

**PLAN COMMISSION/ZONING BOARD OF APPEALS**

**VILLAGE OF BURR RIDGE**

**MINUTES FOR REGULAR MEETING OF**

**APRIL 15, 2013**

**1. ROLL CALL**

The Regular Meeting of the Plan Commission/Zoning Board of Appeals was called to order at 7:30 P.M. at the Burr Ridge Village Hall, 7660 County Line Road, Burr Ridge, Illinois, by Chairman Trzupek.

**ROLL CALL** was noted as follows:

**PRESENT:** 5 – Bolos, Stratis, Grunsten, Hoch, and Trzupek

**ABSENT:** 1 - Cronin

Also present was Community Development Director Doug Pollock and Trustee Guy Franzese.

**2. APPROVAL OF PRIOR MEETING MINUTES**

A **MOTION** was made by Commissioner Bolos and **SECONDED** by Commissioner Hoch to approve minutes of the March 18, 2013 Plan Commission meeting.

**ROLL CALL VOTE** was as follows:

**AYES:** 4 – Bolos, Hoch, Stratis, and Trzupek

**NAYS:** 0 – None

**ABSTAIN:** 1 - Grunsten

**MOTION CARRIED** by a vote of 4-0.

**3. PUBLIC HEARINGS**

Chairman Trzupek confirmed all present who wished to give testimony at the public hearings and introduced the public hearings as follows.

**A. Z-05-2013: 16W231 South Frontage Road (Shop Melee); Special Use**

Chairman Trzupek asked Mr. Pollock to provide a summary of this public hearing.

Mr. Pollock described the petition as follows: The petitioner operates a warehouse and distribution facility for internet sales of clothing and household items. Twice a month they open the warehouse for retail sales to the general public. The Zoning Ordinance permits a warehouse and distribution business but requires special use approval for retail sales accessory to a permitted use. Mr. Pollock referenced a table listing the other

businesses in this multi-tenant building and that indicated there was sufficient parking for all existing businesses and the proposed retail business.

Chairman Trzupek asked for comments from the petitioner.

Mr. Michael Duggan said that he was the attorney for the petitioner and they are prepared to answer any questions.

Chairman Trzupek asked for public comments and there were none. He then asked for questions and comments from the Plan Commission.

Commissioner Bolos asked if there were any alterations to the building and about the percentage of the business that is retail and the days of the month retail sales occur. In response, Mr. Duggan said that there are no alterations to the building, that less than 20% of the sale is from customers on-site, and that sales typically occur on a Friday and Saturday, two times per month.

Commissioner Stratis asked if there were any other retail businesses within this property. Mr. Pollock said that there were no retail sales of products but that there was a fitness facility that provides retail services and a school for children with autism.

Commissioner Bolos asked if there were signs directing customers to the parking for the retail sales events. Mr. Duggan said that the sales events occur in the back of the building by the loading dock and that there is ample parking and signs.

Commissioner Bolos asked about the types of products sold and specifically the largest products sold. Mr. Duggan said that the largest items were sofas and armoires.

Commissioner Hoch asked about the hours on Fridays and expressed her concern that these hours would conflict with the other businesses. She noted that the petitioner's letter reference Saturday sales only. Mr. Duggan said that sales do occur on Fridays but that there is still plenty of parking available on Fridays.

Chairman Trzupek asked Mr. Duggan if the petitioner agreed to the conditions recommended by staff in its written report. Mr. Duggan said they agreed with the exception that they be allowed Friday hours at least two times a month in addition to the Saturday hours.

There being no further questions or comments, Chairman Trzupek asked for a motion to close the hearing.

A **MOTION** was made by Commissioner Stratis and **SECONDED** by Commissioner Hoch to close the hearing for Z-05-2013.

**ROLL CALL VOTE** was as follows:

**AYES:** 5 – Stratis, Hoch, Bolos, Grunsten, and Trzupek

**NAYS:** 0 – None

**MOTION CARRIED** by a vote of 5-0.

Chairman Trzupsek asked for a motion regarding this petition.

A **MOTION** was made by Commissioner Stratis and **SECONDED** by Commissioner Bolos to approve the findings of fact as submitted by the petitioner and to recommend approval of a special use approval as per Section X.F.2.m of the Burr Ridge Zoning Ordinance to permit accessory retail sales for a warehouse and distribution facility for used clothing and related household items subject to the following conditions:

1. The special use approval shall be limited to Shop Melee and its current owners.
2. The business shall be limited to 7,307 square feet of floor area at 16W231 South Frontage Road, Units 11, 12 and 13.
3. The hours of operation for the on-site retail sales shall be limited to Fridays and Saturdays only.
4. All other aspects of the business shall comply with the description submitted by the petitioner.

**ROLL CALL VOTE** was as follows:

**AYES:** 5 – Stratis, Bolos, Grunsten, Hoch, and Trzupsek

**NAYS:** 0 – None

**MOTION CARRIED** by a vote of 5-0.

**B. Z-06-2013: 8542 Johnston Road (Schulz); Text Amendment or Variation**

Chairman Trzupsek asked Mr. Pollock to provide a summary of this public hearing.

Mr. Pollock introduced the hearing as follows: The petitioner is constructing improvements to an outdoor living space including the construction of an outdoor kitchen and enhancements to an existing fence. The outdoor kitchen includes a built-in cooking appliance that would be located less than 10 feet from the house and two masonry piers that would frame a gate for the fence.

In regards to the outdoor kitchen, Mr. Pollock described this request as follows: The Zoning Ordinance used to regulate outdoor cooking facilities as a fireplace. Fire places have always been required to have a 10 foot separation from any other building. When outdoor kitchens were separated from fire places in 2012, the 10 foot separation was maintained. In checking with the Fire District, it has been determined that built-in outdoor grills that are a self-contained appliance and are ventilated through a hood are allowed by the fire code adjacent to a building and are similar to indoor ovens and stoves in terms of fire safety. Thus, the 10 foot separation is not necessary for such units.

In regards to the masonry piers for fences, Mr. Pollock added the following: The Plan Commission has rejected requests for masonry fence piers when such piers are adjacent

to the lot line. The concern was the proximity of a structure to the neighbor's property. However, the petitioner would like to have masonry piers as a gateway feature in the rear yard and the piers would meet the setback requirement. Other structures which are more obtrusive than masonry piers are allowed in these same locations. Thus, it may be appropriate to allow a limited number of masonry piers with a fence provided the piers meet all setback requirements.

Chairman Trzupsek asked the petitioner for his presentation.

Mr. David Schulz said that he is the architect for the property owner. He said he had nothing to add and was available for questions.

There being no one else in attendance to speak to this matter, Chairman Trzupsek asked for questions and comments from the Plan Commission.

Commissioner Hoch said that she was okay with the masonry piers provided they meet the setbacks. She said that the outdoor kitchen is acceptable as well if it meets all of the manufacturer's specifications for fire safety.

Commissioner Grunsten said that she agrees regarding the outdoor kitchen but would like to hear from the other Commissioner's before deciding on the masonry piers.

Commissioner Stratis said he agrees with the staff recommendations to amend the Zoning Ordinance relative to outdoor kitchens and masonry piers.

Commissioner Bolos referenced an exhibit submitted by the petitioner and asked staff to confirm that a building would be allowed in the same location that the petitioner proposes to construct the masonry piers. Mr. Pollock responded affirmatively.

Chairman Trzupsek asked if inspections were done on outdoor kitchens to ensure they are constructed to the manufacturer's specifications. Mr. Pollock said that a permit is required and inspections are done.

There being no further questions or comments, Chairman Trzupsek asked for a motion to close the hearing.

A **MOTION** was made by Commissioner Bolos and **SECONDED** by Commissioner Grunsten to close the hearing for Z-06-2013.

**ROLL CALL VOTE** was as follows:

**AYES:** 5 – Bolos, Grunsten, Stratis, Hoch, and Trzupsek

**NAYS:** 0 – None

**MOTION CARRIED** by a vote of 5-0.

Chairman Trzupsek suggested two separate motions; one for the outdoor kitchens and another for the masonry piers.

A **MOTION** was made by Commissioner Stratis and **SECONDED** by Commissioner Hoch to accept the petitioners findings of fact as submitted and to recommend approval of an amendment to Section IV.H.22 of the Zoning Ordinance to permit built-in gas grills and similar cooking facilities to be located less than 10 feet from a building provided they comply with applicable manufacturer's specifications for venting and enclosure.

**ROLL CALL VOTE** was as follows:

**AYES:** 5 – Stratis, Hoch, Bolos, Grunsten, and Trzupek

**NAYS:** 0 – None

**MOTION CARRIED** by a vote of 5-0.

A **MOTION** was made by Commissioner Stratis and **SECONDED** by Commissioner Grunsten to accept the petitioners findings of fact as submitted and to recommend approval of an amendment to Section IV.I of the Zoning Ordinance to add masonry piers to the list of permitted accessory structures in a rear yard provided the number of piers is limited to four or less, that they do not exceed 6 feet in height and four square feet in area, and that they comply with the required setbacks for other accessory structures in the underlying zoning district.

**ROLL CALL VOTE** was as follows:

**AYES:** 5 – Stratis, Grunsten, Bolos, Hoch, and Trzupek

**NAYS:** 0 – None

**MOTION CARRIED** by a vote of 5-0.

### **C. Z-07-2013: 118 Burr Ridge Parkway (LaCabanita); Special Use**

Chairman Trzupek asked Mr. Pollock to provide a summary of this public hearing.

Mr. Pollock introduced the hearing as follows: In 2011, a special use was granted for a restaurant with sales of alcoholic beverages. That special use was limited to Capri Mex and its owner. The petitioner seeks to purchase the business and rename it LaCabanita. Thus, a new special use is required.

Chairman Trzupek asked the petitioner for comments.

Mr. Robert Spadoni said he was the attorney for the petitioner and had nothing to add to the staff report.

There being no public comments, Chairman Trzupek asked for questions and comments from the Plan Commission.

Commissioner Bolos said that she was pleased the restaurant will continue to operate.

Commissioner Stratis asked staff if any type of background check is done for restaurant operators. Mr. Pollock said that the liquor license required finger printing of the owner and restaurant manager and that the Police Department does complete background checks before a liquor license is issued.

There were no more questions or comments from the Plan Commission. Chairman Trzupke asked for a motion to close the public hearing.

A **MOTION** was made by Commissioner Hoch and **SECONDED** by Commissioner Bolos to close the hearing for Z-07-2013.

**ROLL CALL VOTE** was as follows:

**AYES:** 5 – Hoch, Bolos, Grunsten, Stratis, and Trzupke

**NAYS:** 0 – None

**MOTION CARRIED** by a vote of 5-0.

A **MOTION** was made by Commissioner Grunsten and **SECONDED** by Commissioner Hoch to accept the petitioners findings of fact as submitted and to recommend approval of Z-07-2013, a special use for a restaurant with sales of alcoholic beverages, subject to the special use permit shall be limited to LaCabanita and the current owners and shall expire at such time that LaCabanita and the current owners no longer own and operate the business at 118 Burr Ridge Parkway.

**ROLL CALL VOTE** was as follows:

**AYES:** 5 – Grunsten, Hoch, Bolos, Stratis, and Trzupke

**NAYS:** 0 – None

**MOTION CARRIED** by a vote of 5-0.

**D. V-02-2013: 7920 Wolf Road (Lainovic); Variation**

Chairman Trzupke asked Mr. Pollock to provide a summary of this public hearing.

Mr. Pollock introduced the hearing as follows: The petitioner is in the process of rehabilitating an older home located at the corner of 79<sup>th</sup> Street and Wolf Road. The work being done did not require a permit. However, during this process the petitioner began replacing an existing addition that was non-conforming as to its setback from the 79<sup>th</sup> Street property line. As soon as staff became aware of this work, a stop work order was issued. The petitioner is now seeking a variation to allow the room addition to encroach into the required 40 foot setback from the 79<sup>th</sup> Street property line. The addition is located 14.5 feet from the lot line.

Mr. Pollock stated that staff's recommendation to the Plan Commission was that the decision to recommend approval or denial of the variation should not consider that the work was done without a permit and in violation of the zoning code. He said that the variation should stand on its own merits as to whether it meets the standards for a zoning variation.

Mr. Pollock further added that the non-conforming room addition could have remained if it were not first removed and if the work was limited to repair and maintenance. However, the room addition was removed and the work included an enlargement of the roof – specifically, a flat sloped roof was replaced by a gable roof.

Chairman Trzupsek asked the petitioner for comments.

The property owner, Mr. Phil Stefanovic, said he had nothing to add to the staff report.

Chairman Trzupsek asked for public comments.

Mrs. Carmen, who resides at 8080 Wolf Road, said that the room addition has been there for a long time and should be allowed to remain.

Mr. Vic Glazer said he lives south of property on Wolf Road. He said that he has no problems with the variation but would like to see the contractor maintain the property in a better condition.

Chairman Trzupsek asked for questions and comments from the Plan Commission.

Commissioner Hoch asked why they did not put the addition on the other side. She said there was plenty of space on the property for additional floor area. In response, Mr. Stefanovic that the room was already there and that is why they proceeded with the same location.

Chairman Trzupsek asked if the foundation slab was already there or if it was enlarged or replaced. Mr. Stefanovic said that the slab was not replaced or enlarged but was repaired.

In response to Commissioner Grunsten, Mr. Stefanovic said that the footprint of the addition was not changed but the roof line was modified.

Commissioner Stratis said that he is trying to determine what he would have recommended if the petitioner had come before the Plan Commission before proceeding with the work. He said he probably would have supported the variation because of the legal status of the existing addition and the fact that the modifications were minor.

Commissioner Bolos said that she agrees with Commissioner Stratis and is glad to hear that the petitioner will be living in the house.

Chairman Trzupsek said that he tends to agree with Commissioner Stratis but is wondering if a variation is needed. He asked if it would be better for the Plan Commission to make an interpretation of the Zoning Ordinance that the changes were not significant and as a result, the legal non-conforming status of the building would remain.

Mr. Pollock said that was worth considering but suggested it may be a more significant precedent to make such an interpretation. He said there was definitely an enlargement of the mass of the building although the enlargement was quite small. Mr. Pollock said that making an interpretation would require the Plan Commission to determine the extent to which a non-conforming structure may be enlarged before it loses its non-conforming status. He said that he is more comfortable with the present definition that mandates any enlargement of a non-conforming structure is prohibited.

Mr. Pollock further said that granting a variation based on the unique conditions of this property may be less precedential. He said there are likely very few properties that have an older house with a legal non-conforming addition which would be comparable to this property.

There were no more questions or comments from the Plan Commission. Chairman Trzupek asked for a motion to close the public hearing.

A **MOTION** was made by Commissioner Hoch and **SECONDED** by Commissioner Stratis to close the hearing for V-02-2013.

**ROLL CALL VOTE** was as follows:

**AYES:** 5 – Hoch, Stratis, Bolos, Grunsten, and Trzupek

**NAYS:** 0 – None

**MOTION CARRIED** by a vote of 5-0.

A **MOTION** was made by Commissioner Stratis and **SECONDED** by Commissioner Bolos to accept the petitioners findings of fact as submitted and to recommend approval of V-02-2013, a variation from Section VI.D.7 of the Burr Ridge Zoning Ordinance to permit the replacement of a room addition with a setback from the corner side lot line (79<sup>th</sup> Street) of 14.5 feet rather than the required setback of 40 feet, subject to the following conditions:

- A. The variation is limited to a reduction of the required corner side lot line for the replacement of an existing room addition (79<sup>th</sup> Street) as shown on submitted site plan.
- B. The grant of this variation may not be used to allow any other additions or for the construction of any new buildings on the subject property.
- C. No additions or modifications may be made to the building or property without full compliance with the Zoning Ordinance.

**ROLL CALL VOTE** was as follows:

**AYES:** 5 – Stratis, Bolos, Grunsten, Hoch, and Trzupek

**NAYS:** 0 – None

**MOTION CARRIED** by a vote of 5-0.

#### **E. Z-03-2013: Zoning Ordinance Text Amendment – Residential Driveways**

Chairman Trzupek asked Mr. Pollock to provide a summary of this public hearing.

Mr. Pollock said that this hearing was scheduled in response to an inquiry from Trustee Al Paveza and that Trustee Paveza said he was going to be out of town and unavailable for this hearing. Trustee Paveza asked that if there were any issues that required his



input, that this hearing be continued. Mr. Pollock added that Trustee-Elect Guy Franzese was in the audience and would likely want to comment on this matter.

Chairman Trzupsek suggested that Trustee-Elect Franzese provide his comments before the Plan Commission decides to continue this hearing.

Mr. Franzese said that he was present on behalf of the Burr Oaks Glen Homeowners Association. He said that there are 80 homes in this subdivision and that 13 of them have driveways that exceed 22 feet wide. He said that making them conform would cause a hardship for the homeowners.

Chairman Trzupsek asked if the wider driveways typically are for three car garages that face the street. Mr. Franzese responded that probably all of the wider driveways are for three car garages and that requiring the driveways to be narrowed would significantly reduce the utility of having a three car garage that faces the street.

There was a discussion regarding whether to continue the hearing. Mr. Pollock said that if the consensus of the Commission is to allow non-conforming driveways to be replaced without making them narrower, that he is confident Trustee Paveza would not object to moving forward with a recommendation. The Commissioners generally indicated their support of such an amendment.

There being no further questions or comments from the Plan Commission or the public, Chairman Trzupsek asked for a motion to close the hearing.

A **MOTION** was made by Commissioner Stratis and **SECONDED** by Commissioner Grunsten to close the hearing for Z-03-2013.

**ROLL CALL VOTE** was as follows:

**AYES:** 5 – Stratis, Grunsten, Bolos, Hoch, and Trzupsek

**NAYS:** 0 – None

**MOTION CARRIED** by a vote of 5-0.

A **MOTION** was made by Commissioner Stratis and **SECONDED** by Commissioner Hoch to recommend to the Board of Trustees that the Zoning Ordinance be amended to allow non-conforming residential driveways that exceed the permitted maximum width to be replaced with the same or alternate materials and to remain legal non-conforming as to their width.

**ROLL CALL VOTE** was as follows:

**AYES:** 4 – Stratis, Hoch, Grunsten, and Bolos

**NAYS:** 1 – Trzupsek

**MOTION CARRIED** by a vote of 4-1.

Chairman Trzupsek said that he voted against the amendment because he believes it is inconsistent with the concept of grandfathering which seeks to eliminate non-conforming structures.

**4. CORRESPONDENCE**

There was no discussion regarding the correspondence.

**5. OTHER CONSIDERATIONS**

There were no other considerations.

**6. FUTURE SCHEDULED MEETINGS**

Chairman Trzupsek noted that there were no public hearings or other business scheduled for May 6, 2013 meeting.

A **MOTION** was made by Commissioner Hoch and **SECONDED** by Commissioner Bolos to cancel the May 6, 2013 meeting. The **MOTION** was approved by a unanimous voice vote.

Commissioner Bolos referenced her recent election to the Village Board of Trustees and that this would be her last meeting as a Plan Commissioner. She thanked the Commissioners for their service to the Village and said that she appreciated the thoughtfulness of each and every one of the Commissioners. She noted that they do not always agree but the Commissioners always act in a professional, courteous and civil manner. The other Commissioners thanked Commissioner Bolos for her service on the Plan Commission.

**7. ADJOURNMENT**

A **MOTION** was made by Commissioner Stratis and **SECONDED** by Commissioner Grunsten to **ADJOURN** the meeting at 8:49 p.m. **ALL MEMBERS VOTING AYE**, the meeting was adjourned at 8:49 p.m.

Respectfully Submitted:



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J. Douglas Pollock, AICP

June 3, 2013