

ZONING BOARD OF APPEALS
Tuesday, December 21, 2010
6:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Present:

LAB Members: Aaron Magdziarz
Alicia Neubauer
Dennis Olson
Dan Roszkowski
Scott Sanders
Craig Sockwell

Absent: Julio Salgado

Staff: Kerry Partridge – City Attorney
Todd Cagnoni, Deputy Director - Construction Services Division
Jessica Roberts, Planner II – Construction Services
Jon Hollander, City Engineer - Public Works
Mark Marinaro–Fire Prevention
Jessica Roberts – Planner II

Others: Alderman Elyea, Alderman Jacobson
Kathy Berg, Stenographer
Applicants and Interested Parties

Todd Cagnoni explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as:

The Chairman will call the address of the application.

- The Applicant or representatives are to come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name and address to the Zoning Board of Appeals secretary and the stenographer
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.
- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns/questions of the Objector or Interested Party
- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.
- The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the Codes & Regulations meeting was given as Monday, January 3rd, at 4:45 PM in Conference Room A of this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact Jessica Roberts in the Zoning Office for any further information and that her phone number was listed on the top of the agenda which was made available to all those in attendance. The City's web site for minutes of this meeting is listed on the agenda as well.

The meeting was called to order at 6:36 PM. A **MOTION** was made by Aaron Magdziarz to **APPROVE** the minutes of the November 16, 2010 meeting as submitted. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 6-0.

A **MOTION** was made by Alicia Neubauer and the motion was **SECONDED** by Scott Sanders to lay over 810 South Main Street 033-10. The motion was **CARRIED** by a vote of 6-0.

ZBA 039-10

Applicant
Ward 13

4800 Auburn Street

Jeremy Smith

Special Use Permit for sales and service of cycle engines, snowmobiles etc. in a C-2, Limited Commercial District

The subject property is located on the southwest corner of Willard and Auburn Street and is currently a vacant building. The applicant Jeremy Smith of 4800 Auburn Street stated that he is trying to start small engine repair. He said he works on snow mobile, four wheelers, and jet skis. He added that all but one neighbor is in favor. I have signatures from every one of the neighbors in favor. He added that he believes this would be a good addition as no one on west side of town that has a business to work on small engines like the one proposed.

Objectors and Interested Parties:

Joanne Kranish 4801 Auburn Street stated that she was very much afraid of the bike shop that is being started. She added that she was sure that a credit check or criminal check was not made. I don't know how the business can be run because they cannot get gas to the building. The previous owner had a lawn mower service. I just think he didn't check out the person wanting to start the business. She stated her concern with noise and smoke associated with the business. He is doing business there, along with pictures of the signs. She added that she has gone through the zoning ordinance on the limited commercial district which allows for a wide range of retail sales and services and limits certain uses that have detrimental impact to neighboring properties. She stated that she feels this use does have a detrimental impact. Bob Gray, the owner of the property stated that he had a lawn and garden business at this location for 56 years. He stated the gas will be turned on. He added that he has a statement from the adjoining neighbors, excluding the Kranishes, in support of the business with no objections. Mr. Sanders asked if Mr. Gray was selling the property. Mr. Gray stated no he is renting to the applicant.

The applicant responded that he is trying to do something with his life and start a business. He added that everyone in the area is happy that there will be this type of business in this location. Mr. Olsen asked the applicant to respond to the concern with four wheelers being driven outside the location. The applicant stated that the four wheelers are not coming to my business and anything I do is done within the building so I can start the engines inside. He added everything is done inside. Craig Sockwell asked for clarification on the hours of operation and signage. Mr. Smith stated that the hours are generally from 8-5 or 6 Monday – Saturday and if necessary sometimes on Sunday. He added that he will use the existing signage. Scott Sanders stated that possibly they could add to the conditions the hours of operation and limit the business to inside repair.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Special Use Permit for sales and service of cycle engines, snowmobiles, etc. in a C-2, Limited Commercial District at 4800 Auburn Street. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. The special Use Permit is limited to sales and service of cycle engine, snowmobiles, etc. indoors with no outdoor storage or sales.
2. Installation of two (2) shade trees along Auburn Street by May 1, 2011.
3. All noise or repair inside building
4. Hours of operation Monday – Saturday 8:00 a.m. – 6:00 p.m.

Approval of this Special Use Permit is based upon the following findings:

1. *The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.*
2. *The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish or impair property values within the neighborhood.*

3. *The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the C-2 District.*
4. *Adequate utilities, access roads, drainage and/or necessary facilities have been provided.*
5. *Adequate measures have been taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.*
6. *The special use shall conform to the applicable regulations of the C-2 District in which it is located.*

ZBA 040-10

Applicant
Ward 5

623 16th Avenue

John Zajicek

Variation to reduce the required four (4) feet and six (6) inch side yard setback to three (3) feet and six (6) inches along the west property line **Variation** to reduce the required thirty (30) feet rear yard setback to two (2) feet and eight (8) inches along the south property line in a R-2, Two-family Residential Zoning District

The subject property is located 400 feet east of the 16th Avenue and Kishwaukee Street intersection. The applicant, John Zajicek of 100 Tangle Wood Drive in Freeport Illinois stated that he purchased the single family home in foreclosure on property in 2004 for rental. He added that the City asked that we replace the furnace, we complied, installing new furnace and while doing so plumbing wanted some things done. We asked for final sign off and now have zoning issue. Need to meet setback requirements and therefore a variation. He added that the properties are residential behind us and industrial. The property has been used as residential since 2004.

Todd Cagnoni stated that since the foreclosure it has been the opinion of staff that it has been used as a single-family home. It is the opinion of staff that it was a garage and then it was converted illegally. He added that it has not been assessed as a single-family home and used as a single-family home for quite some time. Scott Sanders asked if there were other issues that needed to be addressed as far as the conversion. Mr. Cagnoni answered, none that have not been resolved all ready. Dan Roszkowski stated that the use falls within the zoning district.

No objectors or interested parties were present.

Staff Recommendation was for Approval with 2 conditions.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the Variation to reduce the required four (4) feet and six (6) inch side yard setback to three (3) feet and six (6) inches along the west property line; and to **APPROVE** the Variation to reduce the required thirty (30) feet rear yard setback to two (2) feet and eight (8) inches along the south property line in a R-2, Two-family Residential Zoning District at 623 16th Avenue. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 6-0.

Dan Roszkowski asked whether they would be allowed to add another structure with this approval. Mr. Cagnoni stated not without coming to the board.

Approval is subject to the following conditions:

1. Meeting all applicable fire and building codes.
2. Submittal of a Building permit for Staff review and approval.

Approval of this Variation is based upon the following findings:

1. *Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.*
2. *The conditions upon which a petition for this Variation is based are unique to the property for which the Variation is sought and are applicable, generally, to other property within the same zoning classification.*

3. *The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.*
4. *The alleged difficulty or hardship is caused by this Ordinance and has been created by the persons presently having an interest in the property and by any predecessor in title.*
5. *The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.*
6. *The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.*
7. *The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.*

ZBA 041-10

218 7th Street

Applicant

Total Health Awareness Team

Ward 11

Special Use Permit for needle exchange services in a C-4, Urban Mixed-Use District

The subject property is located on the east side of 7th Street, north of 2nd Avenue. This applicant had previously been cited for doing a needle exchange in 2005 at their 201 7th Street location and the appeals process determined it was a prohibited use. They have since moved to this 218 7th Street location and have again been cited for violation of doing needle exchange services without a Special Use Permit. Staff recommendation is for denial.

Applicant, J Bryan Latham, 222 7th Street stated that he was here tonight and he would like to review the findings of fact provided by staff. He stated that they are funded by public health organization and highly respected experts. He added that the organization provides services to at risk individuals for the area. Since 2002, they have seen a reduction in the area. They work closely with various groups. He added that our services include a direct line with State of Illinois HIV Prevention Community, Center for Disease Control and they have provided services for 15 years on 7th Street. He stated that their transition from the 600 block to 200 blocks since they have participated and held many community level events, art shows concerts etc. The needle exchange has worked hand in hand with these organizations. Mr. Latham stated that in 2008 they secured funding for midtown districts, market and in 2010 they were the fiscal agent for farmers market. He added that the organization has provided new seasonal decorations on 7th street and they have helped to rehab several buildings along 7th Street. He stated that adequate utilities have been provided. The previous owners were allowed to locate and to operate the facility as an office. He added that there are no drainage issues and there are never any issues with traffic. Mr. Latham stated that he was confused as to if a permit was acquired since it has been in existence without violating the ordinance. He stated that pharmacies all over allow for purchase of syringes. He stated that without his organization there would be an increase in HIV and Hepatitis and overdose related death, along with crime. He stated that he understands people's concerns but he has acquired over 500 signature of support in the midtown neighborhood. He stated that the organization is there to treat the customers as human beings and ask them to make a positive change. He added that there is additional biohazard waste in the City and syringes are not only from drug uses but other uses as well.

Mr. Roszkowski made note of two additional letters submitted in opposition of the request from Charmaine Schreimer Turner and Guler Appliance. Scott Sanders asked the applicant if he had been here for 15 years and numerous years along 7th Street. Mr. Latham answered yes. Scott Sanders asked why he felt that 7th Street was the only location for this use. Mr. Latham stated that they would like to stay on 7th Street because they do not have many funds and people know they are located on 7th Street. He added that this region does not have enough substance abuse treatment centers. They come here because the dealers are here. He stated that people come from all over to find this location.

Objectors and Interested Parties:

Tom Gibbons of 333 Vale Ave Rockford stated that he had a question to ask. He stated that he is a resident of the City of Rockford. He stated that the exchange bargained in good faith with Rockford in the past. He stated that the City relegated the change from the 800 block of 7th Street, industrial area, if and when they allowed the exchange to move back to a commercial area. He wanted to know if so, was it done or approved. No mention of the 800 block of 7th street was made. He stated that he is the Administrative Assistant with Patriots Gateway and they are currently located next to the exchange, renting 212 and 214 7th Street. He stated it is a learning center for 25-60 children ages 7-16 several days and evenings of the week. He stated that they teach life skills and core values, Ohio gang prevention program, athletic

boxing program, and an industrial arts program. He added that every one of these kids is at risk for one thing or another. He stated that his hope is that they go back to a zoned Industrial area or to a clinical setting and that they not be allowed at this location. Craig Sockwell asked how long Patriots Gateway had been there. Mr. Gibbons stated they just recently rented. Mr. Sockwell stated that at the time that they rented did they know that the needle exchange was located at 218. Mr. Gibbons stated yes.

John McHugh of 4214 Willows Lane Rockford stated that he came here in 1915 with an avocation to public health. He stated that AIDS is a massive disaster from a health standpoint. He added that as far as he knows no one is going to escape the consequences of catching AIDS, if they shoot up just once with a syringe that is infected. Nobody else will do this service. No one is out fighting for this. We had to create a board to address this unwelcome news that we have to prevent this. It is a hook; it is a way to get them in the door. The consequences have reduced the amount of syringes, reduced the sharing. He stated that Rockford has 400% increases in heroin users. This is not the best method; it is the only method to reach this venerable age. This is preventative health of youth not 80 year old addicts. I have been with the health department. This is a vital service. This is illegal activity. It is only legal when we are affiliated with data sample of those studies in New York. About three agencies help us in small amounts. He stated that there is a natural prejudice against people who use drugs. I just wanted to make the medical point that valid agencies feel that this is a vital and needed service. Our best shot so far is where we are now and that is where we want to stay.

Jim Phelps, President of Midtown and property owner of 215 7th Street 215, stated that he is not here on behalf of Midtown District. This is a zoning issue. Has nothing to do with the organization itself. He has spoken with many businesses and private residents in the Midtown District. A large share of the work is done by the midtown district. He stated that he would disagree that traffic is an issue. There are all sorts of vehicles and young people shooting up. He stated that he is very sympathetic to this issue as a business owner in this area but that he questions a few things about how the City made a determination that the best location was in an industrial zoned district. He asked the question, what has changed. They are still doing data collection. They should be in industrial zoning. Why have they moved from industrial and moved to commercial zoning. He stated that they are still waiting from City staff to know that answer. I have fielded many phone calls. They are against establishing this in the business location. They are concerned that this will stall this recovery of 7th Street.

Scott Sanders asked staff to clarify the history of the location and conformance and whether the use was prohibited here.

Todd Cagnoni stated that the needle exchange at 218 7th Street was not legally established. Staff received complaints, we did investigation, sent violation letter, which resulted in special use application. Yes they have been at a number of different locations along 7th street in the last fifteen years. In 2005, as a result of a complaint, the issue was brought up again, we were asked to rule at 201 7th Street. We determined it was not a permitted use in the C-4 District. At that time an appeal was filed in 2005 and fully vetted out and ZBA ruled that the use of the needle exchange was not a permitted use in that district. At that time they had two locations, one on 7th 800 or 900 block and one on the 200 block which provided services not related to exchange. The 800 - 900 was zoned industrial and the needle exchange at that time was permitted. At what point they moved from 201 7th street staff is not aware. Complaints that they had discontinued the 800 - 900 block of 7th needle exchange and consolidated services were made this year. If that indeed did take place they would be in violation. As they moved over to 218 7th Street they did not do so with the appropriate permit. The general premise with regards to permissibility has not changed. It remains not a permitted use. What has changed subsequent to 2005 ruling taking place is the opportunity to allow the use of a needle exchange as a Special Use Permit in C4 District, no longer prohibitive. Mr. Cagnoni added that at a staff level a recommendation of denial was placed on the application. Due to the secondary effects of the needle exchange and to their track record, Mr. Cagnoni stated that it was difficult on a staff level to support a use that has not followed the procedures properly. They were fully aware of the provisions but they established the use without submitting the appropriate information or getting the appropriate permits.

Michael Weldon 310 7th Street stated, I have been involved with a lot of activity in the area. Done much work in the area, businesses, and owned different facility. I have joined the board of the Midtown District, resident of the Val Konmen Plaza. I have been very impressed by work that has been done. I cannot say that everything has been done perfectly. Since I have lived there a substantial improvement since they have been established. I have seen a reduction in needles. I think that should be considered while deciding the issues. I don't see any traffic flow problems; yes I have seen vehicles going by. It has not been any problem. I think their location changes and consolidating has to deal with budget changes. They are doing what they are doing with very little money. I think it makes sense and I ask that you give that consideration.

Matthew Johnson-Doyle of 2016 Harlem Blvd, stated that he is the Senior minister of the Unitarian Church and that they in support of the work of this organization. I hope that you will use your discretion to make this decision. The nicest storefront on that block is this place. People there do really good and important work. Your job is administrative. I know

about the call of the season is to open our hearts, to make exceptions, to be expansive in our visions. Mr. Johnson-Doyle stated that it sounds to me that you have the power to make this use happen. This is a group that is doing really good work and they are saving lives. I think that should matter to you. They have been a good neighbor to the people around you. He added that his Church is located near Alpine and State, members live all over Rockford, including in the Midtown District.

Charmaine Schreimer 1809 of Camp Avenue Rockford stated that she and her husband Lee own 201 7th and 203 7th Street. She stated the funds to fix up at 201 7th were raised by Rockford Urban ministries to help to restore the building. We commissioned the architect; Bryan did have volunteers but the organization did not help with the funds. We bought the building at 2005 we had a lot of time to fix up the building. Bryan told us how he could help get the building fixed up. We let Bryan manage the building. There are six apartments on the second floor. He put in people that were probably drug abusers. We had a hard time of the income and outcome of the building. As for problems with needles, there are two public bathrooms in our building. One was having problems so my husband took the toilet out and reached in, we are lucky he didn't get pierced by the needles. We say there is a good thing for the needle exchange. It was difficult sharing a building with them. When I went to the dumpster one time and I went to pick it up it was a box full of needles.

Jessica D'Angelo 1119 of Colonial Machesney Park stated that she is sure that the needles in the dumpster and the toilet that were mentioned, there were other places needles were found around Rockford. Being a person that accepts all aspects of help that they offer and speaking on behalf of people that use their resources and services we now know where we can safely dispose of syringes. I think that it is something not many people knew for a long time. That has been an issue of drug users in Rockford. My father worked at Amcore bank on 7th Street growing up and I know the street well. For a long time we never knew that the exchange was there. That is one of Bryan's jobs to make sure it is not known. Once I became someone that used their services my father spoke with others working there and knew why 7th Street was cleaned up. Someone that goes there on a weekly basis there is no issues with traffic. What the organization is doing is saving lives. I am one of those people whose lives have been saved by them. In the last four years I have had at least six friends diagnosed with HIV and not knowing that a couple of people were HIV positive until I have used with them was a very scary thing. It is important that this place have the testing available and also have the resources available to have clean syringes so that would never happen again and so that my friends can have them as well. I know those that I care about and love. They are the sole provider of the overdose prevention in this area. They offer you training and you can get certified and take a test to carry. I have not had to use it but I do know people close to me that have had their lives saved by it. If they were not doing it then there would be many lives not saved here in Rockford with Bryan and his team there. When I walk in the door I don't feel like a drug addict. They offer us services and clean supplies I know them all by name. They sit down they talk to you they give you the tools that you need to start a new life and stay clean. I can't express to you how important it is to you that they remain there and get the permit that they need. They are not promoting drug use. People would be doing this regardless. She stated at least when they are there it is happening safely. Please do not take their services away because I can't imagine what it would be like without their services.

Michael Bell 222 7th Street stated that when he first started working for the agency in the capacity he was managing the consignment shop for a money maker for fundraising. I have worked with the agency for five years now. The shop has been shut down because we are trying to renovate the building that the shop can occupy. The syringe exchange is not strictly for heroin addicts it is not for junkies, you have diabetics by injection. I have MS and I use 52 needles a year. You never want to put your syringe in the trash can. We can't make people adhere properly. We cannot force them to do that. I just want to make sure that everyone in the room knows that there are others that may need to utilize the services as well. No needle should be lying on the ground. We have taken in more than over half a million needles. The most important thing that my agency does is give them clean works so that they are not using dirty works. It gives people the sense that they are human beings. We do not enable drug users. We are given those people that want to quit to stay alive time until they reach that point to quit and then we give them every tool and resource available to help them get off of the dope.

Alderman Karen Elyea 1302 Broadway stated that we are not here to debate the merits of the program. I have looked at the data, is it not in the right location. I am in support of staff's position. Why would they knowingly move into the building were they know that it is not a permitted use. The complaints that I receive that are needles being on the ground are only on 7th Street and I have only heard from those in opposition to the needle exchange location. It is unfortunate that they didn't reach out to assist them in getting into a better location, an industrial location. She stated that she hoped the Zoning Board would be in support of the denial.

Leanne Mathis 318 12th Street stated that she is in disagreement with the Alderman. She added that if we moved somewhere else the crime is still here. People need these services to save lives. Crime and drugs are still going to be here as long as the people are here. We need to help these people.

Mr. Latham stated that they never funded the renovation, but they spent much time on the building. Mr. Latham stated that when they were located in the Industrial District they were asked whether they did research. The City at the time stated that they then were designed for research and they originally rented two buildings. Not one person from the City called and said that they changed the zoning and you only have to fill out a special use application. We were strained with funding and wanted to move to the 200 block of 7th Street. Mr. Latham stated that he is disappointed in Patriots Gateway that they have not spoken to us on this issue. He asked that everyone please come on over and see what we do. Everyone that I have talked to states that locating in an Industrial Zone makes no sense. What people can travel to an industrial area with public transportation or on foot? We have a huge population and I am all over the city. Mr. Latham stated that he thinks what everyone is trying to say is that the organization should be somewhere else. Mr. Latham commented on the motivation of the local funeral home in opposition to the use. He stated that he has struggled 25 years with AIDS I am here to do this program to protect people.

Scott Sanders stated; we are not City Council we are here solely to look at matters of zoning. I appreciate the passion; it is somewhat off the issue of what it is before this body. I didn't hear anyone tonight speak against your mission or your service. We are looking at this specific issue because we look at it in a zoning aspect. I am favor of a lot of things but not everything is in the right place in every place in the City. The special use is an opportunity for you to come into compliance. It is not a result of someone tricking you into this. It is not that sequence of events that happened. I support your mission. We are here tonight to look at the appropriateness of whether this is worthy of a Special Use Permit at this location.

Dan Roszkowski stated that he would agree. I think that it is a great mission I truly believe that they are saving people's lives; again the whole issue is what an appropriate location is for this use. That is the question before us. Should that exist at that location?

Alicia Neubauer stated that she is glad that she got to hear about the mission. In my opinion it is a good location, but for other businesses in other areas we grant special uses all the time for this entity at this location, I think it is a good fit. I am not in favor of doing things the wrong way then asking of permission later. I think this is the right location, I am favor of it.

Dennis Olson stated that this has turned into the debate over the program. What is in question is whether this is a good location. Mr. Olsen, the City has been trying for decades to work on 7th Street. I have several issues with the location.

Craig Sockwell stated that he would like to see the location before deciding.

Scott Sanders stated that in defense of this location, the comments against stated that the business would inhibit the progress of 7th Street. However, we have acknowledged that this has been along 7th Street for the last five years and it has not served to work against improving the area. I feel we are speculating it would hinder the progress but it hasn't worked against 7th Street because it has been there for some time. If staff did look favorably I would certainly like to have some well thought out conditions placed on this, and I don't know if we could craft that right now.

Alicia Neubauer state that she didn't know of any conditions that could be placed on them just by nature of what they do, they have been doing it.

Aaron Magdziarz asked the applicant the hours of operation.

The applicant stated Tuesday - Friday 10:00 a.m. – 4:00 p.m. He stated that they are closed when the children are there at Patriots.

A **MOTION** was made by Alicia Neubauer to **APPROVE** the Special Use Permit for needle exchange services in a C-4, Urban Mixed-Use District at 218 7th Street. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 5-1, Dennis Olsen opposed. No conditions were added to the application.

Approval of this Special Use Permit is based upon the following findings:

- 1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.*
- 2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish or impair property values within the neighborhood.*

3. *The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the C-4 District.*
4. *Adequate utilities, access roads, drainage and/or necessary facilities have been provided.*
5. *Adequate measures have been taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.*
6. *The special use shall conform to the applicable regulations of the C-4 District in which it is located.*

ZBA 042-10

**3402 – 3548 North Bell School Road –and-
3408 – 3412 Bend Trail**

Applicant
Ward 4

Youssi Custom Homes LLC
Modification of Special Use Permit for a Planned Unit Development in an R-3, Multi-family Residential Zoning District from a condominium development to a townhome development with fee simple lots

The subject properties are located on the northwest corner of Spring Brook Road and North Bell School Road, and the southeast corner of Bend Trail and North Bell School Road.

Chris Youssi 555 N. Court Suite 202 the applicant stated that he is in real estate development and custom homes and recently purchased the property. He went to record the property and found that they were condominiums. He asked that the use be approved to allow for fee simple lots. Mr. Youssi stated the mistake was made as it was overlooked in the process amongst a number of other things that were not disclosed.

Dan Roszkowski asked whether this is requested as a better way to finance the homes. Mr. Cagnoni stated yes, because of restrictions on financing, we see this as legal mechanism to do so. He added when the structures were built they were constructed to comply with the building code for a townhome. Staff Recommendation is for Approval with 3 conditions. No objectors or interested parties were present.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Modification of Special Use Permit for a Planned Unit Development in an R-3, Multi-family Residential Zoning District from a condominium development to a townhome development with fee simple lots at 3402 – 3548 North Bell School Road and 3408 – 3412 Bend Trail. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Must meet applicable building and fire codes.
2. Site must develop in accordance with site plans on file, specifically Exhibits D and E.
3. Landscaping must be in accordance to approved Landscaping Plans dated March 22, 2006 and Exhibits F and G.

Approval of this Special Use Permit is based upon the following findings:

1. *The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.*
2. *The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish or impair property values within the neighborhood.*
3. *The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the R-3 District. As part of the PRD regulations unique design and sit planning is encouraged.*
4. *Adequate utilities, access roads, drainage and/or necessary facilities have been provided.*
5. *Adequate measures have been taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.*

6. *The special use shall conform to the applicable regulations of the R-3 District in which it is located.*

ZBA 043-10

Applicant
Ward 14

3510 Merchandise Drive

Dedicated Fleet Maintenance / Dennis Petzke

Special Use Permit for sales of heavy and medium duty trucks in an I-1, Light Industrial District

The subject property is located at 3510 Merchandise Drive. The applicant, Mike Oswald, General Manager of 3510 Merchandise Drive and CSM Company out of Madison stated that the dealership is a really good match with working on commercial vehicles, selling used trucks is a really good fit for us.

Scott Sanders inquired about the submittal of a landscaping plan and asked staff whether they anticipated compliance. He added that when we are granting this is it anticipated to be working toward the ordinance. Todd Cagnoni stated that a request for Special Use Permit gives the board and council the authority to add conditions and that it is a legally established parking lot. Todd stated that he shared the concern and added that compliance is what staff will be working toward and that staff is thinking along the lines of shade trees. Scott Sanders stated at a minimum he thinks that they should enforce frontage shade tree.

No objectors or interested parties were present.

A **MOTION** was made by Scott Sanders to **APPROVE** the Special Use Permit for sales of heavy and medium duty trucks in an I-1, Light Industrial District at 3510 Merchandise Drive. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

Approval is subject to the following condition:

1. Submittal of landscape plan for staff review and approval conforming to street frontage shade tree requirements.

Approval of this Special Use Permit is based upon the following findings:

1. *The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.*
2. *The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and will not substantially diminish or impair property values within the neighborhood.*
3. *The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the I-1 District.*
4. *Adequate utilities, access roads, drainage and/or necessary facilities have been provided.*
5. *Adequate measures have been taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.*
6. *The special use shall conform to the applicable regulations of the I-1 District in which it is located*

ZBA 044-10

Applicant
Ward 14

4792 Stenstrom Road

Allstar Rebels Cheer & Tumbling

Variation to increase the maximum gross floor area from 5,000 square feet to 9,714 square feet for commercial services in an I-1, Light Industrial Zoning District

The subject property is located at 4792 Stenstrom Road. The applicant Vincent Schideman of 4403 Condon Road Rockford stated that they are asking for Variation for commercial services in light industrial, so we can move our current operation from Oregon, Illinois to Rockford. He stated that they run two gyms that teach kids how to tumble and do cheerleading. He added that the business will bring roughly 15 people in for employment.

Alderman Jacobson stated that he spoke with Alderman Robertson and that he is in favor of the business in his ward. Dan Roszkowski asked if the building was 9,700 square feet and why the variation. The applicant stated yes. Todd Cagnoni added that the use has not been established and industrial zoning allows for a variety commercial uses provided they do

not exceed square feet in size. Alderman Jacobson added that there are several similar uses in the area including Skateland.

No objectors or interested parties were present.

Scott Sanders inquired about the landscaping provisions for the application. Mr. Cagnoni stated that there is existing green space and the trees existing are significant in size.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the Variation to increase the maximum gross floor area from 5,000 square feet to 9,714 square feet for commercial services in an I-1 Light Industrial Zoning District at 4792 Stenstrom Road. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

Approval is subject to the following condition:

1. Meeting all applicable fire and building codes specifically documentation from a licensed design professional (Architect), licensed in the State of Illinois indicating the current construction does not violate any building code requirements in regard to the change of use to an assembly use.
2. Submittal of a Building permit for Staff review and approval.

Approval of this Variation is based upon the following findings:

1. *Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.*
2. *The conditions upon which a petition for this Variation is based are unique to the property for which the Variation is sought and are applicable, generally, to other property within the same zoning classification.*
3. *The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.*
4. *The alleged difficulty or hardship is caused by this Ordinance and has been created by the persons presently having an interest in the property and by any predecessor in title.*
5. *The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.*
6. *The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.*
7. *The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.*

ZBA 030-10

Applicant
Ward 10

4728 East State Street

Denise Lewis

Special Use Permit for body art services consisting of piercing, tattooing, and body art in a C-3, General Commercial Zoning District **Referred back to ZBA**

Mr. Cagnoni explained that this item was heard at the October 26th Zoning Board of Appeals meeting and was sent to the Codes and Regulations Committee with a recommendation of Approval with 4 conditions. Since that time, new information was received regarding this application and the Codes & Regulations Committee referred the item back to ZBA based on this information. He shared concerns provided by the police department, establishment of use prior to special use and building permit, as well as to regards to drug activity.

The subject property is located on the northwest corner of Flintridge Drive and East State Street intersection and is surrounded by commercial and residential uses. The application was a result of a violation for a tattoo shop without a Special Use Permit or Building Permit.

The applicant, Denise Lewis 4728 East State Street, was present and stated that she didn't know of any police or shooting.

Mr. Roszkowski stated that he was confused by the process. Kerry Partridge with Legal stated that Attorney Cacciapaglia was in conversations regarding the applicant and since she was not present it would be a good idea to lay the item over as she thought the information was significant enough to send back to the Zoning Board of Appeals. Montri Saejia, the applicant's representative of 5727 Heton Court stated that he was here to speak the truth and he wanted to make sure to do the right thing and did not know they needed a special use in the past as the other shop that he opened did not need a special use permit. He stated that a different shop Euro tattoo was threatening them because they were opening the business. He stated that they are trying to make a living I have paper work I am here to get permission to get the information. Frustrating knowing we are first person to apply for special use permit. Todd Cagnoni added that typically we try to base our recommendation with the entire staff and since additional information provided by police department we are not comfortable with the recommendation without that information. Ms. Lewis stated that she is about to lose her house because she has no income and they cannot open the business. Todd Cagnoni asked whether they are talking to customer at this time. The applicant stated no business is being done but they are talking to customers.

A **MOTION** was made by Alicia Neubauer to **APPROVE** the Special Use Permit for body art services consisting of piercing, tattooing, and body art in a C-3, General Commercial Zoning District at 4728 East State Street. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 6-0.

With no further business to report, a **MOTION** was made by Scott Sanders to adjourn. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0. The meeting was adjourned at 9:48.

Respectfully submitted,
Jessica Roberts, AICP, Planner II
Construction Services Division