

**VILLAGE OF PLEASANT PRAIRIE
ZONING BOARD OF APPEALS
Tuesday, April 27, 2010
6:00 PM**

Members Present: Christine Genthner, Chairperson; Mark Riley; Jennie Holman; David Hildreth and Sheryl Berner. Bill Morris and Tom Glassman were excused.

Also Present: Peggy Herrick, Assistant Zoning Administrator; and Jan Petrovic, Clerical Secretary.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CORRESPONDENCE.**
- 4. CITIZEN COMMENTS.**

Christine Genthner:

I see one person in the audience. Does anybody want to come forward. We will have an opportunity later to have you address us if you want. But seeing nobody.

- 5. CONSIDER THE MINUTES OF THE APRIL 15, 2008 BOARD OF APPEALS MEETING.**

Christine Genthner:

Do I have any additions, deletions, corrections? Seeing none, do I have a motion?

Sheryl Berner:

I'll move to approve the minutes.

David Hildreth:

I'll second.

Christine Genthner:

We have a motion by Ms. Berner to approve the minutes. We have a second by Mr. Hildreth. All in favor say aye.

Voices:

Aye.

6. NEW BUSINESS

Christine Genthner:

At this time we want to open it for a public hearing. Do I have a motion to open for public hearing?

David Hildreth:

So moved.

Mark Riley:

Second.

Christine Genthner:

With that we will open it for a public hearing.

- A. PUBLIC HEARING AND CONSIDERATION OF A NONCONFORMING USE SUBSTITUTION for the request of Liza Thober on behalf of John Cina, owner of the property located at 2518 Springbrook Road, to operate a property management office on the first floor of the building formerly occupied by Dave's Cycles (a nonconforming substitute use) on a R-6, Urban Single-Family Residential District zoned property pursuant to Section 420-140 I. of the Village Zoning Ordinance.**

The property is located in a part of the Southeast One Quarter of U.S. Public Land Survey Section 13, Township 1 North, Range 22 East of the Fourth Principal Meridian, in the Village of Pleasant Prairie, County of Kenosha, State of Wisconsin and further identified further identified as Tax Parcel Number 91-4-122-134-0403.

Christine Genthner:

Do I have an application by staff?

Peggy Herrick:

Yes.

Christine Genthner:

Do you swear to tell the truth, the whole truth and nothing but the truth?

Peggy Herrick:

I do.

Christine Genthner:

Please proceed.

Peggy Herrick:

1. Liza Thober on behalf of John Cina, owner of the property located at 2518 Springbrook Road, is requesting to operate a property management office on the first floor of the building formerly occupied by Dave's Cycles. Dave's Cycles was a nonconforming use on this property and they are requesting a substitution use to now go into this property with a property management company. The property is zoned R-6, Urban Single-Family Residential District, and pursuant to Section 420-140 I. of the Village Zoning Ordinance. a substitution use can be approved by the Zoning Board of Appeals. Exhibit 1 is the entire application for your reference.
2. The property is known as Lot 3 of CSM 2410 and located in a part of the Southeast One Quarter of U.S. Public Land Survey Section 13, Township 1 North, Range 22 East of the Fourth Principal Meridian, in the Village of Pleasant Prairie, County of Kenosha, State of Wisconsin and further identified further identified as Tax Parcel Number 91-4-122-134-0403.
3. The property is approximately 10,756 square feet and is located on the corner of 26th Avenue and Springbrook Road. The two story building on the property has an apartment on the 2nd level and approximately 1,775 square foot of commercial space on the lower level.
4. Pursuant to the application the building was built in the 1960s. From 1967 to 1992 the property was a used car lot and repair shop. From 1992 until January 30, 2010, the lower portion of the building was occupied by Dave's Cycle Shop--motorcycle repair and sales. The petitioner is requesting approval of a substitution use to occupy the first floor of the building for a property management office.
5. On May 6, 2002, as a part of a comprehensive, Village-wide rezoning effort, this property was rezoned from the then B-3, Highway Business District, to the current R-6 District. This rezoning occurred to comply with the State's Smart Growth law, which requires that the Zoning Ordinance, including the Zoning Map is consistent with the Village's Comprehensive Plan.
6. Because the previous use of this property was commercial prior to and after the zoning change, the commercial use has been classified as a legal non-conforming use. Pursuant to the Village Zoning Ordinance the commercial use may continue with certain limitations including:
 - a. Such nonconforming use may not be extended.
 - b. The total structural repairs or alterations in such a nonconforming building shall not during its life exceed 50% of the assessed value of the building unless permanently changed to a conforming use.

- c. If such nonconforming use is discontinued for a period of 12 months, any future use of the building and premises shall conform to the ordinance.
 - d. Once a nonconforming use or structure has been changed or altered so as to comply with the provisions of this chapter, it shall not revert back to a nonconforming use or structure.
 - e. Once the Zoning Board of Appeals (BOA) has permitted the substitution of a more or equally restrictive nonconforming use for an existing nonconforming use pursuant to the provisions of Chapter 18, Article V of the Village Code, the existing use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board of Appeals.
7. Section 18-35 A (3) of the Village Ordinances, the Board of Appeals has the authority to hear and grant applications for substitution of more or equally restrictive nonconforming uses for existing nonconforming uses, provided that no structural alterations are to be made. Whenever the Board permits such a substitution, the use may not thereafter be changed without application and hearing.
8. The petitioner is specifically requesting to substitute the use on the first floor of the building from the motorcycle sales and repair shop for a property management office known as My Property Management Company. Services include buying and selling of properties and residential property management. The company manages properties from houses to apartment buildings. In general the company finds tenants for the owners and provides bookkeeping and offers cleaning and maintenance services for the properties by hired contractors. The petitioner is also a full service licensed real estate broker.

Currently, My Property Management Company manages about 100 residential units. Most of the tenants mail their rent each month; however, 25% will come into the office to pay in person. Rent is due the first day of each month with a 5-day grace period. In addition to the petition the Company has one employee, a secretary and would hire contractors or subcontractors on an as needed basis. The hours would be Monday-Friday 10:00 a.m. to 6:00 p.m. and closed on weekends and holidays.

9. The first floor of the building is approximately 803 square feet and has two existing offices, two restrooms and other common office area. The remainder of the first floor includes a three car attached garage approximately 777 square feet that will be used for storage for the business.

The Village Zoning Ordinance requires one on-site parking space per 250 square feet of floor area plus the required handicapped parking spaces are required by state law for professional offices. Based on this requirement this substitution use would require to have a minimum of four parking spaces and one handicapped parking space. There is adequate on-site parking; however, the parking spaces shall be striped. Four regular parking spaces at 9 feet by 18 feet and one handicapped parking space adjacent to the building would be sufficient.

The plan on the slide up above show that they are proposing additional parking and that is fine. The ones highlighted in yellow would be the ones that would be required but they could certainly stripe additional ones. There are two marked off as an X. We are recommending those not b striped because they are too close to 26th Avenue.

10. The proposed change of a nonconforming use from a motorcycle repair and sale shop to a property management business is considered by the Village staff to be an equally or less restrictive nonconforming use for the purposes of the substitution of an existing nonconforming use.
11. All of the abutting and adjacent property owners within 100 feet were notified of the nonconforming use substitution request via regular U.S. mail on March 26, 2010 which is shown on Exhibit 2. The Board of Appeals agenda was published in the *Kenosha News* on April 12, 2010. Since the notice went out and it was published in the newspaper we have had no calls or received no comment on this from any of the adjacent property owners.

Christine Genthner:

Thank you, Peggy. Would anybody like to speak on behalf of the applicant?

Peggy Herrick:

Do you have anything to add?

Christine Genthner:

Seeing none, staff, do we have a recommendation?

Peggy Herrick:

Yes. The staff recommends approval of the nonconforming use substitution request to operate a property management business as presented during the public hearing and in the application materials for the property located at 2518 Springbrook Road because the proposed nonconforming use can be considered an equally or less restrictive nonconforming use of a nonconforming use of a motorcycle repair and sales shop.

Furthermore, the Village staff recommends that the nonconforming substitutional use if approved be subject to the conditions as listed in the staff memo and there are 11 of them. They range from the requirement specified in the ordinance that no structural alterations can be made, if there's another change in use a new application needs to come before the Board of Appeals. There are requirements related to striping the parking lot, a sign is required. So these are the specific conditions of 1 through 11 as listed in the staff memo.

Christine Genthner:

Thank you. Any questions for staff before I close the public hearing? Seeing none at this time I will close the public hearing. Do I have a motion?

Jennie Holman:

I'll make a motion to approve.

Christine Genthner:

Ms. Holman has made a motion to approve. Is that to include the 11 recommendations set forth on the staff recommendations?

Jennie Holman:

Yes, it is.

Christine Genthner:

Do I have a second?

Mark Riley:

I'll second.

Christine Genthner:

Mr. Riley has seconded. Any discussion on the motion? Seeing none, do you want to take a roll call?

Peggy Herrick:

Yes, please.

Christine Genthner:

I approve.

Mark Riley:

Approve.

Jennie Holman:

Approve.

Sheryl Berner:

Approve.

David Hildreth:

Approve.

Christine Genthner:

With that it's been approved subject to the conditions as set forth in the staff recommendation.

7. ADJOURNMENT

Mark Riley:

I make that motion.

Jennie Holman:

I'll second it.

Christine Genthner:

With that all in favor say aye.

Voices:

Aye.