

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

MINUTES OF THE COMMUNITY DEVELOPMENT COMMISSION

August 13, 2012

CALL TO ORDER: The meeting was called to order by Chairman Moruzzi at 6:30 p.m.

ROLL CALL : Upon roll call the following Commissioners were present:
Moruzzi, James, Janowiak, Rowe, Pisano, Ventura, Weldon
Absent: None.
A quorum was present.

Commissioner Ventura was not allowed to vote on the CDC Cases due to regulations set forth in the Illinois Open Meetings Act.

JOURNAL OF PROCEEDINGS:

The minutes of the Special Community Development Commission of July 23, 2012 were presented.

Motion: Commissioner Weldon made a motion to approve the minutes as presented. Commissioner Rowe seconded the motion.

Roll Call: Ayes: Moruzzi, James, Rowe, Pisano, Weldon

Nays: None

Abstained: Janowiak

Motion carried.

Continued

Public Hearing:

CDC Case Number 2012-14

Petitioner:

Art Greenstein

Location:

480-500 W. Irving Park Road

Request:

1. Conditional Use Permit for "Motor Vehicle Repair, Minor".
2. Variance to reduce required parking from 66 to 44 spaces.
3. Variance to allow parking configuration with reduced parking isle width.
4. Variance to reduce front yard (parking) setback to less than 10 feet.

5. Variance to reduce frontage (landscape) strip to less than 6 feet.

Motion: Commissioner Pisano made a motion to re-open CDC Case Number 2012-14. Commissioner Weldon seconded the motion.

ROLL CALL : Upon roll call the following Commissioners were present: Moruzzi, James, Janowiak, Rowe, Pisano, Ventura, Weldon
Absent: None.
A quorum was present.
Commissioner Ventura was not allowed to vote on the CDC Case due to regulations set forth in the Illinois Open Meetings Act.

Chairman Moruzzi re-opened the Public Hearing for CDC Case Number 2012-14 at 6:35 p.m.

Director of Community & Economic Development, Scott Viger, Assistant Director of Community & Economic Development, Mark Rysavy and Planner, Victoria Kosman, were present and sworn in by Chairman Moruzzi.

Art Greenstein, owner of 480-500 W. Irving Park Road, was present and sworn in by Chairman Moruzzi. Mr. Greenstein presented a revised site plan to the Commission. Mr. Greenstein addressed the parking concerns raised by the Commission at the July 23, 2012 meeting.

Commissioner Rowe asked what Mr. Greenstein's plans were for cars that were parked on site without license plates on them. Mr. Greenstein stated he hasn't seen any cars without license plates parked on the property, therefore he has no concerns.

Commissioner Pisano stated Village Staff is requesting a curb cut be removed from the property and the newly submitted plans still show three entrances. Mr. Greenstein stated it would cost \$20,000 to \$25,000 to remove the curb cut and he does not have the funds to do so. Mr. Greenstein also stated it would interrupt current delivery operations.

Commissioner Weldon asked for clarification from Mr. Greenstein on how eliminating a curb cut would interrupt delivery operations. Mr. Greenstein provided an explanation with a visual aid.

Chairman Moruzzi asked if the oil tanks on the side of the building have been removed. Eddie Soriano, tenant at 480-500 W. Irving Park Road was present and sworn in by Chairman Moruzzi. Mr. Soriano stated he had contacted a company to remove the tanks.

Mr. Soriano stated he has already paid for the services and is awaiting pick up from the company.

Public Comment:

Chairman Moruzzi asked if there was any member of the Public that would like to give testimony. There were none.

Director of Community & Economic Development, Scott Viger, reviewed the Village Mr. Viger stated Mr. Greenstein is currently on a payment plan with the Village of Bensenville in regards to their outstanding water bill. Mr. Viger stated Staff recommends approval of the condition use permit and variances with the following conditions:

- 1) The Conditional Use Permit be granted solely to the tenant and shall be transferred only after a review by the Community Development Commission (CDC) and approval of the Village Board. In the event of change in tenancy of this property, the proprietors shall appear before a public meeting of the CDC. The CDC shall review the request and in its sole discretion, shall either; recommend that the Village Board approve of the transfer of the lease and / or ownership to the new proprietor without amendment to the Conditional Use Permit, or if the CDC deems that the new proprietor contemplates a change in use which is inconsistent with the Conditional Use Permit, the new proprietor shall be required to petition for a new public hearing before the CDC for a new Conditional Use Permit.
- 2) The property shall be developed and utilized in substantial conformance to the plans submitted as part of this application prepared for C & M Truck and Auto Repair submitted 05.17.12 and updated site plans produced by W. Lloyd Christoph Architects as submitted on 08.09.12.
- 3) Staff shall review parking requirements in approximately 8 months to see if the parking lot will require an expansion to accommodate parking needs of the tenants.
- 4) Resurfacing and restriping of the parking lot be done in compliance with staff recommendations.
- 5) Motor vehicle repair does not take place outside of the building.
- 6) The fire alarm system upgrades are verified.

- 7) Outdoor storage is not permitted.
- 8) The center curbcut be removed.
- 9) Past due utility bills be resolved.

Commissioner Janowiak asked Staff why there are no requirements set forth in the petitioners request for life safety issues at the building such as carbon monoxide detectors and smoke detectors. Mr. Viger stated those conditions will be initiated through the Village Code.

Commissioner James asked if the lot will be re-paved. Mr. Greenstein stated he plans to re-pave the lot if the conditional use and variances are granted.

Commissioner Weldon asked Staff if a condition can be added that would require Mr. Greenstein to remove the curb cut in the future if the building were to change ownership and operations. Mr. Viger stated if it was the Commissions desire to add a condition, it would be acceptable.

Commissioner Pisano recommended removing condition number eight from the proposed conditional use requirements.

Motion: Commissioner Pisano made a motion to close the Public Hearing for CDC Case Number 2012-14. Commissioner James seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing for CDC Case Number 2012-14 at 6:55 p.m.

Motion: Commissioner Rowe made a motion to approve the findings of facts for the variances for CDC Case Number 2012-14 consisting of:

- 1) **Traffic:** The proposed use will not create any adverse impact of types or volumes of traffic flow not otherwise typical of permitted uses in the zoning district has been minimized. Staff does not foresee any negative impacts on traffic flow associated with the approval of this Conditional Use as the use remains the same. The staff's condition that a curbcut be removed, will improve the traffic flow not only on-site, but also along the Irving Park Road corridor.
- 2) **Environmental Nuisance:** The proposed use will not have negative effects of noise, glare, odor, dust, waste disposal, blockage of light or air or other adverse environmental effects of a type or degree not characteristic of the historic use of the property or permitted uses in the district. As all the work done will be indoors, the proposed use will not have negative effects on the environment.
- 3) **Neighborhood Character:** The proposed use will fit harmoniously with the existing character of existing permitted uses in its environs. Any adverse effects on environmental quality, property values or neighborhood character beyond those normally associated with permitted uses in the district have been minimized. The proposed use would fit harmoniously with the existing character. The use is consistent with the previous use found in the subject property for over 40 years.
- 4) **Use Of Public Services And Facilities:** The proposed use will not require existing community 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. No significant increase in the utilization of the public utility systems is anticipated as the use will remain the same.
- 5) **Public Necessity:** The proposed use at the particular location requested is necessary to provide a service or a facility which is in the interest of public convenience, and will contribute to the general welfare of the neighborhood or community. Staff finds the proposed use to contribute to the general welfare of the Village community by aiding in public convenience.

- 6) Other Factors:** The use is in harmony with any other elements of compatibility pertinent in the judgment of the commission to the conditional use in its proposed location.

Commissioner Rowe seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Weldon made a motion to approve the conditional use requested for CDC Case No. 2012-14 with the removal of Staff recommendation number eight and the addition to require the petitioner to remove the curbcut if the operations of the building change. Commissioner Rowe seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Rowe made a motion to approve the findings of facts for the variance to reduce required parking from 66 to 46 spaces for CDC Case Number 2012-14 consisting of:

- 1) Special Circumstances:** Special circumstances exist that are peculiar to the property for which the variances are sought and that do not apply generally to other properties in the same zoning district. Also, these circumstances are not of so general or recurrent a nature as to make it reasonable and practical to provide a general amendment to this Title to cover them.

Parking Allowance and Parking Setback: Special circumstances exist in granting the parking variance and design due to the underutilized parking area found along the east side of the site.

Parking Design and Frontage Strip Setback: The subject location along Irving Park Road is not a special circumstance and accommodations on the site can be made to meet the aisle width and frontage strip setback requirements.

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

Parking Allowance and Parking Setback: Hardship for these variances exists since the parking spaces available on the site could meet parking needs of the tenants, creating hardship to increase the parking presently.

Parking Design and Frontage Strip Setback: No hardship has been met for the parking aisle width or setbacks.

- 3) **Circumstances Relate To Property:** The special circumstances and hardship relate only to the physical character of the land or buildings, such as dimensions, topography or soil conditions. They do not concern any business or activity of present or prospective owner or occupant carries on, or seeks to carry on, therein, nor to the personal, business or financial circumstances of any party with interest in the property.

Parking Allowance and Parking Setback: The parking allowance and setback requirements for the property in question are a special circumstance in that the parking requirement set forth for C & M has been met only while allowing parking within the 10' setback.

Parking Design and Frontage Strip Setback: The parking design and frontage strip setback do not relate only to the subject property.

- 4) **Not Resulting From Applicant Action:** The special circumstances and practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this Title or any applicable amendment thereto, of the applicant or of any other party with a present interest in the property. Knowingly authorizing or proceeding with construction, or development requiring any variance, permit, certificate, or approval hereunder prior to its approval shall be considered such an act.

Parking and Frontage Strip Setback: The applicant did create this special circumstance when the parking lot was paved to allow parking in the required setback and not constructing the proper frontage strip for the center curbcut.

Parking Allowance and Design: The applicant did not create these special circumstances. The parking lot construction was not altered by the Applicant.

- 5) **Preserve Rights Conferred By District:** A variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to such other properties.

Parking Allowance and Parking Setback: The variance is necessary for the applicant to enjoy a substantial property right because parking on the site currently meet the needs of the subject tenant. A Staff evaluation after an 8 month period will reassess these needs.

Parking Design and Frontage Strip Setback: The reduced setback and parking aisle width requested are not necessary for the applicant to enjoy a substantial property right possessed by other properties.

- 6) **Necessary For Use Of Property:** The grant of a variance is necessary not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of reasonable use or enjoyment of, or reasonable economic return from, the property.

Parking Allowance and Parking Setback: The variances are necessary for use of property because otherwise the site will be deprived of reasonable use or enjoyment of the property.

Parking Design and Frontage Strip Setback: The variances are not necessary for the use of property.

- 7) **Not Alter Local Character:** The granting of the variance will not alter the essential character of the locality nor substantially impair environmental quality, property values or public safety or welfare in the vicinity.

Parking Allowance and Parking Setback: Granting the requested variances will not alter the essential character of the locality.

Parking Design and Frontage Strip Setback: Granting these variances would alter local character in altering the design and setbacks found on the rest of the site.

- 8) **Consistent With Title And Plan:** The granting of a variance will be in harmony with the general purpose and intent of this Title and of the general development plan and other applicable adopted plans of the Village, as viewed in light of any changed conditions since their adoption, and will not serve in effect to substantially invalidate or nullify any part thereof.

Parking Allowance and Parking Setback: The requested variances are consistent with the Comprehensive Development Plan from 2004.

Parking Design and Frontage Strip Setback: The granting of these variances are inconsistent with the title and general development plan in that landscaping standards along major corridors must be maintained and parking aisle width must meet the standards with the potential for heavy on-site traffic flow.

- 9) **Minimum Variance Needed:** The variance approved is the minimum required to provide the applicant with relief from undue hardship or practical difficulties and with reasonable use and enjoyment of the property.

Parking Allowance and Parking Setback: The minimum variances have currently been requested as staff will review parking accommodations after an 8 month period.

Parking Design and Frontage Strip Setback: The minimum variances have not been requested as standards can be met.

Commissioner Pisano seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Rowe made a motion to approve the findings of facts for the variance to reduce front yard (parking) setback to less than ten feet for CDC Case Number 2012-14 consisting of:

- 1) **Special Circumstances:** Special circumstances exist that are peculiar to the property for which the variances are sought and that do not apply generally to other properties in the same zoning district. Also, these circumstances are not of so general or recurrent a nature as to make it reasonable and practical to provide a general amendment to this Title to cover them.

Parking Allowance and Parking Setback: Special circumstances exist in granting the parking variance and design due to the underutilized parking area found along the east side of the site.

Parking Design and Frontage Strip Setback: The subject location along Irving Park Road is not a special circumstance and accommodations on the site can be made to meet the aisle width and frontage strip setback requirements.

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

Parking Allowance and Parking Setback: Hardship for these variances exists since the parking spaces available on the site could meet parking needs of the tenants, creating hardship to increase the parking presently.

Parking Design and Frontage Strip Setback: No hardship has been met for the parking aisle width or setbacks.

- 3) Circumstances Relate To Property:** The special circumstances and hardship relate only to the physical character of the land or buildings, such as dimensions, topography or soil conditions. They do not concern any business or activity of present or prospective owner or occupant carries on, or seeks to carry on, therein, nor to the personal, business or financial circumstances of any party with interest in the property.

Parking Allowance and Parking Setback: The parking allowance and setback requirements for the property in question are a special circumstance in that the parking requirement set forth for C & M has been met only while allowing parking within the 10' setback.

Parking Design and Frontage Strip Setback: The parking design and frontage strip setback do not relate only to the subject property.

- 4) Not Resulting From Applicant Action:** The special circumstances and practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this Title or any applicable amendment thereto, of the applicant or of any other party with a present interest in the property. Knowingly authorizing or proceeding with construction, or development requiring any variance, permit, certificate, or approval hereunder prior to its approval shall be considered such an act.

Parking and Frontage Strip Setback: The applicant did create this special circumstance when the parking lot was paved to allow parking in the required setback and not constructing the proper frontage strip for the center curbcut.

Parking Allowance and Design: The applicant did not create these special circumstances. The parking lot construction was not altered by the Applicant.

- 5) Preserve Rights Conferred By District:** A variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to such other properties.

Parking Allowance and Parking Setback: The variance is necessary for the applicant to enjoy a substantial property right because parking on the site currently meet the needs of the subject tenant. A Staff evaluation after an 8 month period will reassess these needs.

Parking Design and Frontage Strip Setback: The reduced setback and parking aisle width requested are not necessary for the applicant to enjoy a substantial property right possessed by other properties.

- 6) **Necessary For Use Of Property:** The grant of a variance is necessary not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of reasonable use or enjoyment of, or reasonable economic return from, the property.

Parking Allowance and Parking Setback: The variances are necessary for use of property because otherwise the site will be deprived of reasonable use or enjoyment of the property.

Parking Design and Frontage Strip Setback: The variances are not necessary for the use of property.

- 7) **Not Alter Local Character:** The granting of the variance will not alter the essential character of the locality nor substantially impair environmental quality, property values or public safety or welfare in the vicinity.

Parking Allowance and Parking Setback: Granting the requested variances will not alter the essential character of the locality.

Parking Design and Frontage Strip Setback: Granting these variances would alter local character in altering the design and setbacks found on the rest of the site.

- 8) **Consistent With Title And Plan:** The granting of a variance will be in harmony with the general purpose and intent of this Title and of the general development plan and other applicable adopted plans of the Village, as viewed in light of any changed conditions since their adoption, and will not serve in effect to substantially invalidate or nullify any part thereof.

Parking Allowance and Parking Setback: The requested variances are consistent with the Comprehensive Development Plan from 2004.

Parking Design and Frontage Strip Setback: The granting of these variances are inconsistent with the title and general development plan in that landscaping standards along major corridors must be maintained and parking aisle width must meet the standards with the potential for heavy on-site traffic flow.

- 9) **Minimum Variance Needed:** The variance approved is the minimum required to provide the applicant with relief from undue hardship or practical difficulties and with reasonable use and enjoyment of the property.

Parking Allowance and Parking Setback: The minimum variances have currently been requested as staff will review parking accommodations after an 8 month period.

Parking Design and Frontage Strip Setback: The minimum variances have not been requested as standards can be met.

Commissioner Janowiak seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Rowe made a motion to approve the findings of facts for the variance to reduce frontage (landscape) strip to less than six feet for CDC Case Number 2012-14 consisting of:

- 1) **Special Circumstances:** Special circumstances exist that are peculiar to the property for which the variances are sought and that do not apply generally to other properties in the same zoning district. Also, these circumstances are not of so general or recurrent a nature as to make it reasonable and practical to provide a general amendment to this Title to cover them.

Parking Allowance and Parking Setback: Special circumstances exist in granting the parking variance and design due to the underutilized parking area found along the east side of the site.

Parking Design and Frontage Strip Setback: The subject location along Irving Park Road is not a special circumstance and accommodations on the site can be made to meet the aisle width and frontage strip setback requirements.

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

Parking Allowance and Parking Setback: Hardship for these variances exists since the parking spaces available on the site could meet parking needs of the tenants, creating hardship to increase the parking presently.

Parking Design and Frontage Strip Setback: No hardship has been met for the parking aisle width or setbacks.

- 3) **Circumstances Relate To Property:** The special circumstances and hardship relate only to the physical character of the land or buildings, such as dimensions, topography or soil conditions. They do not concern any business or activity of present or prospective owner or occupant carries on, or seeks to carry on, therein, nor to the personal, business or financial circumstances of any party with interest in the property.

Parking Allowance and Parking Setback: The parking allowance and setback requirements for the property in question are a special circumstance in that the parking requirement set forth for C & M has been met only while allowing parking within the 10' setback.

Parking Design and Frontage Strip Setback: The parking design and frontage strip setback do not relate only to the subject property.

- 4) Not Resulting From Applicant Action:** The special circumstances and practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this Title or any applicable amendment thereto, of the applicant or of any other party with a present interest in the property. Knowingly authorizing or proceeding with construction, or development requiring any variance, permit, certificate, or approval hereunder prior to its approval shall be considered such an act.

Parking and Frontage Strip Setback: The applicant did create this special circumstance when the parking lot was paved to allow parking in the required setback and not constructing the proper frontage strip for the center curbcut.

Parking Allowance and Design: The applicant did not create these special circumstances. The parking lot construction was not altered by the Applicant.

- 5) Preserve Rights Conferred By District:** A variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to such other properties.

Parking Allowance and Parking Setback: The variance is necessary for the applicant to enjoy a substantial property right because parking on the site currently meet the needs of the subject tenant. A Staff evaluation after an 8 month period will reassess these needs.

Parking Design and Frontage Strip Setback: The reduced setback and parking aisle width requested are not necessary for the applicant to enjoy a substantial property right possessed by other properties.

- 6) Necessary For Use Of Property:** The grant of a variance is necessary not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of reasonable use or enjoyment of, or reasonable economic return from, the property.

Parking Allowance and Parking Setback: The variances are necessary for use of property because otherwise the site will be deprived of reasonable use or enjoyment of the property.

Parking Design and Frontage Strip Setback: The variances are not necessary for the use of property.

- 7) **Not Alter Local Character:** The granting of the variance will not alter the essential character of the locality nor substantially impair environmental quality, property values or public safety or welfare in the vicinity.

Parking Allowance and Parking Setback: Granting the requested variances will not alter the essential character of the locality.

Parking Design and Frontage Strip Setback: Granting these variances would alter local character in altering the design and setbacks found on the rest of the site.

- 8) **Consistent With Title And Plan:** The granting of a variance will be in harmony with the general purpose and intent of this Title and of the general development plan and other applicable adopted plans of the Village, as viewed in light of any changed conditions since their adoption, and will not serve in effect to substantially invalidate or nullify any part thereof.

Parking Allowance and Parking Setback: The requested variances are consistent with the Comprehensive Development Plan from 2004.

Parking Design and Frontage Strip Setback: The granting of these variances are inconsistent with the title and general development plan in that landscaping standards along major corridors must be maintained and parking aisle width must meet the standards with the potential for heavy on-site traffic flow.

- 9) **Minimum Variance Needed:** The variance approved is the minimum required to provide the applicant with relief from undue hardship or practical difficulties and with reasonable use and enjoyment of the property.

Parking Allowance and Parking Setback: The minimum variances have currently been requested as staff will review parking accommodations after an 8 month period.

Parking Design and Frontage Strip Setback: The minimum variances have not been requested as standards can be met.

Commissioner Rowe seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Weldon made a motion to approve the variances for CDC Case No. 2012-14 to reduce required parking from 66 to 46 spaces, and to reduce front yard (parking) setback to less than ten feet and reduce frontage (landscape) strip to less than six feet. Commissioner Janowiak seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Continued

Public Hearing:

CDC Case Number 2012-22

Petitioner:

John Morawa

Location:

155-157 Beeline Drive

Request:

Amendment to a Conditional Use Permit and Variance to Allow a Fence in the Actual Front Yard

Motion: Commissioner Pisano made a motion to re-open CDC Case No. 2012-22. Commissioner Rowe seconded the motion.

ROLL CALL :

Upon roll call the following Commissioners were present:
Moruzzi, James, Janowiak, Rowe, Pisano, Ventura, Weldon
Absent: None.
A quorum was present.

Commissioner Ventura was not allowed to vote on the CDC Case due to regulations set forth in the Illinois Open Meetings Act.

Chairman Moruzzi re-opened the Public Hearing for CDC Case Number 2012-22 at 7:10 p.m.

John Morawa, owner of 155-157 Beeline Drive and Pete Gallagher, were both present and sworn in by Chairman Moruzzi.

Mr. Gallagher stated there is confusion between the Commission and Mr. Morawa. Mr. Gallagher stated Mr. Morawa is requested the approval to take down the current fence on the property and build a new one. Mr. Gallagher stated the property issues should be handled by the Village and the tenants of the building and not the owner. Mr. Gallagher stated Mr. Morawa intends to install truck stoppers to protect the landscaping and the fence he intends to install. Mr. Gallagher stated Mr. Morawa will comply with the Village in regards to his request.

Commissioner James asked what the property's current use is. Mr. Gallagher stated it is currently being operated by V.I.P. Transportation and there will be no overnight parking on the property.

Commissioner Weldon stated that the pictures provided in the Commissioner's packet shows more than three trucks parked on the property and outdoor motor vehicle repair taking place. Mr. Gallagher stated the Village should be dealing with the situation with the tenant, V.I.P. Transportation and not the owner of the building.

Director of Community and Economic Development, Scott Viger, reviewed the current process in issuing violations for properties that are not compliant with the Village Code. Mr. Viger stated the property owner is held accountable for the actions his/her tenants make.

Chairman Moruzzi asked if Mr. Morawa has a revised site plan and if Mr. Morawa had met with Village Staff as requested by the Commission. Mr. Viger stated the petitioner had not submitted a new site plan nor has he met with Staff.

Motion: Chairman Moruzzi made a motion to continue CDC Case Number 2012-22 to September 10, 2012. Commissioner Weldon seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi recessed the meeting at 7:35 p.m.

Chairman Moruzzi called the meeting back to order at 7:45 p.m.

Public Hearing: CDC Case Number 2012-26
Petitioner: Joyce Frankum
Location: Variance to Allow a Driveway Width to Exceed the Maximum Allowed

Motion: Commissioner Pisano made a motion to open the Public Hearing for CDC Case Number 2012-26. Commissioner Rowe seconded the motion.

ROLL CALL : Upon roll call the following Commissioners were present: Moruzzi, James, Janowiak, Rowe, Pisano, Ventura, Weldon
Absent: None.
A quorum was present.

Commissioner Ventura was not allowed to vote on the CDC Case due to regulations set forth in the Illinois Open Meetings Act.

Chairman Moruzzi opened the Public Hearing for CDC Case Number 2012-26 at 7:46 p.m.

Director of Community & Economic Development, Scott Viger, stated a legal notice was published in the Daily Herald on July 28, 2012 and that a certified copy of the legal notice is maintained in the CDC file and available for viewing. Mr. Viger also stated that Village Staff posted a notice of the Public Hearing sign on the property on July 27, 2012. Mr. Viger stated on July 27, 2012 Village Staff mailed first class notice of the public hearing to taxpayers of record within 250 feet of the property in question.

Joyce Frankum, owner of 1002 Brookwood, was present and sworn in by Chairman Moruzzi. Mr. Frankum stated the issue arose when she was issued a violation notice from the Village for parking her boat and suburban on the grass within her property. Ms. Frankum states she has two vehicles that occupy the garage year round. Mr. Frankum stated she came to the Village for a solution and Staff recommended the variance. Ms. Frankum stated she intends to re-pave the entire driveway once the new portion is complete.

Commissioner Ventura thanked Ms. Frankum for her desire to beautify her property and to work with Village Staff.

Chairman Moruzzi asked if Ms. Frankum plans to repair the shed in her yard. Ms. Frankum stated the shed was in her neighbor's yard but is willing to work with her neighbor to repair the shed.

Public Comment:

Chairman Moruzzi asked if there was any member of the Public that would like to give testimony. There were none.

Director of Community & Economic Development, Scott Viger, reviewed the Village Staff Report and stated Village Staff recommends approval base on the criteria set forth in the Village Staff report consisting of:

- 1) The property shall be constructed in substantial compliance with the "Alternate Site Plan" dated 08.09.12.
- 2) Prior to issuance of a building permit the property owner shall perform landscape maintenance, subject to the approval of the Community & Economic Development Director.

Commissioner Weldon asked for clarification on the proposed site plan created by Staff as to why the pad will was not extended to the back of the garage. Mr. Viger stated once the boat is parked on the pad, the boat will over hang and become even with the length of the garage.

Motion: Commissioner Weldon made a motion to close the Public Hearing for CDC Case Number 2012-26. Commissioner Rowe seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing for CDC Case Number 2012-26 at 8:02 p.m.

Motion: Commissioner Rowe made a motion to approve the findings of facts for the variances for CDC Case Number 2012-26 consisting of:

- 1) **Special Circumstances:** Special circumstances exist that are peculiar to the property for which the variances are sought and that do not apply generally to other properties in the same zoning district. Also, these circumstances are not of so general or recurrent a nature as to make it reasonable and practical to provide a general amendment to this Title to cover them.

Special circumstances exist that are peculiar to the property and do not generally apply to other properties in the RS – 5 zoning district.

- 2) **Hardship Or Practical Difficulties:** For reasons set forth in the findings, the literal application of the provisions of this Title would result in unnecessary and undue hardship or practical difficulties for the applicant as distinguished from mere inconvenience. The literal application of the provision of this Title results in unnecessary practical difficulties in the vehicular maneuverability of the property in question.
- 3) **Circumstances Relate To Property:** The special circumstances and hardship relate only to the physical character of the land or buildings, such as dimensions, topography or soil conditions. They do not concern any business or activity of present or prospective owner or occupant carries on, or seeks to carry on, therein, nor to the personal, business or financial circumstances of any party with interest in the property. The circumstances do not concern any business or activity to concern the financial circumstances or any party with interest in the property.
- 4) **Not Resulting From Applicant Action:** The special circumstances and practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this Title or any applicable amendment thereto, of the applicant or of any other party with a present interest in the property. Knowingly authorizing or proceeding with construction, or development requiring any variance, permit, certificate, or approval hereunder prior to its approval shall be considered such an act. The special circumstance is not resulting from applicant action.
- 5) **Preserve Rights Conferred By District:** A variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to such other properties. No special privilege is conferred by the applicant.

- 6) **Necessary For Use Of Property:** The grant of a variance is necessary not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of reasonable use or enjoyment of, or reasonable economic return from, the property. The grant of this variance is necessary not because it will increase the applicant's economic return.
- 7) **Not Alter Local Character:** The granting of the variance will not alter the essential character of the locality nor substantially impair environmental quality, property values or public safety or welfare in the vicinity. Local character will not alter the essential character of the locality in that proper screening will minimize the visual impact of the driveway expansion.
- 8) **Consistent With Title And Plan:** The granting of a variance will be in harmony with the general purpose and intent of this Title and of the general development plan and other applicable adopted plans of the Village, as viewed in light of any changed conditions since their adoption, and will not serve in effect to substantially invalidate or nullify any part thereof. Granting the requested variances will be in harmony with the general purpose and intent of this Title.
- 9) **Minimum Variance Needed:** The variance approved is the minimum required to provide the applicant with relief from undue hardship or practical difficulties and with reasonable use and enjoyment of the property. The minimum variance is requested to accommodate the reasonable use and enjoyment of the property.

Commissioner Pisano seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Weldon made a motion to approve the variance requested for CDC Case No. 2012-26. Commissioner Rowe seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Public Hearing: CDC Case Number 2012-27
Petitioner: Moosa Shubak
Location: 124 S. Church Road
Request: Variance to Allow a Driveway Width to Exceed the Maximum Allowed

Chairman Moruzzi announced due to time restrictions inherent in the reapplication of petitions, CDC Case No. 2012-27 shall be withdrawn at this time.

There were no objections from the Commissioners.

Public Hearing: CDC Case Number 2012-31
Petitioner: North DuPage Special Education Cooperative (NDSEC)
Location: 6 S. Addison Street
Request: Conditional Use Permit to Allow "School and Educational Institutions, Public"

Motion: Commissioner Weldon made a motion to open the Public Hearing for CDC Case Number 2012-31. Commissioner Pisano seconded the motion.

ROLL CALL : Upon roll call the following Commissioners were present:
Moruzzi, James, Janowiak, Rowe, Pisano, Ventura, Weldon
Absent: None.
A quorum was present.

Commissioner Ventura was not allowed to vote on the CDC Case due to regulations set forth in the Illinois Open Meetings Act.

Chairman Moruzzi opened the Public Hearing for CDC Case Number 2012-31 at 8:06 p.m.

Director of Community & Economic Development, Scott Viger, stated a legal notice was published in the Daily Herald on July 28, 2012 and that a certified copy of the legal notice is maintained in the CDC file and available for viewing. Mr. Viger also stated that Village Staff posted a notice of the Public Hearing sign on the property on July 27, 2012. Mr. Viger stated on July 27, 2012 Village Staff mailed first class notice of the public hearing to taxpayers of record within 250 feet of the property in question.

Jenny Kilkenny and Dr. Lea Anne Frost were both present and sworn in by Chairman Moruzzi. Dr. Frost stated the school was for 18-22 year olds who are taught to live independently. Dr. Frost stated the classes would be made available to Students from Fenton High School and Lake Park High School.

Commissioner Pisano asked if NDSEC had plans to add a handicap ramp to the facility for easier access to the unit. Dr. Frost stated there are no intentions to add a handicap ramp as this can help their operation of teaching their student to deal with these types of situations.

Commissioner Weldon asked if buses will be stored on site. Dr. Frost stated there will be no buses stored on site.

Public Comment:

Chairman Moruzzi asked if there was any member of the Public that would like to give testimony. There were none.

Director of Community & Economic Development, Scott Viger, reviewed the Village Staff Report and stated Village Staff recommends approval base on the criteria set forth in the Village Staff report consisting of:

- 1) The Conditional Use Permit be granted solely to North Du Page Special Education Cooperative (NDSEC) and shall be transferred only after a review by the Community Development Commission (CDC) and approval of the Village Board. In the event of change in tenancy of this property, the proprietors shall appear before a public meeting of the CDC. The CDC shall review the request and in its sole discretion, shall either; recommend that the Village Board approve of the transfer of the lease and / or ownership to the new proprietor without amendment to the Conditional Use Permit, or if the CDC deems that the new proprietor contemplates a change in use which is inconsistent with the Conditional Use Permit, the new proprietor shall be required to petition for a new public hearing before the CDC for a new Conditional Use Permit.
- 2) The property shall be constructed in substantial compliance with the plans submitted with this petition prepared by Ken Kogut & Associates dated 07.23.12.
- 3) Upon permitting, the proposed signage complies with the Master Sign Plan established for Linden Towers.

Motion: Commissioner Pisano made a motion to close the Public Hearing for CDC Case Number 2012-31. Chairman Moruzzi seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing for CDC Case Number 2012-31 at 8:16 p.m.

Motion: Commissioner Weldon made a motion to approve the findings of facts for the variances for CDC Case Number 2012-31 consisting of:

- 1) **Traffic:** The proposed use will not create any adverse impact of types or volumes of traffic flow not otherwise typical of permitted uses in the zoning district has been minimized. The operation of the NDSEC facility will not have any adverse impact on traffic due to the utilization of 16 passenger buses and SUVs.

- 2) **Environmental Nuisance:** The proposed use will not have negative effects of noise, glare, odor, dust, waste disposal, blockage of light or air or other adverse environmental effects of a type or degree not characteristic of the historic use of the property or permitted uses in the district. Staff does not believe that the operation of the school at this location would have any negative environmental impacts on the property or its environs.
- 3) **Neighborhood Character:** The proposed use will fit harmoniously with the existing character of existing permitted uses in its environs. Any adverse effects on environmental quality, property values or neighborhood character beyond those normally associated with permitted uses in the district have been minimized. The property in question is located in our downtown area. This neighborhood benefits from a mix of uses, both public and private. The establishment of the school will enhance the mix of uses and is in character with other uses allowed within the District.
- 4) **Use Of Public Services And Facilities:** The proposed use will not require existing community 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. The NDSEC facility will not require a disproportionate amount of public services relative to uses permitted in the downtown.
- 5) **Public Necessity:** The proposed use at the particular location requested is necessary to provide a service or a facility which is in the interest of public convenience, and will contribute to the general welfare of the neighborhood or community. Staff believes that the NDSEC facility will serve an established need within the larger community in addressing special education needs for transition purposes for its students.
- 6) **Other Factors:** The use is in harmony with any other elements of compatibility pertinent in the judgment of the commission to the conditional use in its proposed location. At CDC's discretion to include and discuss other factors.

Commissioner Pisano seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Weldon made a motion to approve the variance requested for CDC Case No. 2012-31. Commissioner Rowe seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Report from Community Development

Mr. Viger reviewed both recent Village Board actions and prior CDC cases along with upcoming cases.

Commissioner James left the meeting at 8:27 p.m.

ADJOURNMENT:

There being no further business before the Community Development Commission, Chairman Moruzzi made a motion to adjourn the meeting. Commissioner Pisano seconded the motion.

All were in favor

Motion carried.

The meeting was adjourned at 8:35 p.m.