

VILLAGE OF CALEDONIA ZONING BOARD OF APPEALS
East Side Community Center - 6156 Douglas Avenue - Racine, Wisconsin
Tuesday, April 25, 2017 at 9:00 a.m.

Chairperson Rosanne Kuemmel called the meeting to order at 9:00 a.m. Kuemmel read the meeting process. Board members may have visited the site before this meeting.

1. Roll Call

Board Members in attendance: Rosanne Kuemmel, Richard Mielke, John Barnes, Judith Tomachek, Lisa Bell

Excused: Joan Rennert

Staff Present: Jarmen Czuta of Racine County Development Services to assist the Board on regulations and requirements, Village Administrator Tom Christensen, Village Engineer Anthony Bunkelman, Attorney Elaine Ekes

2. Review and Possible Approval of Minutes from November 22, 2016

Lisa Bell made a motion to approve the minutes. Judy Tomachek second. Voice vote 5/0. Motion carried.

3A. Public Hearing

Inland Greentree LLC
a/k/a IRC Greentree LLC
5111 & 5141 Douglas Ave.
104-04-23-20-103-110 &
104-04-23-20-103-160
Atty. Jeffrey Vercauteran,
Agent

The existing commercial building will have insufficient side yard setbacks.

Czuta read the public hearing notice:

Request a variance to allow an existing lot line to remain that will transect an existing commercial building at 5111 and 5141 Douglas Avenue, Section 20, T4N, R23E. Village of Caledonia.

Approval was denied and a variance is requested as the existing commercial building will have insufficient side yard setbacks.

Applicants are subject to Article VI, Division 18 B-3 Commercial Service District, Section 20-556 Uses, Sec. 20-558 Yard setback requirements, and Sec. 20-1017 Reduction or joint use of the Village of Caledonia Zoning Ordinance.

Kuemmel swore in William Anderson, 814 Commerce Drive, Oak Brook, IL. Mr. Anderson works for IRC. His company owns a major portion of Green Tree Plaza. When preparing due

diligence for a sale of a portion of the property they discovered they may be in violation of side set back requirements and are seeking a variance.

Jeff Vercauteren, Agent, 33 E. Main Street, Madison, WI was sworn in. He explained the condition they are looking to correct was created in 1990 before IRC owned the property. The former owner Quit Claimed half the property to itself to create two separate tax parcels. Recently they found out the parcels did not comply after 27 years.

Bell asked how they found this out. Vercauteren explained they have a pending sale on half of the property and this came up through due diligence.

There were no more questions from the Board.

Kuemmel asked if anyone was present in support.

Tom Christensen, 3134 Rudolph Lane, Caledonia was sworn in. He spoke in support. He was speaking on behalf of himself, the Village of Caledonia and Village President Bob Bradley. They have been in discussions on this issue. IRC has been attempting to negotiate a sale and discovered during due process that there was an illegal land split in 1990, and the Village has culpability in that. This had created an undue hardship on IRC. IRC will still be retaining the K-Mart building and is interested in maintaining that property, keeping it viable. The Village is in support of this and feels it is in the best interest of the Village.

Attorney Elaine Ekes, Pruitt, Ekes & Geary, S.C., 610 Main St., Racine was sworn in. She wanted to clarify the 1990 land split. That split might have been for the possibility to allow for a separate tax bill for K-Mart, not to split control of the property. There were two separate CSMS that were provided for development of that corner. One was approved in 1989, another in 1990 essentially maxing out the number of divisions that could be done in a five year period. The 1990 division was one too many. After that the Village recognized two separate parcels. Occupancies have been given for those parcels, including K-Mart Garden Center and changes to Pick 'n Save. The Village is in support of this variance and will be taking up a waiver request of that land division to allow 1990 to be a legal division at the Plan Commission later today, 4/25/2017, and at the Village Board meeting next week.

No one was present in opposition.

Czuta read a memo from Julie Anderson, Director of Racine County Public Works and Development Services, dated 4/18/2017.

“Staff does not object to this request. Based on records on file with the Racine County Register of Deeds office and submitted documentation by the applicant, the property was divided into two parcels by the recording of a quit claim deed in November of 1990 by a prior property owner and this division caused the subject lot line to transect the existing commercial building. The land division resulted in insufficient side yard setbacks at the shared lot line. At this time the current property owner desires to sell the southern property that currently contains Pick-N-Save (and smaller tenant spaces) and retain ownership of the northern property that currently contains K-Mart. This variance is being requested to accommodate this real estate transaction.

The Property Owner has prepared a Reciprocal Easement Agreement to address access and maintenance requirements for both parcels. The perspective buyer of the southern portion of the property would enter into this Agreement at closing. Until any redevelopment occurs, the properties will continue to function as one as they have for the last twenty-seven years. The granting of this variance is in the public interest as it will facilitate a real estate transaction that will allow another owner to take ownership of the southern parcel that currently contains Pick-N-Save and allow continued ownership of the northern parcel that contains K-Mart by the current owner. This will allow the property owner of the K-Mart portion to work with the Village in the future on the possible redevelopment of this site. Concurrent with this variance request, the property owner has applied to the Village of Caledonia for a waiver of land division requirements to allow the 1990 land division to remain and this request will be reviewed by the village Plan Commission on April 25, 2017 and Village Board on May 1, 2017. It is expected that the village will enter into a Memorandum of Understanding with the Property Owner to address the future redevelopment of the northern K-Mart parcel.

If approval is granted, there should be a condition that if the building located on the northern or southern parcel is razed for redevelopment at the sites, any future redevelopment must be in compliance with all zoning regulations. If approved the zoning permit fee to authorize the existing lot line to remain that transects the existing commercial building with insufficient side yard setbacks would be \$250.00.”

Czuta read a letter from Village Engineer Anthony Bunkelman, dated 4/18/2017:

“I am in receipt of the notice for the Village of Caledonia Zoning Board of Appeals Public Hearing for 5111 Douglas Avenue and 5141 Douglas Avenue. This notice was in reference to allowing an existing lot line to remain that will transect an existing commercial building. This approval along with other approvals will aid with the sale of 5111 Douglas Avenue. This variance request is due to non-compliance with the existing commercial building having insufficient side yard setbacks.

I have reviewed the application listed above and offer the following recommendations.

- The Village Engineering Department does not have any objection to having this variance granted.
- The Village Plan Commission and Village Board also approve a Modification Waiver for the creation of the parcels from the November 1990 Quit Claim Deed.
- A Memorandum of Understanding between the Village and IRC Greentree is entered into for the potential future redevelopment of the Northern Parcel.
- In the event that either or both of the existing buildings on the parcels are razed for redevelopment, the new development shall conform to all applicable Zoning Ordinances and Regulations at the time of the redevelopment.”

3B. Public Hearing

George & Jessica Grochowski
13130 7½ Mile Road
Caledonia, WI 53108
104-04-22-06-028-000
Jason Fox, Agent

The proposed residential accessory structure (pole barn) with covered porch will occupy more than twenty (20) percent of the rear yard area.

Czuta read the public hearing notice:

Request a variance to raze a 24.2' x 26.2' detached garage and a 9.6' x 21.0' shed and construct a 16' x 22' x 30' x 47' residential accessory structure (pole barn) with a 10' x 26' covered porch at 13130 7½ Mile Road, Section 6, T4N, R22E, Village of Caledonia.

Approval was denied and a variance is requested as the proposed residential accessory structure (pole barn) with covered porch will occupy more than twenty (20) percent of the rear yard area.

Applicants are subject to Art. VI, Div. 24 A-2 General Farming and Residential District II, Sec. 20-1017 Reduction or joint use, and Sec. 20-1115 Accessory uses of the Village of Caledonia Zoning Ordinance.

Kuettel swore in George Grochowski, 13130 7 1/2 Mile Road, Caledonia, WI 53108. He explained the building needed to be set back more to the north. The building is needed to keep their recreational vehicles, lawn mowers, cars and trucks in a secure structure to avoid theft and/or vandalism. This will be for personal use only.

Bell asked if the neighbors were aware. Grochowski said he had contacted five of his neighbors and they were all in support, and he presented a petition signed by them and submitted it to Czuta. One neighbor he could not reach.

Grochowski explained the architecture facing the street. It is a two stage garage, small portion up front, larger in the back for better curb appeal. There will also be brick veneer and nice garage doors.

Czuta explained the application was asking for 742 sf over the 20% mark.

Kuettel asked what the hardship was. Grochowski explained in 2011 he did have a break in and wanted to keep his vehicles protected, did not want equipment sitting outside

No one was present in support.

No one was present in opposition.

Czuta read a memo from Julie Anderson, Director of Racine County Public Works and Development Services, dated 4/18/2017:

“Staff does not object to this variance request. There appears to be a desire to raze a 24.2' x 26.2' detached garage and a 9.6' x 21.0' shed and construction a 16' x 22' x 30' x 47' residential accessory structure (pole barn) with a 10' x 26' covered porch for personal storage and residential use to protect the owners' items

from the effects of the outdoor environment, and also from the threat of vandalism or theft, which would preserve the substantial property rights of the owner that are also enjoyed by others in the area. The area of the rear yard of the existing lot is 6400 square-feet. Without approval of the variance, residential accessory structures are allowed to cover up to twenty (20) percent of the rear yard area which is 1280 square-feet. The proposed 15'x 22' x 30'x 47' residential accessory structure (pole barn) with a 10' x 26' covered porch is 2022 square-feet which would exceed the allowable square-footage of residential accessory structures in the rear yard area of the lot by 742 square-feet. The variance request does not appear to be contrary to the purpose and intent of the ordinance as this is a unique situation due to the fact that the property owners own a vast number of items, associated with outdoor activities that they enjoy such as hunting, fishing, boating and outdoor sports that they desire to store indoors to protect them from the effects of the outdoor environment and also from the threat of vandalism and theft. If approval is granted there should be a condition that the pole barn is restricted to only code-compliant personal storage and/or residential uses for the property owners, with no business, commercial, or industrial use, no rental of space allowed within this structure, and no portion of the structure may be used for human habitation. If approved the zoning permit fee for the 15' x 22' x 30' x 47' residential accessory structure (pole barn) with a 10' x 26' covered porch would be \$200.00”

Czuta received correspondence from Village Engineer Anthony Bunkelman, dated 4/18/2017:

“I am in receipt of the notice for the Village of Caledonia Zoning Board of Appeals Public Hearing for 13130 7 ½ Mile Road. This notice was in reference to the owner’s construction a 16’ x 22’+30’ x 47’ pole barn with a 10’ x 26’ covered porch for personal storage and residential use only at the above address. This variance request is due to non-compliance with A-2 Zoning with residential accessory structures exceeding 20% of the rear yard area of the lot.

I have reviewed the application listed above and offer the following recommendations.

- The Village Engineering Department does not have any objection to having this variance granted provided that all Village standards are met in regards to access and grading of the site.
- There will need to be a site specific grading plan submitted that meets all Village Standards and approved by the Village Engineering Department prior to the construction of this structure.
 - 6% maximum slope on the driveway/driveway extension to the proposed pole barn.
 - There shall be a minimum of 30’ of backout (driveway) on all overhead doors for the pole barn. This will require modification of the North door or an explanation of how this door will be used.
 - Side slopes off of the proposed building and on swales are not to exceed the maximum of 4:1.
 - Centerline slopes on swales of a minimum of 0.8%.
 - There shall be a minimum of 8” of positive pitch away from the structures.
 - Roof runoff from the pole barn will need to be controlled. Gutters with downspouts shall be installed and discharged so that the runoff

will not create a problem with abutting properties or icing of the road Right of Way.

- The Right of Way for 7 ½ Mile Road in front of this parcel will need to be reviewed. The survey provided indicates that there is a 33' Right of Way and the Racine County Mapbook indicates 24.75' of Right of Way. If it is determined that the Right of Way is 24.75', additional Right of Way may need to be dedicated to meet Village Ordinance for issuance of Building Permits.”

Grochowski stated the use of the back door to the north was just to be able to get equipment out the back.

Tomachek made a motion to adjourn the Public Hearing portion of the meeting. Bell second. Voice vote 5/0. Motion carried

Public Hearing portion of the meeting ended at 9:38 a.m.

Board did not take a break.

4. Board Meeting

A. Decision on preceding petition 3A.

Kuettel asked the Board for discussion on Greentree. Christensen felt it was in the best interest of the Village and would be an undue hardship not to grant the variance.

Tomachek felt being this was not the fault of IRC Greentree and it would not be fair to not go along with the variance.

Ekes explained if they do redevelop the variance setback would be addressed again. If they needed another variance then it would come back to this Board.

Mielke made a motion to approve the variance. Bell second. Voice vote 5/0. Motion carried.

B. Decision on preceding petition 3B.

Mielke still stated his concern for allowing a variance over 20%. Wondered why the Board just doesn't change the ordinance.

Christen said this issue has come up before. This request was in character for the area in which it was located. He felt the building size was appropriate for the area. Kuettel felt the new structure would be an improvement.

Czuta brought to the attention of the Board that if they realized the volume of sheds, pole barns, etc., that met the provisions, the variances are a small percentage. The covered portion of this pole barn was not considered habitation, that would just be living quarters within the building.

Jason Fox, Agent for Grochowskis stated this has been a joint venture for the family, and the porch will make it more of a family structure for the children.

Barnes made a motion to approve the variance. Tomachek second. Voice vote 5/0. Motion carried.

B. Other business as authorized by law

No other business.

C. Adjourn

Bell made a motion to adjourn the meeting. Tomachek second. Voice vote 5/0. Motion carried. The meeting adjourned at 9:45 a.m.

Respectfully submitted,
Mary Jo Schmidt
Eng/Bldg Adm Asst II
Village of Caledonia