to come before this body after the variances are approved.

Gina DelRose said that is correct, anything further will be handled during the building permit review process.

The Vice-Chair invited questions from the applicant or interested parties for the staff.

Harry Speckman asked for clarification of the requested variances, including lighting, pavement allowances and setbacks.

Gina DelRose clarified the variance requests are to reduce lot coverage to allow for a storage building to be constructed in the back of the property, allowing existing pavement to remain and the addition of a patio for outdoor seating.

Harry Speckman expressed concern that the variances would allow development to be too evident.

Gina DelRose explained the variance requests further. Ms. DelRose stated the paved areas are not changing; the existing pavement is being brought into compliance. Explanation was provided for the nature of the variances and the hardships that exist presently, such as the reduction of available parking making it hard for businesses to operate and the need for outdoor seating due to Covid-19 restrictions.

Harry Speckman said he feels an outdoor seating area effectively extends the "building" to the lot line and it would be a mistake to allow the variances. The applicant is removing too much greenspace and would be too visible to adjacent properties.

Gina DelRose said the resulting additional lot coverage would only be greater by approximately 1.5%.

Paul Engelman asked if it was fair to say that Belvidere is replete with lots that are out of compliance as soon as the codes are changed. There are instances all over town where the property is allowed to remain as it is rather than incur the expense of meeting the new codes.

Gina DelRose agreed, stating that new codes create non-conforming structures. This is why variances are granted. Ms. DelRose said the granting of a variance is dependent on the applicant showing there is a hardship present that they did not create. To allow existing structures to remain as they are and grant a variance is a lesser impact to the property owner than significant renovations would be when the existing structure hasn't made a negative impact on the neighborhood.

Paul Engelman stated the variances aren't significant changes, just allowing the existing conditions to come into compliance.

Harry Speckman said he feels the present application does not meet that criteria.

Carl Gnewuch said when new codes are created, it is the City's desire to eventually change properties. Mr. Gnewuch asked if there is a timeframe after which properties must meet the new codes.

Gina DelRose said there is no "Sunset Clause" that requires all legal non-conforming properties to come into compliance with current codes. Ms. DelRose stated she advises property owners often to change their properties to come into compliance if they have the conditions available to do so. The ones that cannot do so end up coming before the Planning Commission.

Carl Gnewuch clarified that properties would suffer a hardship if the City did not allow those non-conforming conditions.

Gina DelRose said this is correct. Ms. DelRose said the property is zoned General Business so the business use must be allowed. If a majority of parking is removed, is it possible to function as a business? Ms. DelRose added that State law now requires restaurants to limit their indoor seating to 50% capacity. This puts a significant strain on the business if it does not have outdoor seating to compensate for the loss of capacity.

Paul Engelman asked what is required in creating the outdoor seating wall.

Gina DelRose said the wall is limited to 3.5 feet in height so as not to create a line-of-sight issue.

Art Hyland clarified that the variances allow the existing property to come into compliance with existing codes.

Applicant Kevin Olson was sworn in. Mr. Olson explained his plans for the outdoor seating area which he stated he feels is a positive for the community. Mr. Olson said the interior of the former Happy Wok is being significantly renovated. Mr. Olson said his businesses need the storage building due to the large amount of product they sell. Mr. Olson clarified that the pavement already exists.

The Vice-Chair invited questions for the applicant.

Carl Gnewuch asked Mr. Olson for clarification of the use of the storage building.

Kevin Olson said it would be mainly used to service the on-site businesses but would also provide a storage “base” for his other businesses in other locations.

Carl Gnewuch asked if it was correct to state that the storage building will alleviate safety concerns with deliveries by allowing trucks to unload in the back of the property instead of stopping near the entrance and right of way.

Kevin Olson said it will make deliveries safer.

Andy Racz asked the name of the proposed business in the former Happy Wok.

Kevin Olson said it will be named CDK Cajun Smokehouse. Mr. Olson said the former Papa John’s location will become a hamburger restaurant called Casey’s Burger Bar.

There were no further questions.

The public hearing was closed at 6:54 p.m.

It was moved and seconded (Mulhall/Gnewuch) to accept the findings of fact as presented in the staff report. The motion carried with a 7-0 roll call vote.

It was moved and seconded (Cantrell/Racz) to approve case 2020-05. The motion carried with a 7-0 roll call vote.

OTHER BUSINESS: None

DISCUSSION: None

Staff Report:

Gina DelRose said there would be a special use application for video gaming at Fiesta Market at the August 2020 meeting.

The Election of Officers will also take place at the next meeting.

Andy Racz asked Ms. DelRose to provide a glossary of acronyms in the next Annual Report. Mr. Racz asked if the Comprehensive Plan has been addressed recently.

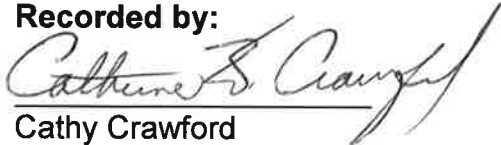
Gina DelRose said the process to complete the Comprehensive Plan is moving forward.

Discussion was held regarding the process for drafting and completing the Comprehensive Plan.

ADJOURNMENT:

The meeting adjourned at 7:02 p.m.

Recorded by:



Cathy Crawford
Administrative Assistant

Reviewed by:



Gina DelRose
Community Development Planner