

VILLAGE OF BURR RIDGE PLAN COMMISSION/ZONING BOARD OF APPEALS

MINUTES FOR REGULAR MEETING OF MARCH 4, 2024

I. ROLL CALL

The meeting of the Plan Commission/Zoning Board of Appeals was called to order at 7:02 p.m. at the Burr Ridge Village Hall Board Room, 7660 County Line Road, Burr Ridge, Illinois by Chairman Trzupsek.

ROLL CALL was noted as follows:

PRESENT: 5 –Parrella, Petrich, Broline, Morton, and Trzupsek

ABSENT: 3 – Irwin, McCollian, and Stratis

Community Development Director Janine Farrell and Planner Ella Stern were also present.

II. APPROVAL OF PRIOR MEETING MINUTES – FEBRUARY 19, 2024

A **MOTION** was made by Commissioner Morton and **SECONDED** by Commissioner Broline to approve the minutes of the February 19, 2024 meeting.

ROLL CALL VOTE was as follows:

AYES: 5 – Morton, Broline, Petrich, Parrella, and Trzupsek

NAYS: 0 – None

MOTION CARRIED by a vote of 5-0

III. PUBLIC HEARINGS

Chairman Trzupsek introduced the public hearings on the agenda. Chairman Trzupsek requested to swear in all those wishing to speak on such matters on the meeting agenda and a swearing in of such individuals was conducted.

A. V-02-2023: 16W122 91st Street (Leon); Variations and Findings of Fact [CONTINUED FROM AUGUST 21, OCTOBER 16, NOVEMBER 6, & DECEMBER 4, 2023 and JANUARY 15, 2024]

Farrell stated that after several continuations, the petitioner requested to table the case indefinitely. Farrell stated continuing the case would require renotification to the public when the new hearing date is scheduled.

A **MOTION** was made by Commissioner Petrich and **SECONDED** by Commissioner Parrella to table V-02-2023 indefinitely.

ROLL CALL VOTE was as follows:

AYES: 5 – Petrich, Parrella, Broline, Morton, and Trzupsek

NAYS: 0 – None

MOTION CARRIED by a vote of 5-0

B. V-01-2024: 15W765 80th St. (LaConte); Variation and Findings of Fact

Chairman Trzuppek introduced the case and asked for a summary. Stern stated that the property was zoned R-3 in the South Hinsdale Estates Subdivision. Stern stated Madison Street was the front property line and 80th Street was the corner side yard. Stern stated the petitioner requests to permit a fence within a corner side yard setback, a fence in the front yard, and a fence less than 50 percent open. Stern stated in October, a stop work order was issued on the property. Stern displayed images of the constructed fence. Stern noted the location of where a fence would be permitted under current Zoning Ordinance regulations. Stern stated the property was annexed into the Village in 1984. Stern stated the original fence construction was unknown but was likely legal and non-conforming.

Chairman Trzuppek asked about maintaining and replacing the fence. Stern clarified that the non-conforming fence could be repaired but not replaced.

Thomas Taylor, the father of the petitioner, showed images of the fence built in 1971. Taylor stated that there was a school adjacent to the property, and people turned around on their property. Taylor stated that Colleen LaConte, the homeowner, was his daughter.

Chairman Trzuppek asked the petitioner if the entire fence had been replaced.

Taylor stated the fence was replaced near the garage and along 80th Street.

Chairman Trzuppek asked for public comment. There was none. Chairman Trzuppek asked for Commissioner discussion.

Commissioner Morton asked what the height of the fence was. Taylor believed the fence posts were 5 ft. in height and the latticework was 3.5 to 4 ft. Commissioner Morton confirmed that the fence was legal nonconforming.

Commissioner Broline asked for clarification regarding the proximity to Gower Middle School. Taylor stated that 80th Street was a dead end, and people turned around in their driveway. Commissioner Broline asked what the petitioner considers the front of the home. Taylor stated the front of the home was on 80th Street.

Commissioner Petrich asked if the petitioner spoke with Gower Middle School about the parents picking up the children and turning around on the property. Taylor stated he had not spoken with them. Commissioner Petrich did not see the proximity to Gower Middle School as a reason for the fence and recommended that the petitioner speak with the school. Commissioner Petrich asked about the proximity to the parking lot. Taylor stated that the street was busy before and after school activities. Commissioner Petrich stated that the old fence was decorative. Taylor stated there was chicken wire under the lattice. Commissioner Petrich asked about the fence contractor. Taylor did not know who the fence contractor was. Commissioner Petrich wanted to know who the contractor was and stated that they should be made aware of Village requirements.

Commissioner Parrella did not have any questions or comments.

Chairman Trzupsek stated that from personal experience, he was aware that parents turn around, and the school administration does speak with the parents, but it does not help. Chairman Trzupsek reiterated the replacement of the fence and that traffic with the school was a consideration for the variation in the corner side yard.

Commissioner Broline asked about the front and corner side yards of the house. Chairman Trzupsek clarified.

Chairman Trzupsek asked about how far towards Madison the fence went. Taylor confirmed the fence extended to the front of the house.

Chairman Trzupsek did not support the 50% open variation. The petitioner stated that the kids and dogs would be able to get through the fence if it was less than 50% open.

Commissioner Morton stated that the contrast between the neighboring properties with the new fence was jarring, and he could not support the 50% open variation.

A **MOTION** was made by Commissioner Morton and **SECONDED** by Commissioner Broline to close the public hearing for V-01-2024.

ROLL CALL VOTE was as follows:

AYES: 5 – Morton, Broline, Parrella, Petrich, and Trzupsek
NAYS: 0 – None

MOTION CARRIED by a vote of 5-0.

A **MOTION** was made by Commissioner Morton and **SECONDED** by Commissioner Petrich to deny V-01-2024, the variation from Zoning Ordinance section IV.J for a fence less than 50% open, with Findings of Fact as amended by staff.

ROLL CALL VOTE was as follows:

AYES: 5 – Morton, Petrich, Parrella, Broline, and Trzupsek
NAYS: 0 – None

MOTION CARRIED by a vote of 5-0

A **MOTION** was made by Commissioner Petrich and **SECONDED** by Commissioner Parrella to approve V-01-2024, the variation from Zoning Ordinance section IV.J for the fence in the corner side yard along 80th St., with clarification of the Findings of Fact ‘C’ that traffic and the school’s pick-up and drop-offs were unique to the property, and the following condition:

1. The fence located in the corner side yard shall be at least 50% open.

ROLL CALL VOTE was as follows:

AYES: 5 – Petrich, Parrella, Broline, Morton, and Trzupsek
NAYS: 0 – None

MOTION CARRIED by a vote of 5-0.

A **MOTION** was made by Commissioner Morton and **SECONDED** by Commissioner Broline to deny V-01-2024, the variation from Zoning Ordinance section IV.J for a fence in the front yard, Madison St., denying the portion of the fence extending further than the east wall of the house on the northern side.

ROLL CALL VOTE was as follows:

AYES: 3 – Morton, Broline, and Parrella

NAYS: 2 – Petrich and Trzupke

MOTION FAILED by a vote of 3-2.

There was discussion and clarification regarding the 50% open provision.

C. V-02-2024: 15W627 89th Street (Eshghy); Variations and Findings of Fact

Chairman Trzupke introduced the case and asked for a summary. Stern stated that the case was a request for three variations. Stern stated the front of the home was on Grant Street and the corner side yard was along 89th Street. Stern stated the property was annexed into the Village in 2015 and was rezoned to R-2B Single Family Residential. Stern stated in 2004, the house was constructed while the property was unincorporated. Stern stated the pool, patio, and fence were constructed without a building permit. Stern stated on August 4, 2023, a stop work was posted on the property for the petitioner constructing a fence without a building permit. The petitioner violated the stop work order and completed the construction. Stern stated the petitioner applied for a permit on September 11, 2023, but the permit was denied. On October 24, 2023 staff and the petitioner met to discuss the permit and provide options regarding the construction. On November 13, 2023 the petitioner continued construction for a pool, hot tub, patio, fence, landscape berm, and paver walk that had been started and completed without filing for or receiving an approved permit with the Village of Burr Ridge after a stop work order was posted. Stern stated on December 6, 2023 and on January 3, 2024 the petitioner was scheduled for adjudication and did not appear, and on January 25, 2024 the petitioner applied for a variance. Stern stated the fence and patio were built within the 40 ft. corner side yard setback, and the swimming pool was on the 40 ft. corner side yard setback. Stern showed an image of the existing pool, patio, fence, and a site plan.

Chairman Trzupke confirmed that the house was not built while in the Village; it was built while unincorporated. Chairman Trzupke stated that the Commission should look at the case as if the structures had not already been constructed without a permit.

Curtis Eshghy, the petitioner and the owner, introduced himself.

Bill Backus, the petitioner's Civil Engineer, stated that the site plan shown was outdated, and adjustments had been made. Chairman Trzupke clarified if the location of the structures was the same. Backus stated that the contractors were changing things on the fly. Backus clarified they submitted drawings for the permit, but they were not approved.

Backus stated that he was hired after the construction to submit the drawings for the permits.

Chairman Trzupsek asked for clarification on what was different. Backus stated that the patio and the fence's proximity to the creek channel had been reduced in size. Backus stated that the creek poses a geometric challenge for the property. Backus stated the patio would be unbuildable and unreasonable if it could not encroach into the setback. Backus stated that the right of way on the east side of the property had not been improved and was in the adjacent neighbor's backyard. Backus stated that the property and house existed when the owner purchased the property.

Chairman Trzupsek asked for clarification on the fence location. Chairman Trzupsek noted the paving and fence would still encroach into the setback. Chairman Trzupsek stated that the pool was on the 40-foot setback line, which is where the house should have been built if it were built today in the Village of Burr Ridge. Chairman Trzupsek asked about the landscape berm, swale, and drainage. Eshghy stated that there was a berm in that location before. Backus stated fill was added to repair damage in the area.

Chairman Trzupsek asked about the work occurring by the creek. Backus stated they added a silt fence and that the Village Engineer requested a retaining wall. Chairman Trzupsek wanted to ensure the Village was ok with the engineering work.

Backus stated they adjusted the pool to be within the 40 ft. setback. Curtis stated that it was impossible to walk down the driveway. Curtis discussed the stairs leading to the driveway.

Chairman Trzupsek asked for public comment. There was none.

Chairman Trzupsek asked for Commissioner discussion.

Commissioner Morton asked the petitioner to point out the location of the fence and the patio. Backus stated the fence that was currently up was temporary, and Curtis had not determined where to put the permanent fence.

There was a discussion about the location of the fence on the property and the site plan.

Commissioner Broline asked about the fence on the property line along 89th St. Commissioners noted that a fence is on the property and appears closer to the road than the new plan shown.

Commissioner Petrich asked for clarification about the setback. Commissioner Petrich noted that the petitioner had encroached farther into the setback than the home. Commissioner Petrich asked about the pool equipment. Curtis stated the hot tub had equipment that operated more frequently than the pool equipment.

Commissioner Parrella asked about the height of the fence. Curtis stated the fence was 5

ft in height and was consistent all the way around.

Chairman Trzupsek struggled to find a reason for the hardship of the variations. Chairman Trzupsek noted that the yard was classified as a rear yard while it was actually a corner side yard. Curtis discussed the front of his house, which faced east rather than 89th Street. There was a discussion about the location of the fence, patio, and the corner side and front yards.

Backus noted the geometric constraints of the unique situation with the diagonal stream. Backus stated they should have applied for permits and noted he was brought in after the construction to help comply as much as possible. Backus stated complying with the setbacks would make the property unbuildable and unusable.

Chairman Trzupsek stated that a hardship cannot be manmade. Chairman Trzupsek stated that the creek was a natural element and did not know if it was a hardship.

Commissioner Morton confirmed the corner side yard setback and that the home was a legally conforming structure. Commissioner Morton noted the fence encroached the setback an additional 10 ft. Commissioner Morton noted that the fence and patio would need to be moved 10 feet to align with the home setback. Commissioner Morton stated would not support the current fence and patio setback.

Chairman Trzupsek questioned if the creek created a hardship.

Commissioner Petrich noted a patio of that size was not necessary and could move to comply with the setback regulations. Commissioner Petrich noted that having a patio of that size was not a hardship. Commissioner Petrich was concerned about the creek and did not know about the drainage issues.

Farrell confirmed that the permit had been applied for but was not issued. Farrell stated the permit could not be approved unless the Plan Commission approved the setback variations.

Chairman Trzupsek noted that approval of the variation would not necessarily approve the location of the fence near the creek. Chairman Trzupsek noted the location of the fence near the creek would still be subject to engineering review.

Commissioner Petrich confirmed the 40 ft. setback of the pool. Chairman Trzupsek stated that the pool setback was questionable, and that the petitioner needed to prove that it was not at 40 ft. Chairman Trzupsek confirmed that the pool was directly on the setback, which is why it was included in the variation request. Backus stated that the contractor shifted the pool to ensure it was at the 40 ft. setback.

Chairman Trzupsek confirmed with the petitioner that the pool was at the 40 ft. setback.

Commissioner Broline confirmed that the plan was based on the Plat of Survey.

There was discussion about the pool setback and that it was not necessary. Chairman Trzupsek confirmed the patio and the fence variations for the corner side yard setbacks.

Commissioner Broline stated he wanted to see a Plat of Survey of where things currently are on the property.

Commissioner Morton supported the continuance to clarify information.

There was discussion supporting a variation no closer to the north wall of the home. The Commission also expressed concerns about the berm, building proximity to the creek, the driveway extension, and the stairs. The Commission wanted confirmation that the pool is not within the setback. The Commission suggested the petitioner submit a plan that was clearer and more focused on the elements of the variation request. Backus asked about the berm. Chairman Trzupsek stated that the berm looked out of place on the road, and there did not appear to be a way to have water drained by the road and to get to the creek.

A **MOTION** was made by Commissioner Morton and **SECONDED** by Commissioner Parrella to continue the public hearing for V-02-2024 to May 6, 2024.

ROLL CALL VOTE was as follows:

AYES: 5 – Morton, Parrella, Petrich, Broline, and Trzupsek

NAYS: 0 – None

MOTION CARRIED by a vote of 5-0.

D. Z-02-2024: 78 Burr Ridge Parkway (Patti's Sunrise Cafe); Special Use and Findings of Fact

Chairman Trzupsek introduced the case and asked for a summary. Stern stated that the request was to amend an existing special use to add outdoor dining to an existing restaurant. Stern stated in 2021, Patti's Sunrise Café was granted special use approval to expand the restaurant and to serve alcohol. Stern presented the proposed site plan and noted the table and chair count for the dining area. Stern stated the petitioner requested 488 square feet of outdoor dining. Stern noted with the addition of the outdoor dining areas, the total square footage of the restaurant will be approximately 4,588 square feet. Stern noted the proposed expansion of Patti's Sunrise Cafe would increase the parking requirement by three additional spaces. Stern stated according to the parking information on file for County Line Square, the three additional parking spaces could be accommodated during business hours. Stern showed the images of the proposed fence, umbrellas, and furniture.

Chairman Trzupsek confirmed that outdoor dining complies with regulations. Stern confirmed the petitioner was not adding any additional coverings or awnings. Stern clarified the hours of operation listed under the conditions were from the previous special

use approval and were consistent with their business hours.

Jim DeBruyn, attorney for Michael Garber, the petitioner, introduced himself.

Chairman Trzupek asked for public comment. There was no public comment. Chairman Trzupek asked for Commissioner discussion.

Commissioner Parrella did not have any questions.

Commissioner Petrich asked where the masonry pillars were in relation to the proposed fence. Garber pointed to the masonry pillars and confirmed they were within the fence area. Garber noted a 60-inch setback between the outdoor dining area and the curb. Commissioner Petrich asked about the entrance on the north side of the building. Garber confirmed one entrance was sufficient.

Commissioner Broline did not have any questions.

Commissioner Morton confirmed that outdoor dining with sales of alcohol needed controlled access. Garber confirmed that there are self-closing gates. Chairman Trzupek discussed self-closing gates. Farrell believed for fire safety, gates must be accessible from the inside to go outside, but not from the outside into the outdoor dining area. Garber stated the existing awnings would stay, and they would add umbrellas.

Chairman Trzupek had no comments.

Commissioner Petrich asked about the parking management plan. Stern stated that only three additional parking spaces were required and that there were enough spaces in County Line Square during Patti's Sunrise Cafe business hours.

A **MOTION** was made by Commissioner Parrella and **SECONDED** by Commissioner Morton to close the public hearing for Z-02-2024.

ROLL CALL VOTE was as follows:

AYES: 5 – Parrella, Morton, Petrich, Broline, and Trzupek

NAYS: 0 – None

MOTION CARRIED by a vote of 5-0.

A **MOTION** was made by Commissioner Petrich and **SECONDED** by Commissioner Broline to approve case Z-02-2024, a request for a special use for a restaurant over 4,000 sq. ft. with the sale of alcoholic beverages pursuant to County Line Square PUD Ordinance #A-834-19-21 and to amend an existing special use Ordinance #A-834-06-21, with Findings of Fact, and with the following conditions:

1. The special use shall be limited to Patti's Sunrise Cafe and shall not be transferable

- to any other party.
2. The special use shall substantially comply with the plans submitted by the petitioners and included as Exhibit A.
 3. All umbrellas, furniture, and other appurtenances shall be stored off-site during the winter season.
 4. Hours of operation for the restaurant shall not exceed 6 am to 2:30 pm.

ROLL CALL VOTE was as follows:

AYES: 5 – Petrich, Broline, Parrella, Morton, and Trzupek

NAYS: 0 – None

MOTION CARRIED by a vote of 5-0.

IV. CORRESPONDENCE

There were no Board or Building Reports and no comments.

V. OTHER CONSIDERATIONS

A. PC-05-2024: 15W303 61st St. (Osgood/Ridge Precision Gunsmithing, LLC); Appeal of Determination Denying a Gunsmithing Home Occupation

Chairman Trzupek introduced the case and asked for a summary. Farrell stated the case was an appeal of staff's determination that a proposed gunsmithing home occupation does not comply with the Home Occupation guidelines. Farrell noted that on December 19, 2023 the Village received the business license application for Ridge Precision Gunsmithing. Farrell stated the petitioner's proposal did not comply with the Zoning Ordinance home occupation regulations. Farrell stated the applicant requested that his denial be reconsidered. Farrell stated staff spoke with the ATF agent after the ATF received the FFL (Federal Firearm License) application for a 01 Dealer Type license. Farrell stated on February 8, the petitioner appealed the determination by staff. Farrell noted the sections of the Home Occupation guidelines where the proposal did not comply. Farrell stated the petitioner proposed to use an attached garage to operate the Home Occupation, which is not permitted. Farrell stated the differences between the petitioner's original business and the FFL license application from December to the appeal submittal in February. Farrell noted the FFL 01 Dealer license type would allow for gunsmithing, buying, selling, and transferring. Farrell stated the Village does not have the ability to monitor or verify the petitioner's activities to ensure compliance. Farrell provided clarity on the potential motions to approve or deny the appeal. Farrell noted that Chief Madden and Deputy Chief Loftus were present.

Chairman Trzupek clarified the FFL license allowed for a broad range of activities and required the business to be conducted from a specific address only. Farrell confirmed that was correct. Chairman Trzupek confirmed the activity/home occupation must comply with the Villages Home Occupation regulations, but the Village could not limit the FFL license. Chairman Trzupek clarified the home occupation regulations.

Mark Osgood, the petitioner, stated that a majority of people in Burr Ridge do not realize they cannot make something in their home and sell it. Osgood stated he did not know one cannot do what they want to in their home but understood why there were regulations. Osgood stated he was only interested in making rifle cases or wooden stocks for guns. Osgood stated that he had spoken with an ATF agent. Osgood noted it was possible to have rifles delivered, to make wooden stocks, and then have them delivered and sent by US mail. Osgood stated the home occupation could be conducted from his wood shop, which was not visible from the street, basement, or garage shop. Osgood noted the hours of operation were listed because the ATF required them for the application. Osgood noted the FFL required a background check. Osgood stated while the 01 Dealer Type license covered a wide range of activities, most gunsmiths worked within a narrow band. Osgood noted it was frightening to see what was allowed under the 01 license but stated he was operating under a narrow band and had no intentions of breaking the regulations.

Chairman Trzupke asked for Commissioner discussion.

Commissioner Morton asked the petitioner to categorize the types and values of the guns. Osgood stated there would only be top-end guns, which were a couple of thousand dollars. Commissioner Morton asked about the changes in the business license application. Osgood stated he made adjustments to work in the basement workshop. Commissioner Morton confirmed the woodworking equipment. Osgood stated he used hand saws and chisels. Commissioner Morton questioned the term "customarily found." Commissioner Morton confirmed with the petitioner that there was no alternative to a 01 Dealer Type license. Commissioner Morton asked how many cases the petitioner intended to make in a year. Osgood confirmed to make 5-6 cases per year. Commissioner Morton confirmed with Farrell that the structure was an attached garage.

Commissioner Broline asked about ammunition. Osgood stated that there would be no firearms sold or discharged. Commissioner Broline confirmed that the workshop was attached to the home by a breezeway.

There was a discussion about the attached garage.

Commissioner Petrich clarified the motion and confirmed the motion was based on the original submittal in December, not the subsequent one.

Commissioner Petrich asked about the name of the company Precision Gunsmithing and noted the petitioner would just be making cases. Commissioner Petrich confirmed that the petitioner needed the firearm to mold each case to the specific firearm.

Commissioner Parrella confirmed with the petitioner that the firearm is received, then the case is molded around the firearm and then shipped back.

Commissioner Morton confirmed that the denial would stand even if it were not for gunsmithing.

Chairman Trzupke confirmed that the business hours were for the ATF, not the public. Chairman Trzupke noted that the home occupations were limited.

Commissioner Broline asked about the business license and if it was necessary. Osgood stated he applied for a business license.

Chairman Trzupsek noted the February proposal was still an issue with the hours of operation. Osgood reiterated that business hours were a requirement for ATF, not the public. Osgood noted the police and ATF were allowed to examine the shop at any time. Chairman Trzupsek confirmed with Farrell the petitioner could modify and re-submit an application for the license, but that did not necessarily mean it would be approved.

Commissioner Morton asked if Chief Madden needed to be notified. Chief Madden confirmed. Chief Madden stated there were no other 01 Dealer Type licenses in the Village. Chief Madden confirmed that there was a Curio license. Chief Madden stated the class that Osgood was applying for allowed for the buying, selling, and transferring of the firearms. Chief Madden noted if a firearm were sold, he would receive a notice and copy of the sale.

Chairman Trzupsek confirmed if the petitioner had an FFL license, he could buy, sell, and transfer firearms. Chairman Trzupsek confirmed a special use was required in the business district. Chairman Trzupsek confirmed the Commission could condition what happened in the Village, prohibiting the sale of a firearm, which is prohibited in a residential district.

Commissioner Morton confirmed that Chief Madden would be notified of the sale of a gun. Chief Madden stated the seller must file documents with law enforcement and the ATF.

Commissioner Petrich confirmed the ATF wanted the Village to approve the case and know Burr Ridge restrictions. Farrell stated that the ATF will be aware of restrictions but may or might not enforce them. Farrell stated different jurisdictions handle FFL licenses differently, so the ATF requires village approval to ensure the license complies with the local regulations.

Chairman Trzupsek clarified the motion to deny the appeal, but Osgood could reapply with clarifying information and a modified business application.

A **MOTION** was made by Commissioner Petrich and **SECONDED** by Commissioner Morton to deny the appeal based upon the December 23, 2023 submittal.

ROLL CALL VOTE was as follows:

AYES: 5 – Petrich, Morton, Parrella, Broline, and Trzupsek

NAYS: 0 – None

MOTION CARRIED by a vote of 5-0

VI. PUBLIC COMMENT

There was no public comment.

VII. FUTURE MEETINGS

Commissioner Petrich confirmed he will attend the March 11th Village Board meeting.

VIII. ADJOURNMENT


A **MOTION** was made by Commissioner Parrella and **SECONDED** by Commissioner Broline to adjourn the meeting at 9:31 p.m.

ROLL CALL VOTE was as follows:

AYES: 5 – Parrella, Broline, Petrich, Morton and Trzupsek

NAYS: 0 – None

MOTION CARRIED by a vote of 5-0.

Respectfully Submitted: 

Ella Stern
Planner