



Planning and Zoning Commission Minutes
Thursday, September 1, 2022
7:00 PM, Village Hall Board Room
200 N. River Street, Montgomery, IL, 60538

- I. Call to Order- Chairman Hammond called the meeting to order at 7:00 pm
- II. Pledge of Allegiance- All present gave the Pledge of Allegiance.
- III. Roll Call

Absent: None

Present: Marion Bond, Tom Yakaitis, Patrick Kelsey, Mike Hammond, Ben Brzoska, Mildred McNeal-James, Joe Yen

Also present: Village Attorney Laura Julien, Director of Community Development Sonya Abt, Planner Zach Ewoldt, Trustee Dan Gier, and members of the audience.

- IV. Approval of the Minutes of the Planning and Zoning Commission Meeting of July 7, 2022.

Motion: Motion was made by Commissioner Brzoska to approve the minutes of the Planning and Zoning Commission Meeting of July 7, 2022. Commissioner McNeal-James Seconded the motion.

Ayes: Brzoska, McNeal-James, Yen, Bond, Yakaitis, Hammond.

Nays: None

Abstain: Kelsey

Motion carried.

- V. Public Comment Period
Robert Klein of 1304 Raymond Drive shared concern of the updated lighting at Gario's Pizza and Platt Electric. He also asked, what type of lighting is allowed?

Director Abt stated one foot candle is allowed at the property line, 0.5 is allowed if neighboring residential property. She added the situation has been discussed and will be corrected in a timely manner to be.

- VI. Items for Planning and Zoning Commission Action
 - a. 2022-002 Annexation, Rezoning and Variation Request (1249 State St - Single Family Residence - Juan Alcantara)

- i. Public Hearing and Consideration of Annexation and Rezoning into the Village of Montgomery. The property is currently located in unincorporated Kane Co. and zoned as R-2. The Petitioner is seeking annexation into the Village and a rezoning to R-2 Single Unit Dwelling District.
- ii. Public Hearing and Consideration of a Variation from Section 8.10.B.2 (Design Requirements for Residential Zoning Districts- **Façade** Transparency) of the Village of Montgomery Unified Development **Ordinance to allow the minimum façade** requirements to be waived for East, North and West elevations.

Chairman Hammond asked Staff to walk through the request for the Commission.

Planner Ewoldt explained that the Petitioner, Juan Alcantara, is seeking annexation into the Village in order to connect to the Village's water. Upon annexation, the Petitioner is requesting to be zoned R-2 (Single-Unit Dwelling District). The Petitioner is also seeking a **Façade** Transparency Variance for three (3) of the elevations on his newly constructed home.

The Petitioner was issued a building permit by Kane County to construct a new single-family home with the condition that they connect to the Village of Montgomery's water system. Village Policy requires a property to be annexed in order to connect to our water system. The Petitioner began construction with the county permit, however, is now seeking annexation so that they can install a water service and obtain an occupancy. A separate annexation agreement will be considered by the Village Board that will address occupancies and permits for water service.

The Petitioner is requesting a Variation from Section 8.10.B.2 (Design Requirements for Residential Zoning Districts - **Façade** Transparency). The UDO has minimum requirements for **Façade** Transparency. A minimum of one window is required on facades facing each yard. Additionally, a minimum transparency of 15% is required on facades facing the front and corner side yards. Additionally, a minimum transparency of 10% is required on facades facing the interior side and rear yards. The Petitioner is requesting a variance for the East (corner side yard), North (rear yard) and West (interior side yard) elevations of the principal building (single family residence) as they do not meet the minimum transparency requirements. The South elevation, which is the front elevation, meets the 15% transparency requirement.

The principal building (single family residence) has an attached two-car

garage and meets the required parking of 4 parking spaces including two enclosed spaces. The driveway access to the Property will be located off S. State Street.

The Petitioner will be connecting to the Village of Montgomery's water system. A permit will be necessary.

Staff recommends approval of PZC 2022-002 Annexation, Rezoning and Variation of the property located at 1249 State Street with the following conditions:

1. The Petitioner will be required to Seed/Sod the Lot.
2. Any permits issued prior to the annexation of the Property shall remain under the jurisdiction of Kane County until such time as the Village is provided with proof of final inspections/occupancies. Permits issued by Kane County that have been closed out by Kane County prior to the annexation of the Property shall be accepted by the Village.
3. The Petitioner must obtain a valid Kane County Right of Way Permit prior to the issuance of a water tap permit from the Village of Montgomery.

Chairman Hammond opened the public hearings for the annexation zoning and a variation for PZC 2022-002.

Robert Klein, 1304 Raymond

Mr. Klein has concerns of the special use mentioned in the letter he received in the mail, what is the special use being requested? Additionally, he expressed concerns about the fence and that the construction vehicle parking does not belong in a residential area.

Remy Tineo

Remy Tineo, a representative for the Petitioner, was sworn in and responded stating the property is still under construction, the fence will be removed, and commercial vehicles will not be parked on the property once the construction is completed.

Director Abt and Attorney Julien stated the wording "special use" at the end of the letter Mr. Klein received was an error it should have read "variations". The notice was published correctly, and the agenda posted for the meeting contains all the correct zoning requests.

Chairman Hammond asked the Petitioner how long will it be under construction?

Mr. Tineo answered that it has been under construction for a year. It is a spec house, but they have a buyer, and it will be complete within 30 days once they get Village approval.

Chairman Hammond asked Staff to read the Findings of Fact for the Commission

Findings of Fact (Annexation):

1. The proposed annexation is in compliance with state law.
The proposed annexation is in compliance with state law. The Village Board will hold a separate public hearing on the annexation agreement.
2. The parcels proposed for annexation are contiguous to parcels located in the Village.
The Property is contiguous to parcels to the west and south that are located within the Village's corporate limits.
3. The annexation conforms to all annexation or service extension policies of the Village.
The annexation will conform to the Village's annexation and service extension policies, with water service to be addressed in a separate annexation agreement.
4. Proposed public infrastructure and utilities are provided to the satisfaction of the Village Engineer, including water facilities, wastewater facilities, drainage facilities, streets, and transportation facilities.
The existing and proposed infrastructure is satisfactory to the Village Engineer.
5. The proposed annexation supports any planned capital improvement policy.
The proposed annexation supports planned capital improvement policies.
6. The annexation supports the land use, development intensity, and planned pace of growth in the Village as indicated in the Comprehensive Plan and the other land use policies of the Village.
The annexation is not in compliance with the Comprehensive Plan however is generally in accordance with its intent as it is compatible to adjacent uses, consistent with its historical use, and is in compliance with other land use policies of the Village.

The Commissioners concurred with the findings.

Findings of Fact (Map Amendment):

1. The proposed amendment will not endanger the health, safety, comfort, convenience, and general welfare of the public. The proposed rezoning will not endanger the health, safety, comfort, convenience, and general welfare of the public. The Property is surrounded by other residential uses.

2. The proposed amendment is compatible with the existing uses, character, and zoning of adjacent properties and other property within the immediate vicinity of the proposed amendment. The rezoning is compatible with existing uses and zoning in the immediate vicinity. Several surrounding properties are zoned residential.

3. The proposed amendment provides a relative gain to the public, as compared to any hardship imposed upon an individual property owner. The proposed rezoning will allow the new single-family home to be a permitted/conforming use.

4. The proposed amendment addresses the community need for a specific use. The rezoning is consistent with the existing zoning of residential in the county and addresses a need for residential uses. This property was previously a single-family home.

5. The proposed amendment corrects an error, adds clarification, or reflects a change in policy.
N/A

6. The proposed amendment is consistent with the intent of the Comprehensive Plan, this Ordinance, and the other land use policies of the Village. The rezoning is not consistent with the Village's Comprehensive Plan, as the Comprehensive Plan designates the subject property as "Neighborhood Commercial" and the proposed rezoning is R-2 (Single-Unit Dwelling District). However, the rezoning is consistent with the Village's Unified Development Ordinance and other land use policies of the Village. It is also consistent with the historical use of the property as single-family residential and compatible with the adjacent Kane County zoning.

The Commissioners concurred with the findings.

Findings of fact (Variation):

1. The Proposed variation will not endanger the health, safety, comfort, convenience, and general welfare of the public.

Petitioner: It is the Petitioner's opinion that the proposed variation will not endanger the health, safety, comfort, convenience, and general welfare of the public.

Staff Comments: Staff concurs with the Petitioner. The proposed variation will not have a negative impact on the public.

2. The proposed variation is compatible with the character of adjacent properties and other property within the immediate vicinity of the proposed variation.

Petitioner: It is the Petitioner's opinion that the variation is compatible with the character of adjacent properties. The surrounding area is residential.

Staff Comments: It is staff's opinion that the development is compatible with the with the character of the adjacent residential properties and will not negatively impact the adjacent properties.

3. The proposed variation alleviates an undue hardship created by the literal enforcement of the UDO.

Petitioner: It is the Petitioner's opinion that the UDO creates an undue hardship or practical difficulty requiring the home to meet the transparency requirement. The house was built under a Kane County Building permit prior to the annexation of the Property and meets the County's requirements.

Staff Comments: The intent of this section of the UDO is to provide for a higher quality development and provide a set standard of natural light within a newly constructed building. Staff believes that the proposed variation would be the minimum deviation from the UDO's intent.

4. The proposed variation is necessary due to the unique physical attributes of the Property, which were not deliberately created by the applicant.

Petitioner: It is the Petitioner's opinion that the building permit was issued under Kane County and meets their building requirements.

Staff Comments: Staff agrees the home was designed and constructed under Kane County's requirements for a County building permit, and impacts the Petitioner's ability to meet the UDO requirements.

5. The proposed variation represents the minimum deviation from the regulations of the UDO necessary to accomplish the desired improvement of the Property.

Petitioner: It is the Petitioner's belief that the variation represents the minimum deviation from the regulation of the UDO.

Staff Comments: The Petitioner is providing the required transparency on the front elevation and is close to meeting the UDO requirements on the remaining elevations.

6. The proposed variation is consistent with the intent of the Comprehensive Plan, the UDO, and the other land use policies of the Village.

Petitioner: It is the Petitioner's belief that the variation is consistent with the intent of the Comprehensive Plan and the UDO.

Staff Comments: It is staff's opinion the new single-family homes is consistent with the intent of the Comprehensive Plan and the general intent of the UDO.

The Commissioners concurred with the findings

Chairman Hammond asked if the Commissioners have any further questions or comments

Commissioner McNeal-James asked about trees and landscaping, Commissioner Yakaitis also wants to know about the trees and landscaping. Staff stated since these are not streets owned by the Village. Street trees cannot be required.

The petitioner agreed to planting two trees one on each side of the lot. He requested measurements for placement from the Village before planting.

Motion was made by Commissioner Kelsey to approve the Annexation for 1249 State Street PZC 2022-002 subject to the conditions in the staff report. Commissioner Yakaitis Seconded the motion.

Ayes: Kelsey, Hammond, Brzoska, McNeal - James Yen, Bond, Yakaitis

Nays: None

Abstain: None

Motion carried.

Motion was made by Commissioner Bond to approve Zoning upon annexation to R-2 (Single-Unit Dwelling District) for the PZC 2022-002 1249 State Street subject to the conditions outlined in the staff report and the condition that the Petitioner plant two trees on the property. Commissioner Kelsey Seconded the motion

Ayes: Bond, Yakaitis, Kelsey, Hammond, Brzoska, McNeal-James, Yen

Nays: None

Abstain: None

Motion carried.

Motion was made by Commissioner Kelsey to approve Variation 8.10.B.2 (Design Requirements for Residential Zoning Districts - Façade Transparency) with the conditions in the staff report and the additional condition that they plant two trees on the property. Commissioner Brzoska Seconded the motion.

Ayes: Kelsey, Hammond, Brzoska, McNeal-James, Yen, Bond, Yakaitis

Nays: None

Abstain: None

Motion carried.

VII. Community Development Update/New Business

Director Abt stated permits were issued for the truck terminals at Aucutt Road and Commerce Road. The Aucutt Road truck terminal was approved by the Village Board, however not the use of alternate surfaces; the outdoor storage area must be paved. Director Abt also noted that the new Gas n Wash on Orchard Road opened.

VIII. Next Meeting: October 6, 2022

IX. Adjournment: With no further business, Chairman Hammond adjourned the meeting at 7:45 PM.

Respectfully Submitted,

Jill Hoover

Secretary