

Village of Lemont
Planning and Zoning Commission
Regular Meeting of October 17, 2018

A regular meeting of the Planning and Zoning Commission for the Village of Lemont was held at 6:30 p.m. on Wednesday, October 17, 2018 in the second floor Board Room of the Village Hall, 418 Main Street, Lemont, Illinois.

I. CALL TO ORDER

A. Pledge of Allegiance

Chairman Spinelli called the meeting to order at 6:31 p.m. He then led the Pledge of Allegiance.

B. Verify Quorum

Upon roll call the following were:

Present: Cunningham, McGleam, O'Connor, Plahm, Zolecki, Spinelli

Absent: Glomp

Community Development Manager, Mark Herman, Consulting Planner, Jamie Tate and Village Trustee Ron Stapleton were also present.

C. Approval of Minutes – September 19, 2018 Meeting

Commissioner McGleam made a motion, seconded by Commissioner Zolecki to approve the minutes from the September 19, 2018 meeting with no changes. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

II. CHAIRMAN'S COMMENTS

Chairman Spinelli greeted the audience and stated there are four public hearings this evening. He then asked everyone in the audience to please stand and raise his/her right hand. He then administered the oath.

III. PUBLIC HEARINGS

A. 18-18 LEMONT MULCH SPECIAL USE

Chairman Spinelli called for a motion to open the public hearing for Case 18-18.

Commissioner McGleam made a motion, seconded by Commissioner Cunningham to open the public hearing for Case 18-18. A voice vote was taken:

Ayes: All
Nays: None
Motion passed

Staff Presentation

Jamie Tate, Consulting Planner, said Gus Warren of Lemont Mulch, LLC is requesting a special use to allow for the offloading and storage of mulch located at 16500 Des Plaines River Road. Material stockpiles are a special use within the Canal Overlay District and considered on a case by case basis. The size of the site is 4.6 acres and it is zoned B-4 Commercial Recreation in the Canal Overlay District. The Comprehensive Plan designates this site as Industrial Land Use.

The property is owned by Metropolitan Water Reclamation District (MWRD). They awarded a lease to ACBL Transportation Services, LLC for 28 acres which is located at this address. The site contains two barge slips and ACBL uses the site for loading and unloading of barges, storing shipping containers and the salt storage pile which was approved earlier this year. The lease does allow ACBL to sublease, subject to MWRD's approval. They have requested permission from MWRD at this time to sublease the 4.6 portion of land between Barge Slip 3 and Barge Slip 4. If the lease is granted by the Village of Lemont, then the lease will be drafted for a period of five years, with the option to renew the sublease for another five years. On September 6, 2018, MWRD approved consent to sublease to the Lemont Mulch for the purpose of loading and unloading barges, and to receive, store and distribute bulk and packaged bark mulch.

Mrs. Tate stated there will be multiple mulch piles ranging in height from 20 to 25 feet. The B-4 Zoning District does allow buildings up to 35 feet in height. The mulch pile will not be covered and no specific means of containment are proposed. A six foot fence with fabric on the first two to three feet will be installed along the eastern portion on Barge Slip 4. Due to the cyclical nature of the business, primary operations from this site will take place from March to July. Business hours are expected to be Monday through Friday 7 am to 3 pm with some peak times being 6 am to 6 pm. The total workforce on this property will be one full time employee with an additional one to two seasonal employees in busier times.

They are expecting about 10 trucks per day and that will be during the peak time from March to July. They hope to expand to about 20 trucks as the business becomes more established. A typical pick up would be a semi dump truck coming to the site, a large front end loader, and small Bobcat helping to load the truck. These are the only two pieces of equipment that will be kept on site at all times. A large backhoe will be subbed out to unload the barges and that is just on days when the loads will be coming in. There will be a small 8' x 20' office trailer with a portable toilet located on the subject property. She then read through the Standards for a Special Use. Staff feels that the applicant meets the standards for the special use and is recommending approval.

Chairman Spinelli asked if there was going to be any processing of raw timber.

Mrs. Tate said there will not.

Chairman Spinelli asked about the dividing fence.

Mrs. Tate stated there will be a fence along Barge Slip 4 which is the east side. It will have the fabric that will go up two to three feet.

Chairman Spinelli asked if there was going to be any other containment on the site.

Mrs. Tate said they are not proposing any other method of containment.

Chairman Spinelli asked if they have shown how close the piles are going to be to the Barge Slips.

Mrs. Tate stated no.

Commissioner McGleam asked if there was a reason that the fence was just on the east side.

Mrs. Tate said she thinks either ACBL or MWRD was requesting the fence, but that can be confirmed by the applicant who is present this evening.

Chairman Spinelli asked if there were any further questions from the Commission for staff. None responded. He then asked the applicant to come forward.

Applicant Presentation

Gus Warren, Lemont Mulch, LLC stated there will be no processing of raw timber. The fence was requested by ACBL and MWRD was not concerned about mulch getting in the waterway.

Chairman Spinelli asked if they were going to be unloading the barges on the main canal.

Mr. Warren said it would be unloaded in the slip.

Chairman Spinelli asked if any of the Commissioners had any questions for the applicant. None responded. He then asked if there was anyone in the audience that wanted to speak in regards to this public hearing.

Public Comment

None

Chairman Spinelli then called for a motion to close the public hearing.

Commissioner McGleam made a motion, seconded by Commissioner O'Connor to close the public hearing for Case 18-18. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Plan Commission Recommendation

Chairman Spinelli asked if there were any further questions or comments from the Commission. None responded. He then called for a motion for recommendation.

Commissioner McGleam made a motion, seconded by Commissioner Zolecki to recommend to the Mayor and Board of Trustees approval of Case 18-18, Lemont Mulch Special Use. A roll call vote was taken:

Ayes: McGleam, Zolecki, Cunningham, O'Connor, Plahm, Spinelli

Nays: None

Motion passed

Findings of Fact

Commissioner Cunningham made a motion, seconded by Commissioner McGleam to authorize the Chairman to approve the Findings of Fact for Case 18-18 as prepared by staff. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

B. 18-17 – 313 E. LOGAN REZONING

Chairman Spinelli called for a motion to open the public hearing for Case 18-17.

Commissioner McGleam made a motion, seconded by Commissioner O'Connor to open the public hearing for Case 18-17. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Staff Presentation

Jamie Tate, Consulting Planner, said Brian Baetz of Morgan Homes, LLC is the contract purchaser of 313 E. Logan Avenue. The request is for rezoning to R-4A Single-Family Preservation and Infill District from R-6 Multi-Family Residential District in order to construct a single-family home on the vacant lot. The

Comprehensive Plan designates this area as Infill Residential. The subject property is 0.14 acres in size and the property's present use is vacant, although there formally was a single-family home located on the lot with only a gravel driveway and curb cut remaining from the previous home.

There is a pocket of R-6 Zoning, which includes the subject property, surrounded by the R-4A Zoning district in this neighborhood. There are 10 lots that are zoned R-6 with two multi-family properties occupying four of those ten lots. There is a multi-family residence at 607 Walnut Street that occupies three lots but is one development. The remaining lots of R-6 are either vacant or are existing single-family residences. The home directly west of the subject property is a single-family home but is zoned R-6.

Mrs. Tate stated the subject property and 10 lot pocket of R-6 Multi-Family appears to have been zoned R-6 for some time. The 1974 Zoning Map and 2005 Zoning Map both show this area as R-6. Around 2004, there was a Residential Preservation District Overlay created, which provided more regulations to help preserve this special area but became obsolete in 2006 when the Village Board created the R-4A Infill and Preservation District. This new district was created to combine two layers of regulations into one zoning district, eliminating differences in standards, and strengthening some of the controls intended to inhibit tear-downs, and ensuring new construction that would fit the context of the area. During the rezoning, the R-6 pockets remained, most likely because they contained existing multi-family developments that were not to become legal non-conforming.

The subject property would not be able to be developed today as it stands as a single-family or multi-family residence without variances or a rezoning. The standards for the R-6 Zoning, such as minimum lot size of 10,000 square feet and minimum lot width of 80 feet, does not apply to this lot. Multiple lots would need to be consolidated in order to create a multi-family development. For the standards for rezoning they look at the LaSalle factors and how it fits with the Village UDO and rezoning. She then read through the factors which are listed in staff's packet. The proposed zoning change does meet the Comprehensive Plan and is consistent with the land goals of the plan.

Mrs. Tate said parkways are required in the UDO and the applicant has stated that they plan to put in sidewalk and parkway trees. They also stated to meet all the other requirements of the UDO. Staff does find that it is compatible with the existing land uses and there are no concerns with traffic. In conclusion, the proposed rezoning would follow the future land use map of the Comprehensive Plan, and would allow for faster development as the applicant is ready to start construction of a single-family home. There are no variances and the applicant will be meeting all the requirements of the UDO for the construction. Staff is recommending approval.

Chairman Spinelli asked if the site plan that is provided would be submitted for the actual building permit. He wants to make sure that they are going to be using the existing curb cut and a garage left configuration.

Mrs. Tate said that is her understanding.

Chairman Spinelli asked if they could make this a requirement because if it became a garage right then there would be a potential traffic conflict with the intersection.

Mrs. Tate stated it can be a requirement.

Commissioner McGleam said it was stated that they are not asking for variances. However, they are asking for a 20 foot front yard setback and the requirement is 25 feet.

Mrs. Tate stated when it comes to the R-4A Zoning District for the front yard setback it talks about the average of principle buildings on adjacent lots. The lot that is next door that has a home on it is at 15 feet and the adjacent lot on the other side is vacant so it would be 25 feet, so the average would be 20 feet.

Chairman Spinelli asked if there were any further questions for staff at this time. None responded. He then asked for the applicant to come forward.

Applicant Presentation

Brian Baetz, Morgan Homes, LLC, said they have built several homes in Lemont. They are planning on building a 2,200 square foot home just up the street. It will be similar in size and similar amenities.

Chairman Spinelli asked if the rendering that he has provided along with the site plan would be the house.

Mr. Baetz stated that will be the house.

Chairman Spinelli confirmed that they are planning on using the existing curb cut.

Mr. Baetz said engineering would require that the garage would be on the high side of the property so it will remain a garage left.

Chairman Spinelli asked if any of the Commissioners had any questions for the applicant. None responded. He then asked if there was anyone in the audience that wanted to speak in regards to this public hearing.

Public Comment

Chuck Cicora stated he is just west of this property. The curb cut is for a one car garage but the picture shows a two car garage. There is no sidewalk east or west of this lot so he is not sure why this is required.

Chairman Spinelli said the purpose of the sidewalk is so that if these additional lots to the east were to ever be developed they would be required to provide a sidewalk also. This is a requirement for anyone building in Lemont to provide connectivity.

Mr. Cicora stated the terrain on the lot that is east of this lot come to a 45 degree angle from the curb into the bowl, so in order to put in a sidewalk you would have to fill it with a lot of fill. He does not have an issue with the house. He wanted to point out the curb cut and was not sure why there was a requirement for the sidewalk.

Commissioner Zolecki said it allows the homeowner to come out of their house and go west if they wanted or cross the street.

Chairman Spinelli stated if the builder was requesting a two-car garage then the builder would have to modify the curb cut. In regards to the sidewalk, it would provide this homeowner access to the public sidewalk and it is part of the development code to require developers to extend sidewalks when sidewalks exist near them. He then asked if there was anyone else in the audience that wanted to speak in regards to this public hearing. None responded. He then called for a motion to close the public hearing.

Commissioner McGleam made a motion, seconded by Commissioner O'Connor to close the public hearing. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Plan Commission Discussion

Chairman Spinelli asked if there were any further questions or comments from the Commission. None responded. He then called for a motion for recommendation.

Plan Commission Recommendation

Commissioner Zolecki made a motion, seconded by Commissioner Cunningham to recommend to the Mayor and Board of Trustees approval of Case 18-17, 313 E.

Logan Avenue Rezoning. A roll call vote was taken:

Ayes: Zolecki, Cunningham, O'Connor, McGleam, Plahm, Spinelli

Nays: None

Motion passed

Findings of Fact

Commissioner Cunningham made a motion, seconded by Commissioner Plahm to authorize the Chairman to approve the Findings of Fact for Case 18-17 as prepared by staff. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

C. 18-16 - 16135 NEW AVENUE, UNIT 12 SPECIAL USE

Chairman Spinelli called for a motion to open the public hearing for Case 18-16.

Commissioner McGleam made a motion, seconded by Commissioner Zolecki to open the public hearing for Case 18-16. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Staff Presentation

Jamie Tate, Consulting Planner, stated AVA Transportation Group, represented by Joseph Hill of Goldin Hill & Associates, P.C., is requesting a special use to allow the operation of a freight transportation terminal located at Unit 12 of 16135 New Avenue. Freight transportation terminals are a special use in the M-1 Zoning District and considered on a case by case basis. Staff is recommending approval with conditions.

The total acre of the site is 3.9 acres and the Comprehensive Plan designates this site as Industrial Land Use. It is surrounded by the Canal to the north, M-1 Light Manufacturing to the east, R-6 Multi-family to the south, and M-2 General Manufacturing to the west. The property is owned by new Venture Properties, LLC and they have provided consent for AVA Transportation Group to seek a special use for this freight transportation terminal for a portion of their property. AVA Transportation is planning on leasing approximately 4,200 square feet of the multi-tenant building. The full list of existing tenants in the building are provided in staff's packet as Attachment 6 and vary from warehouse storage to light assembly.

Mrs. Tate said the UDO requires a special use permit for freight transportation terminal in M-1 Light Industrial District but it is an allowed use in the M-3. She then read the definition for Freight Transportation Terminal. The leased area will consist of an office area, a small storage area and one loading dock. There are seven parking stalls for them to utilize. The office area will be utilized for the dispatching of trucks, business accounting, safety/human resources and other office uses. AVA currently has three full-time employees with three part-time employees. They typically operate from 7 am to 6 pm, Monday through Friday with an occasional Saturday meeting.

AVA's trucks will occupy the loading dock approximately 2-3 times a week to temporarily store products and parts for its business and with occasional truck maintenance. The owner has stated that sometimes a load does not have an ending delivery appointment so AVA must store the cargo for 2-3 days at the office location as they do not have extra trailers for the freight storage. If they need the extra storage for more long term, they have a location in Bolingbrook that they use. AVA's fleet of 20 trucks is parked at a different off-site location which is located at 12300 New Avenue in Lemont. They do not plan to park trucks, trailers or store materials outside overnight at the proposed office location.

Mrs. Tate then showed on the overhead a picture of the location. She then read through the standards for a special use. Staff does recommend approval of the special use with two conditions:

1. The fleet of AVA's trucks cannot park overnight unless located in the one dock provided by the lease.
2. If the business is to expand and grow in employees or truck fleet numbers, or share space with another trucking company, the owner must provide written documentation to the Village of Lemont stating the change. The Economic and Community Development Director will determine if the special use shall be amended or if the change is minor to provide administrative approval.

Chairman Spinelli asked if the loading dock was only on the north side of the building and not visible from New Avenue.

Mrs. Tate said that is her understanding.

Chairman Spinelli stated Units 13 and 14 are on the south side of the building. He asked if AVA was to expand to those units would they have to come to back for an amendment to their special use.

Mrs. Tate stated she would consider that a major amendment and they would have to come back.

Chairman Spinelli said he just does not want to see them expanding and them having trucks parking overnight with material. It could become a potential target for theft.

Mrs. Tate stated that is the intent of condition number two. The Commission can modify the condition anyway they choose.

Commissioner McGleam said the request is for freight transportation terminal but it seems that most of their work there is office work.

Mrs. Tate stated their definition of what they said they did with moving the goods and having it come to the property at some point to switch loads is what puts them into that group.

Chairman Spinelli asked if there were any crossing restrictions at the railroad crossing.

Mrs. Tate said not that she is aware of and there are other trucks that are coming in there.

Chairman Spinelli asked if there were any further questions for staff. None responded. He then asked for the applicant to come forward.

Applicant Presentation

Joseph Hill, Golden Hill & Associates stated for Unit 12 they will only be utilizing the dock on the north side. For dock space itself they will be using a potential trailer and a tractor. Even though this is not freight transportation terminal they do fall into the definition.

Chairman Spinelli asked if they do use a trailer and tractor is there enough room for other tenants to get around the parked vehicle.

Dan Chop, New Venture Properties, said they can fit a 53 foot trailer with a tractor at that dock and not impede the traffic.

Commissioner Cunningham asked if they could explain a delivery that does not have an end.

Algimantas Akelaitis, owner of AVA Transportation, stated the scenario would be if they picked up a load and the appointment was not due till next week or if the appointment was canceled. So to not occupy the trailer they would unload the trailer into the warehouse.

Chairman Spinelli asked if there were any further questions from the Commission for the applicant. None responded. He then asked if there was anyone in the audience that wanted to speak in regards to this public hearing.

Public Comment

Sharon Eby said she is across the street from the subject property. She asked if this will increase the traffic on New Avenue.

Mrs. Tate stated the hours will be from 7 am to 5 pm. The freight trucks are stored at 12300 New Avenue and they will mostly likely not be coming to this site. It is generally an office use.

Mrs. Eby said there are trucks currently parking there overnight. She asked what would stop anyone else from parking there.

Chairman Spinelli stated this applicant currently does not exist at that facility.

Mrs. Eby asked who owns those trucks that are being parked there.

Chairman Spinelli said they will have staff look into those trucks. He then asked if there was anyone else that would like to speak in regards to this public hearing. None responded. He then called for a motion to close the public hearing.

Commissioner McGleam made a motion, seconded by Commissioner Zolecki to close the public hearing for Case 18-16. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Plan Commission Discussion

Chairman Spinelli asked if there were any further questions or comments from the Commission. None responded. He then called for a motion for recommendation.

Plan Commission Recommendation

Commissioner Cunningham made a motion, seconded by Commission McGleam to recommend to the Mayor and Board of Trustees approval of Case 18-16, 16135 New Avenue Unit 12 Special Use with the following conditions:

1. The fleet of AVA's trucks cannot park overnight unless located in the one dock provided by the lease.
2. If the business is to expand and grow in employees or truck fleet numbers, or share space with another trucking company, the owner must provide written documentation to the Village of Lemont stating the change. The Economic and Community Development Director will determine if the special use shall be amended or if the change is minor to provide administrative approval.
3. Have staff look into any zoning violations for truck parking to the west of the proposed property.

A roll call vote was taken:

Ayes: Cunningham, McGleam, Zolecki, O'Connor, Plahm, Spinelli

Nays: None

Motion passed

Findings of Fact

Commissioner Cunningham made a motion, seconded by Commissioner McGleam to authorize the Chairman to approve the Findings of Fact for Case 18-16 as prepared by staff. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

D. 18-07 480 5TH STREET VARIATIONS AND SUBDIVISION

Chairman Spinelli called for a motion to open the public hearing for Case 18-16.

Commissioner McGleam made a motion, seconded by Commissioner Cunningham to open the public hearing for Case 18-07. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Staff Presentation

Jamie Tate, Village Planner, said William Brennan, owner of the subject property is requesting approval of variations from the Lemont UDO for the purpose to allow a subdivision of an existing property into two single-family lots. Staff is recommending approval with conditions.

This property is part of the Becker's subdivision and it is zoned R-4 Single-Family Residential Detached District. There is much history with the property regarding access rights, easements and other miscellaneous discrepancies between Mr. Brennan and the neighbors on 5th Street. There have been multiple public hearings and applications to the Village to subdivide this property over the years. In 2003, the applicant applied to develop the lot but was denied by the Village Board, which raised concerns over the proposed size of the lots without a road right-of-way (ROW) dedication to the Village. At that time access concerns were brought up and brought forward.

Mrs. Tate stated in 2016, the applicant applied to subdivide the lot with variations in another similar proposal. At that time, the two-lot subdivision with the requested variation went to TRC, PZC, and COW. There was much discussion regarding access to the lot and if the applicant was able to use 5th Street. At this time, it has been determined through the court system that the applicant has access to the subject property through 5th Street. The Village has accepted the application to proceed with Mr. Brennan's two-lot subdivision and requested variations.

On May 16, 2018 the TRC did look at this proposal prior to submitting a formal application. The TRC noted potential deviations from the Village standards in the proposed lot sizes, lot width, setbacks, and the use of well water. The proposal has changed in size from a three-lot subdivision down to a two-lot subdivision. The full comments are provided in staff's packet.

Mrs. Tate said the proposed lot does not meet all required lot and dimensional standards. The lot size is smaller than the required 12,500 square feet. This is a 15% variation from the UDO. The applicant is proposing to dedicate 15 feet of the proposed lot to the Village for public right-of-way. Staff finds this acceptable due to

the dedication and constraints of the property. The lot width is proposed at 87.5 feet and 90 is the minimum required width. This is a 3% variation from the UDO and staff finds this deviation acceptable as well. The side yard setbacks are shown as 10 feet instead of the required 15 feet. Staff does not find this acceptable as the lots are able to support 15 feet. The proposal from 2016 shows the setbacks as being met. There is seven feet of rear yard setback that can be used to gain back the square footage lost in the side yard.

Another request is to not construct the sidewalk in the parkway. While the adjacent properties do not have a sidewalk, there is the potential for the lots to the north to develop. Staff is suggesting that the applicant provide escrow for a future sidewalk or to construct the sidewalks. There is a request to not use curb and gutter on the property. None of the adjacent homes utilized curb and gutter so staff finds this deviation acceptable. Last is the request for a well instead of connecting to the Village water system. Staff finds this acceptable with the assurance that the subject property will connect to Village water if and when it was ever adjacent to the lots.

Mrs. Tate said the Comprehensive Plan designates this area as Infill Residential, which does further the goals of the Plan. She then read through the Standards for Variations which the application substantially meets, so staff is recommending approval with the following conditions:

1. The lots should meet the required 15 feet side yard setbacks.
2. Provide an escrow for the public sidewalk in front of both proposed lots.
3. When Village water is adjacent to either lot in the subdivision, the property owner will be required to connect to Village water.

Chairman Spinelli asked if any of the Commissioners had any questions for staff.

Commissioner Cunningham asked if any of the surrounding properties had Village water. He is mostly looking at the property on the north side due to condition number three.

Mr. Herman said the homes on 4th Street may have Village water because there was the possibility of taken the water much further north, however it would require substantial easements.

Commissioner Cunningham stated then they will have to reword condition number three because currently it is stating when water is adjacent to either lot and it currently is.

Mr. Herman said the intention was for when it becomes available on 5th Street. That condition can be amended.

Commissioner McGleam asked if staff can talk further in regards to the court standing.

Mrs. Tate stated from her understanding there were issues in regards to access because of the way the lot was subdivided. At one point the lot was a flag lot. There was a lawsuit that was brought on with this property and neighboring property and the court decided that there is access on 5th Street. There is documentation that has been provided to the Village.

Chairman Spinelli asked if it was determined by the court that the properties to the north of the subject property also had access to 5th Street.

Mrs. Tate said she would assume that they would have access, but she has not read the court ruling.

Commissioner McGleam asked what the basis was for the recommendation on meeting the 15 foot side yard setback.

Mrs. Tate stated it was shown before that it could be met so she is not sure why today they could not. It could be one less variance that they have to request for. The applicant can explain as to why they need the decreased setback.

Commissioner McGleam asked if it had anything to do with the massing of the home.

Mrs. Tate said it would shrink the size of the width and look more to scale.

Commissioner McGleam stated they approve variances for 10 foot setbacks a lot. The decreased setback could possible allow for a side load garage.

Chairman Spinelli asked if there were any further questions from the Commission for staff. None responded. He then asked the applicant to come forward.

Applicant Presentation

William Brennan, applicant, said staff did a great job covering everything. Fifth Street is now a public street which is owned by the Village of Lemont.

Chairman Spinelli asked if there was an ingress/egress easement across those lots that became a public ROW.

Mr. Brennan stated it is all a public ROW.

Chairman Spinelli asked if the lots north of him also had access to 5th Street.

Mr. Brennan said yes they do.

Commissioner McGleam asked if there was a Plat of Dedication.

Mrs. Tate stated there is an attorney representing other property owners on that street and they are working things out.

Chairman Spinelli said there has been recent history of reducing side yard setbacks to 10 feet. A lot of times that happens with narrower lots. He is hesitant to accept the reduction right away only because these are 87.5 feet wide lots. He is concerned about the massing of the house. With the south lot, he would be willing to go to 10 feet on the north side of the lot, but have 20 feet on the south side. This is because of the neighbor to the south has a garage close to the property line.

Mr. Brennan asked if 15 feet would work on that side.

Chairman Spinelli stated he would like to keep it at 30 feet total. Fifteen feet would work, but he would like to do 10 on the north side and 20 on the south side.

Mr. Brennan said that would work.

Chairman Spinelli asked if he would object to a similar shift on the north lot so that would still have 30 foot totals.

Mr. Brennan stated that would be okay.

Chairman Spinelli asked if he had any objections about the escrow for a future sidewalk.

Mr. Brennan said he does not.

Chairman Spinelli stated in regards to the court case, he would be dedicating 15 feet for the ROW. He asked what was the width that the court determined existed.

Mr. Brennan said 20 feet.

Chairman Spinelli asked if there was any discussion about an additional easement for utilities.

Mr. Herman stated he thinks it was the intent with the additional 15 feet ROW. That is where a water main can be installed.

Chairman Spinelli asked where was the public sewer for this area.

Mrs. Tate said it is in the middle of 5th Street.

Chairman Spinelli stated if the Village Engineer did not comment on it, then he would request that staff checks to make sure there is enough horizontal separation from the sanitary sewer.

Commissioner McGleam said the Plat of Dedication will show where the sanitary sewer exists.

Chairman Spinelli asked if there were any further questions from the Commission for the applicant. None responded. He then asked if there was anyone in the audience that wanted to speak in regards to this public hearing.

Public Comment

Lori Barnett, 471 5th Street, said she was one of the defendants in the court case and the judge did decide the street can be used for public access. However, it did not take away the ownership that they have. She is on the east side of the street and she owns about 3 to 4 feet of the opposite side of the street. Even though Mr. Brennan has a right to use the street, he does not necessarily have the right to go over their property to access his property, nor do the 2 properties north of this property.

Chairman Spinelli stated he has not read the court case, but if the courts have ruled that the road is public access then the Plat of Dedication is going to be the west 20 to 25 feet of all those lots. Even though you are saying that you own grass on the west side of the street, it is all going to be within the Plat of Dedication.

Ms. Barnett asked when is someone going to purchase the property from her so she does not have to pay property taxes on it.

Chairman Spinelli said the only way he is aware of not having to paying property taxes on it, would be to formally dedicate it.

Ms. Barnett stated she is not sure how to do that. The property is hers and the only thing that has changed is that it is a public access road.

Chairman Spinelli said staff has indicated that the Plat of Dedication is still being prepared. If it is, then that square footage of her property will come off of her tax bill.

Ms. Barnett asked if she will be notified of this.

Chairman Spinelli stated she will have to sign off on the Plat of Dedication based on the court order.

Ms. Barnett said it was her understanding that he was supposed to tie into Village water. If he decides that he wants well water then it will take away from the water of the neighboring properties. She already had to drill down in her well once and does not want to have to do that again. She does not want to have to tie into city water.

Chairman Spinelli stated the well permit is under the jurisdiction of Cook County Department of Health. If it is determined by them that it creates a negative impact to

adjacent wells and he can't have wells on his property then he will have to make different provisions.

Ms. Barnett asked if they will make sure that there is enough water in the well before they would allow it.

Chairman Spinelli said until they submit all the information to the Cook County of Public Health he cannot speak on their review process.

Todd Gierman, 1157 McCarthy Street, stated he is adjacent and south of the subject property. He would like the Planning and Zoning Commission to consider the following points regarding the standards of determining whether this variance should or should not be granted to the applicant.

- *Whether granting the variance would be contrary to the public safety, morals, purpose or the intent behind the ordinance.

- *Whether strict adherence to the ordinance would cause an undue hardship or impracticality.

- *Whether strict adherence to the ordinance is impractical and does not outweigh the benefit of allowing the ordinance variation.

- *Whether the variation would be in-line with the overall purpose of the Planning Commission.

It is noted that the applicant is petitioning the Commission to install private wells on the property. He has concerns about how this will impact him as well as Ms. Barnett. His primary concern is the depletion of their water supply. Although, Mr. Brennan's request for variance currently does not have an impact on his property, he is concerned that if the variance should be granted this will lead to future requests made by Mr. Brennan that may have an impact on his property and the fair market value. In closing, he would like to point out that the notice that was sent out to owners within 250 feet of the subject property consisted of two errors. The first was that the meeting was supposed to be held on September 19th at 6:30 p.m. The second was that there was an error in the address of Mr. Brennan's own property. There may be residents that don't know that this meeting is taking place tonight that might have wanted to speak in regards to this public hearing. There could also be people that were part of the lawsuit that might have wanted to be here this evening also. He thanked the Commission for their time.

Mr. Herman said after Mr. Brennan provided staff an original copy of the notice, he was the one who identified the errors. Mr. Brennan did send out a revised notice.

Commissioner McGleam asked if it was within the required timeframe.

Mr. Herman stated it was within the required timeframe.

Chairman Spinelli asked if the public notice sign on the property have the correct date.

Mr. Herman said he believes so and he can verify that the public notice in the paper was correct.

Gerald Johnson, 455 5th Street, stated as far as the court order there is no dedication but rather just an easement. It does not state how much land but rather that he has right-of-way to the current road. So whatever is paved he has access in and out. If this is approved he would like for Mr. Brennan to provide parking for his workers. He asked when McCarthy Road is redone, is it the Village's responsibility to make sure of proper drainage, especially if the drainage ditch needs to widen or moved. His concern is how this will affect the drainage on 5th Street.

Chairman Spinelli said if the drainage is coming to McCarthy Road then the Village will have to accommodate it.

Mr. Johnson stated for their information, the public sewer is east of Mr. Brennan's property line and is currently under the pavement. The Village never received an easement but rather just put it in.

Chairman Spinelli asked if there was anyone else in the audience that wanted to speak in regards to this public hearing. None responded. He then called for a motion to close the public hearing.

Commissioner O'Connor made a motion, seconded by Commissioner Zolecki to close the public hearing for Case 18-07. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Plan Commission Discussion

Commissioner Cunningham asked for further clarification on the court order.

Chairman Spinelli said he has not read the court order, but it appears it is more of ingress/egress easement granting access.

Commissioner Cunningham asked if they need to wait to see the Plat of Dedication.

Commissioner McGleam said the court order does not say easement but rather public way.

Chairman Spinelli then read the court order. He stated it does not make reference to the actual pavement.

Commissioner McGleam stated he is not sure how you define this without a Plat of Dedication.

Chairman Spinelli asked if the Village Attorney was involved with this case at all.

Mrs. Tate said the Village Attorney said it was okay to go forward and there was access off of 5th Street.

Chairman Spinelli stated the court did not make a determination that there had to be a Plat of Dedication. There needs to be a formal verbal communication from the Village Attorney.

Mr. Herman said staff can follow-up with the Village Attorney who will be at the subsequent Village Board meeting and he can comment at that time.

Mr. Brennan asked if he could make a comment.

Chairman Spinelli called for a motion to reopen the public hearing.

Commissioner McGleam made a motion, seconded by Commissioner Zolecki to reopen the public hearing for Case 18-07. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Mr. Brennan stated the court order states that it is a public right-of-way. This easement was created in 1890 which dedicated 20 feet for a road which is on public record. So all the court did was state that it is a public road instead of a private road.

Commissioner McGleam asked if his property abuts the 1890 easement.

Mr. Brennan said yes it abuts the easement. The reason why they went to court was to get clarification and the court made it a public street.

Mr. Johnson stated in 1890 there was an easement for the homeowners. It was like a private driveway for the homeowners. The court is now saying it is accessible for his property. The court did not dedicate anything so it is still owned by the residents. The residents and attorneys are still talking about dedicating which will be determined in the future.

Chairman Spinelli then called for a motion to close the public hearing.

Commissioner McGleam made a motion, seconded by Commissioner Plahm to close the public hearing for Case 18-07. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Chairman Spinelli asked if there were any further questions or comments from the Commission. None responded. He then called for a motion for recommendation.

Plan Commission Recommendation

Commissioner McGleam made a motion, seconded by Commissioner Cunningham to recommend to the Mayor and Board of Trustees approval of Case 18-07 480 5th Street Variations and Erie Preliminary Subdivision with the following conditions:

1. Maintain a 30 foot total side yard setbacks by having the interior side yard setbacks to the lots at 10 feet and exterior side yard setbacks to the lots at 20 feet.
2. Provide an escrow for the public sidewalk in front of both proposed lots.
3. When Village water is adjacent to either lot on 5th Street within the subdivision, the property owner will be required to connect to Village water.
4. The applicant must provide parking within his lots for workers during construction.

A roll call vote was taken:

Ayes: McGleam, Cunningham, Zolecki, O'Connor, Plahm, Spinelli

Nays: None

Motion passed

Findings of Fact

Commissioner Cunningham made a motion, seconded by Commissioner McGleam to authorize the Chairman to approve the Findings of Fact for Case 18-07 as prepared by staff. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

IV. ACTION ITEMS

None

V. GENERAL DISCUSSION

Mr. Herman said the 16622 W. 127TH Street Rezoning and Preliminary Plat and 508 6th Street Variances were received favorably and should be on the agenda for the regular Village Board meeting. Also, the Archer Avenue gas station should be on the agenda as well.

Chairman Spinelli asked if the boundary agreements with adjacent communities have been recorded.

Mr. Herman stated he would have to look into that.

Mrs. Tate said she thinks that Lockport has been done but is not sure if it has been recorded. She does not believe they have one with Romeoville.

Discussion continued in regards to where the boundary is along 135th Street.

Chairman Spinelli asked if staff had looked into the sump pump discharge onto the sidewalk on Mayfair.

Mr. Herman stated he will follow-up with staff to see if it was looked into.

Mr. Johnson said there are a couple of homes on Freehauf Street that are discharging to the front which creates a hazard in the winter.

Mr. Herman asked Mr. Johnson to contact him with those addresses.

VI. AUDIENCE PARTICIPATION

None

VII. ADJOURNMENT

Chairman Spinelli called for a motion to adjourn the meeting.

Commissioner McGleam made a motion, seconded by Commissioner O'Connor to adjourn the meeting. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Minutes prepared by Peggy Halper

