



VILLAGE OF PALATINE

VILLAGE HALL - COUNCIL CHAMBERS 200 E. WOOD STREET
PALATINE, IL 60067-5339 – (847) 359-9050
<http://www.palatine.il.us>

ZONING BOARD OF APPEALS MINUTES • APRIL 12, 2022

Village Hall - Council Chambers

Regular Meeting

7:00 PM

I. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Brent Larson	Commissioner	Present	
Cindy Roth-Wurster	Commissioner	Present	
Jan Wood	Commissioner	Present	
Jerry Luszczak	Commissioner	Absent	
Theodore McGinn	Commissioner	Present	
Kevin Cavanaugh	Commissioner	Absent	
John Pirog	Commissioner	Present	

II. APPROVAL OF MINUTES

1. Zoning Board of Appeals - Regular Meeting - Mar 8, 2022 7:00 PM

III. PUBLIC HEARING

1. 851 N. Williams Drive - SU Deck in Floodplain

Ms. Woods announced that 851 N. Williams Drive was withdrawn.

RESULT:	WITHDRAWN
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2. 1045 E. Lilac Drive

Notice was published in the Daily Herald on March 28, 2022 and mailed to the owners of the surrounding properties.

Petitioner's Exhibits:

1. Application for Variation
2. Proof of Ownership
3. Plans/ Elevations
4. Plat of Survey
5. Public Notice

Sworn in staff: Mr. Ben Vyverberg and Mr. Alex Bradshaw**Sworn in the petitioner: Ms. Kristen Mendez 1045 N Lilac Drive & Matt Bolson architect 1101 Rohlwing Rd Itasca, IL**

Ms. Mendez explained they currently have an attached garage. She stated they moved in in October and are looking to convert the garage space to a dining room to be able to not only seat her immediate family but also invite family or friends over. She stated they signed a contract in December and was unaware of code requirements for a garage. Ms. Mendez spoke to standards indicating it will not affect the surrounding property values. She explained they are looking for way to delay the building of a new garage and continue with project planned that is under contract.

Ms. Wood asked if there are plans where garage will go

Ms. Mendez stated they received a quote from Danley's garage but the price was very high. She stated they flagged out space for one car garage

Mr. Bolson stated the proposed garage will meet all code requirements

Mr. Pirog clarified the new garage is not part of the variation request

Mr. Bolson explained they are looking for a delay on building the garage that is required by code

Ms. Wood asked if staff is aware of the garage

Mr. Bradshaw answered yes was aware but explained it was never presented on the site plan

Ms. Mendez stated she unofficially asked staff if the board would approve a 5 year delay.

Ms. Wood asked the petitioner to address the standards and justification

Mr. Bolson clarified they are not actually asking for variation just an extension on time to build the new garage.

Discussion on coming back with new request of extension

Mr. Vyverberg spoke to the code requiring a garage space. He explained with

the proposed renovation they need relief to not have the garage space. He stated they can apply for a building permit to build the garage which allows them 1 year to complete. Mr. Vyverberg stated he is not aware of a mechanical legal way to grant a 5 year extension.

Mr. Pirog asked if the code requires the garage to be fully enclosed
Mr. Vyverberg stated a carport is not acceptable explaining all properties require a minimum of one car garage

Mr. Larson asked staff if they are aware of any properties with this variation
Mr. Bradshaw answered no not to his knowledge
Mr. Bolson stated there are properties without a garage but are existing nonconforming.

Mr. Larson asked if there is enough parking in driveway
Ms. Mendez referred to site photo slide showing additional parking in driveway

Mr. Pirog asked if they looked into addition in back
Ms. Mendez answered yes but explained the electrical and AC unit is there so it is not a preferred option. She pointed out they have 2 small cars and small children so require little parking space.

Mr. Bradshaw gave a brief overview stating the existing surrounding properties are single family residential or planned unit development condominiums. He stated the petitioner is proposing to convert the one car garage space into a living space eliminating the required garage space. He explained the conversion would add approx. 300 sq.ft. of living space but would not add any square footage to the footprint and complies with both building and lot coverage. Mr. Bradshaw spoke to the existing parking pointing out the driveway can accommodate the 3 parking spaces. He stated Community Services and Engineering have reviewed and have not identified any issues.

Mr. Larson asked if there is enough lot coverage to build a garage
Mr. Bradshaw answered yes

Ms. Roth-Wurster asked if the condos to the east have garages
Mr. Bradshaw answered no they are surface lot

STAFF RECOMMENDATION:

The Petitioners have indicated the need for additional living space within the residence on the Subject Property. The garage to living space conversion would completely eliminate the minimum required one garage parking space, which part of the required parking for single-family dwellings. While Staff understands that total number of parking may still be achieved due to the driveway that extends along the south side of the existing garage, eliminating the garage entirely would not be in character with the surrounding neighborhood. While Staff ultimately understands what the Petitioner wants to accomplish, Staff does not believe that

adequate justification for the Variation has been established.

While there are other options to accomplish this request, it would involve constructing a detached garage, which is not in the proposed scope of work. Therefore, Staff recommends denial to the Zoning Board of Appeals. If the Zoning Board of Appeals recommends approval, Staff recommends the following conditions:

1. The Variation shall substantially conform to the site plan submitted by the Petitioners, Angel and Kristen Mendez, except as such plans may be changed to conform to Village Codes and Ordinances.

Ms. Wood asked if the board recommends denial does the petitioner have time before council to make adjustments

Mr. Bradshaw answered yes they have reasonable amount of time but may be remanded back to staff for review

Mr. Bolson asked if it would be reasonable to request the one year building permit to be 2 or 3 years.

Mr. Vyverberg clarified Ms. Wood asked about the time between ZBA review and Village Council review.

Discussion on changing proposal and timeframe allowed.

Ms. Wood stated the matter can be continued and come back before the board at a later time. She asked Mr. Bolson if they would like to do so.

Mr. Bolson answered yes.

Mr. Larson made a motion to continue; seconded by Ms. Roth-Wurster.

Ms. Wood summarized that this request has been continued to May 10, 2022

RESULT:	CONTINUED [UNANIMOUS]	Next: 5/10/2022 7:00 PM
MOVER:	Brent Larson, Commissioner	
SECONDER:	Cindy Roth-Wurster, Commissioner	
AYES:	Larson, Roth-Wurster, Wood, McGinn, Pirog	
ABSENT:	Luszczak, Cavanaugh	

3. 26 N. Rohlwing Road - Special Use for an Accessory Unique Use - Short-term rental

Notice was published in the Daily Herald on March 28, 2022 and mailed to the owners of the surrounding properties.

Petitioner's Exhibits:

1. Application for Special Use
2. Proof of Ownership
3. Plat of Survey
4. Business Plan
5. Special Use Ordinance #0-35-97 Continued operation of a 2 flat
6. Objection email dated 4/1/22- Gordon
7. Public Notice

Sworn in the petitioner: Mr. Byran Blackham 26 N Rohlwing Rd

Mr. Blackham explained they are asking for special use approval for a short term rental at his property, which is designated as multifamily duplex. He stated the unit rental would be for only when the property owner is present. He submitted a list of points he wanted to make into record.

Ms. Wood entered the list into record as petitioner's exhibit #8

Mr. Blackham read exhibit #8 out loud.

Mr. McGinn asked about the location of the unit

Mr. Blackham explained inside front door there is an enclosed entrance with a separate door to the main floor or upstairs to 2nd floor unit

Mr. McGinn clarified there is a bath in it

Mr. Blackham referred to business plan summary slide to show what each unit consists of

Mr. McGinn asked if the neighbors signed off

Mr. Blackham answered yes stating even the next door neighbor with the shared drive signed off

Mr. Larson asked if there was a list of sign offs

Mr. Bradshaw explained it was not submitted because it is not binding. He stated it was received with the original rezoning request and not resubmitted with the special use request.

Mr. Larson asked what addresses did not sign off

Mr. Blackham explained the property directly south and west

Ms. Wood asked about the reason for the short term rental

Mr. Blackham explained when they originally moved there they rented upstairs unit for 4 years. He stated the owners were moving out of town and the sale fell through because it was not a legal two flat. He stated they purchased and

requested the legal 2 flat ordinance in 1997. Mr. Blackham stated they have rented the unit and has never been an issue. He explained they rented for financial reasons, but now they like their privacy and this gives the flexibility and option to rent for retirement income or home improvements funds. Mr. Blackham spoke to the traffic impact pointing out the density is less with short term than long term. He stated he thinks it will be rented for people who come in to visit family or for a job interview.

Ms. Wood asked if Airbnb runs any background checks on renters
Mr. Blackham stated he has used them himself, but is unsure about background checks. He stated the advantage of the site is there are reviews by both renters and landlords.

Ms. Wood asked for clarification on definition of short term rental
Mr. Blackham stated the max amount of time would most likely be one month. He stated he researched online and most common is one month or less. Bryon stated it is possible for someone to need a 3 month rental for maybe a work commitment but unlikely.

Mr. Larson clarified this is their main residence
Mr. Blackham answered yes

Mr. Larson asked if they would you list both and flip flop
Mr. Blackham stated it is possible but may be too much of a hassle

Mr. Larson clarified only one unit can be rented at a time.
Mr. Bradshaw answered that is correct the proposed business plan indicates the owner would be onsite during any rental.

Ms. Wood asked if the property is sold would the special use transfer to new owner
Mr. Vyverberg explained the request is specific to the existing property owner and location

Ms. Wood asked for the definition of short term
Mr. Vyverberg referred to zoning ordinance under the definitions stating anything that is not permitted under this ordinance shall be prohibited which leads staff to look through all the permitted uses in the R2 zoning districts, which it is not covered anywhere under that. He stated the timeframe is not the determining factor rather the listing it as a short term rental through Airbnb.

Ms. Wood asked if this is the first request for short term rental.
Mr. Vyverberg answered yes.

Mr. Pirog asked if long term rental are listed in code.
Mr. Vyverberg spoke to the difference between long term and short term rental lease

Ms. Wood asked if there are many duplex homes in Palatine.

Mr. Vyverberg spoke the special use process and other non-conforming properties in the area and downtown, which went through a similar Special Use process.

Mr. Larson asked again about the definition of short term rental.

Mr. Bradshaw explained it is not contemplated in code and Village Council may further direct Staff to draft a text amendment to provide additional direction on short-term rentals.

Mr. Vyverberg stated it becomes a policy matter for the Village Council. He spoke to complaints from residents on properties operating through Airbnb or VRBO, which leads to zoning enforcement, as the use is not permitted and there is a commercial aspect that comes into play.

Ms. Wood asked if 34 N Rohlwing is multifamily use.

Mr. Blackham stated he is unaware of it ever being used as duplex. He spoke to other houses in the area that have been used as multifamily. He spoke to the difficulty of deciding how to request relief being that his property has run as a duplex since 1950. Mr. Blackham stated this request is more of an amendment from the original ordinance because it didn't clarify any length of time. He spoke to the possible conditions of approval from Village Council

Ms. Wood asked if staff wants to address.

Mr. Vyverberg stated staff has worked with the petitioner to identify the process and relief requested. He spoke to the special use process and how it will be a policy matter for the Village Council. He spoke to the possibility of creating short term rental ordinance and how Staff will request this direction from the Village Council. Mr. Vyverberg spoke to the unique circumstance of this property being approved duplex in single-family residential district and that the Subject Property was the basis for the inclusion of that Special Use category in the Code.

Mr. Bradshaw gave a brief overview stating short-term rentals are not permitted or special uses within single family districts, but that this property was constructed as a 2 unit in the 1950's and received special use ordinance in 1997 to continue operating as a duplex. He stated there were 2 conditions to original ordinance including obtain a valid rental license and receive Village Council approval for any alteration or expansion. Mr. Bradshaw spoke to the sign offs received from the neighbors, noting that there were 2 that did not sign off. He spoke to the Comprehensive plan seeing the future land use as single family residential use. He pointed out the property as a valid rental license and has passed inspection in July 2021. He stated Community Services and Engineering have reviewed and did not identify any issues.

Sworn in Mr. Mike Pearce 27 N Greenwood

Mr. Pearce stated he has lived there for 15 years and most homes are single-family dwellings. He pointed out they basically share the same backyard. He stated with a long term rental they can do a background check and is concerned about screening for short term. He expressed concerns of party people and the

allowed use of the backyard by the renters. Mr. Pearce asked how the owners can be home all the time as indicated in business plan. He stated most families in the area are quiet and feel there will be issues with short term clientele. He expressed concern about variance being passed along to future homeowners and how property values may be impacted, if the future if buyers do research and find out Airbnb in area

Ms. Roth-Wurster asked if they have had a renter during time they lived there
Mr. Pearce answered no not to his knowledge

Mr. Blackham addressed Mr. Pearce's concerns pointing out there are quite a few rentals within 250ft per the mailing they had to do. He agreed with Mr. Pearce on not wanting loud parties. He spoke to having to call police on a neighbor for a loud domestic situation. Mr. Blackham stated they worked with staff on the condition of the owner being in town during rental timeframe. He pointed out the business plan will indicate no smoking, no drinking and no drugs and the use of the yard will not be part of the rental just the second unit and the parking. Mr. Blackham spoke to the background checks and the challenges of evicting tenants. He stated short-term rentals are approved use in R3 and within a half a mile there is one R-3 property, with similar situation. He stated he has approached the request at all angles, but thinks this request is best option

Mr. Larson asked when the last time they rented out to long term rental
Mr. Blackham 20 years ago- have used space for older children- can block out the schedule in Airbnb, when they are not available

STAFF RECOMMENDATION:

The existing property is zoned R-2 and has a Special Use to allow a duplex. The Zoning Ordinance does not allow short-term rental properties in the single-family districts. As there is a transitory element to the proposed use of the property, Staff believes that it will impact the surrounding properties. Also, parking and traffic associated with the short-term rental use are noted Staff concerns. This is further exacerbated with the Subject Property having a shared driveway, with the property to the north.

As a policy matter, Staff has not been directed to include short-term rentals in the allowable use lists within the Code. Logistically, a short-term rental has the potential to function more comparably to a hotel use, given the commercial components and the any associated turnover of use. This use would not seem to coordinate with the established character of the subdivision. Additionally, the Village's Future Land Use Plan denotes the Subject Property as Single-Family Residential.

Therefore, Staff recommend denial of the Special Use request. If the Zoning Board recommends approval, Staff recommends the following conditions:

1. The Special Use shall substantially conform to the Business Plan submitted by

the Petitioner, except as such plan may be changed to conform to the Village of Palatine Codes and Ordinances.

2. As required by Code, a business license shall be obtained for the proposed short-term rental use.

Mr. Pirog clarified if approved by Village Council it only applies for the petitioner Mr. Bradshaw explained the approval is directly associated, with the subject property and proposed business plan

There were no further questions. The public hearing was closed.

Mr. McGinn made a motion to deny; seconded by Mr. Larson

DELIBERATIONS:

Mr. McGinn stated the adjoining properties create some issues. He stated short term community do not fit in this locality.

Ms. Wood pointed out the request is specific to the property owner who has lived there a long time. She stated this is a unique situation with a legal 2-flat, with it being owner occupied. She stated they are going through the procedures and looking to follow the requirements. Ms. Wood spoke to background checks but the possibility of having a bad long term based tenant. She pointed out it has been a 2-flat since the 50's. She spoke to the need for a definition of short-term rental and pointed out the parking concerns have been addressed

Mr. McGinn spoke to the difference of short term rental vs hotel occupant.

Discussion on the number of trips generated and coming and going of renters.

Mr. McGinn spoke to the perception of Airbnb.

Ms. Roth-Wurster stated from her experience, there are background checks, because a driver's license is required for check in.

Discussion on discreetness of rental with address not being posted

Ms. Wood spoke to the concern of functioning as a hotel. She pointed out they are long time owners and are not renting recklessly. She stated there should be a limit on how many days it can be rented, so it doesn't become a hotel

Ms. Roth-Wurster pointed out they have a business plan, the property is owner occupied, and they already have a rental license and will need to get another license. She stated she does not see it as hotel but discussion needs to be considered as a special situation

Discussion on adding conditions.

Motion to deny failed by a vote of 1-4

Mr. Larson made a motion to approve subject staffs' conditions; seconded by Ms. Roth-Wurster

Discussion on adding conditions or allowing Village Council to stipulate at review.

Ms. Wood summarized that this request has met the standards and was approved by a vote of 4-1. This item will tentatively go to Village Council on May 2, 2022.

RESULT:	RECOMMENDED TO APPROVE [4 TO 1]
MOVER:	Brent Larson, Commissioner
SECONDER:	Cindy Roth-Wurster, Commissioner
AYES:	Larson, Roth-Wurster, Wood, Pirog
NAYS:	McGinn
ABSENT:	Luszczak, Cavanaugh

4. 44 W. Illinois Avenue - SU Packaged Liquor Store

Notice was published in the Daily Herald on March 28, 2022 and mailed to the owners of the surrounding properties.

Petitioner's Exhibits:

1. Application for Special Use
2. Proof of Ownership
3. Business Plan
4. Floor plan
5. Plat of Survey
6. Existing locations and hours of operation
7. Proposed exterior and interior improvements
8. Objection email dated 4/11/22
9. Public Notice

Ms. Wood submitted additional Objectors emails into record as Exhibit #10- She read both emails (exhibit #8 and #10) into record

Sworn in petitioner: Mr. Milan Patel Morton Grove, IL part owner, Mr. Cory Kelly Hampshire, IL design and Build

Mr. Kelly referred to the interior remodel slides to show proposed and how it would appeal to a specific clientele. He compared it to a restaurant from Burger King to Capital Grille. Mr. Kelly spoke to other liquor stores in area stating they are not bringing another low level place. He stated they are coming to this location because it is high end not to get a quick 6 pack. Mr. Kelly spoke to the previous business issues on smell pointing out they will be disposing of cardboard only in the dumpster. He spoke to the vacancy being an eye sore pointing out when business does well the owners strive to make it better. Mr. Kelly stated this is an opportunity to create a higher standard in the community.

Ms. Wood asked about signs and posters

Mr. Kelly stated they want to present curb appeal but need to market products they will have. He stated they will have signage within guidelines of what is allowed.

Ms. Wood spoke to other locations and asked what kind of signage they have in window

Mr. Bradshaw stated there are perimeters in the liquor code but zoning allows signage in windows

Mr. Patel stated they do not block windows at other location

Mr. Kelly stated the advantage of not covering windows is to be able to see who is coming in.

Mr. Larson asked if their other location is in a residential area

Mr. Patel answered yes. He stated they are focusing on being a high end liquor store compared to a grocery.

Mr. Kelly stated they set precedence geared to a particular community.

Mr. Bradshaw gave a brief overview stating the subject property is zoned B2 general business and has been vacant since 2012 with the previous tenant being JJ Peppers operating as a liquor store. He stated the proposed space is approx. 3500 sq.ft. and annexed into Village from unincorporated Cook County. He spoke to the proposed remodel referring to the interior remodel slide. He stated they have 5 stores under their ownership showing their experience with this type of use. Mr. Bradshaw spoke to the point of sale system indicate in the business plan requiring identification cards to be scanned before each transaction. He referred to the exterior building improvement slide to show proposed exterior elevation plans. Mr. Bradshaw stated in addition to liquor they will sell other prepackaged items and will utilize the alley behind the building for all deliveries proposed mid to late mornings. He stated the proposed hours of operation are Monday-Thursday 9am-10pm, Friday- Saturday 9am-11pm and Sunday 9am-10pm. Mr. Bradshaw stated they have applied for the required liquor license with the Village. He stated the parking requirements will not change. He stated Community Services, Engineering, Fire Prevention and Police have reviewed and have no issues.

Mr. Pirog asked if they will have wine tasting or events

Mr. Bradshaw explained that will be subject to liquor license that still needs to be approved

Ms. Wood asked how far homes behind fence are

Mr. Vyverberg referred to the plat of survey slide. He stated the rear drive aisle has approx. a 25ft separation and the single family homes on Summerset Court has rear yard setbacks of approx. 10ft. Mr. Vyverberg pointed out there is a tree line and solid fence between commercial property and single family homes

Ms. Wood asked about parking

Mr. Bradshaw confirmed there is parallel parking on side of building referring to slide

Ms. Roth-Wurster asked about dumpster location

Mr. Bradshaw referred to site photos showing location in permitted area

Mr. Pirog asked if the proposed hours are consistent with Garfield's

Mr. Bradshaw stated he is unsure of Garfield's hours

Mr. Pirog asked if within code

Mr. Vyverberg stated they are consistent with other licenses within village

Sworn in Ms. Judy Ross 51 W Illinois

Judy stated she has lived here for 51 years. She spoke to the changes. She stated JJ Peppers was the anchor of the strip mall for years. She stated she has no objections because the vacancy has been an eye sore for years. Judy stated this will bring good tax dollars to Village and will bring extra business to neighboring businesses. She stated it is already a high traffic area and this will

not negatively impact. She stated there were not drunks hanging at JJ Peppers. She pointed out the strip mall was there before the neighboring residents. She stated she lives next to the gas station and has no issues. Judy stated this will be good for the Village and a better view out her window.

Sworn in Mr. Bill Cocanes 52 W Illinois Owner of Billy's

Mr. Cocanes stated he has been there since 1992. He stated business was great and then JJ Peppers closed and they lost 30% of their business. He stated when Covid hit it is difficult staying open. He stated they had no issues with JJ Peppers when they sold alcohol. Mr. Cocanes spoke to the dumpsters which they and the pizza place also have and have no issues. He stated it will be nice to have more traffic in the center.

Sworn in Mr. Rick Heidner 20 Breaker Rd Barrington Hills, IL owner of building

Mr. Heidner spoke to the local ordinance that does not allow convenient store to sell liquor. He spoke to the homes that were built while JJ Peppers was operating with liquor sales. He stated the building has suffered terribly and is committing to take the money from rent to improve the property. Mr. Heidner explained they wanted to keep JJ Peppers but could not get a new liquor license. He spoke to the loss of other tenants due to the loss of JJ Peppers. He stated it is a positive and will improve the building and neighborhood and should help fill the other vacancies in the center.

STAFF RECOMMENDATION:

The Subject Property had been operated in the past as a convenience store. The store maintained a liquor license during its tenure, but has since closed. The Petitioner is proposing to open a liquor store, with associated improvements to the shopping center and Subject tenant space. The area surrounding the proposed liquor store consists mainly of residential, with a gas station directly south of the shopping center. The Petitioner has also proposed to completely remodel the interior of the store and to improve the exterior elevations of the center.

While Staff understands that a similar use was ultimately denied in 2013, the current Petitioner has ownership and operating experience, with multiple liquor stores. Also, improvements to the Subject Property, as a whole, are components of the application. Therefore, Staff recommends approval of the proposed Special Use, subject to the following condition:

1. The Special Use shall substantially conform to the Business Plan (including the hours of operation), Floor Plan, and façade/elevation improvement plans submitted by the Petitioner, except as such plans may be changed to conform to the Village of Palatine Codes and Ordinances.

There were no further questions. The public hearing was closed.

Mr. Larson made a motion to approve; seconded by Mr. Pirog

DELIBERATIONS:

Mr. Larson stated it meets the standards for special use pointing out putting a business into an eyesore should not have a negative impact on the property values. He stated it is a good use for the location

Ms. Wood agreed with Mr. Larson. She stated she drives by often and has been empty and affects other tenants. She pointed out they are looking to operate as a high end store and have other successful location. She stated it meets the standards and makes sense. Ms. Wood stated she is happy a business will go into the unit.

Ms. Roth-Wurster agreed standards have been met. She stated the property is an eye sore. She spoke to the emails of concern and how they were related to the previous business and thinks the proposed business plan is good pointing out they are experienced at running a similar business

Ms. Wood stated she doesn't see issues from previous owner coming into play on this property

Mr. Pirog spoke to increase of traffic and issues for foot traffic pedestrians it may cause

Ms. Wood summarized that this request has met the standards and was unanimously approved by a vote of 5-0. This item will tentatively go to Village Council on May 2, 2022.

RESULT:	RECOMMENDED TO APPROVE [UNANIMOUS]
MOVER:	Brent Larson, Commissioner
SECONDER:	John Pirog, Commissioner
AYES:	Larson, Roth-Wurster, Wood, McGinn, Pirog
ABSENT:	Luszczak, Cavanaugh

IV. COMMUNICATIONS

V. ADJOURNMENT