

Zoning Board of Appeals Minutes

A petition to rezone PIN 12-19-117-002 from Residential-3 (R-3) to General Commercial (GC)
Shields Township

Public Hearing – April 11, 2018

Petitioner: Donald F Rogers Trust, 715 North Avenue, Lake Bluff Illinois.

Staff in attendance:

Eric Tooke, Senior Planner
Brittany Sloan, Deputy Director/Zoning Administrator
Eric Waggoner, Director
Brad Denz, Senior Planner
Matt Meyers, Deputy Director/Chief Engineer
Lisle Stalter, State's Attorney

1. **Call to Order:** Rezoning No. #000252-2018 – Petition to rezone PIN 12-19-117-002 from Residential-3 (R-3) to General Commercial (GC).

2. **Roll Call**

Zoning Board of Appeals representatives:
Member Dennis Hockney, Antioch Township
Member Carol Zerba, Lake Villa Township
Member John Reindl, Fremont Township
Member Gerry Stimpson, Grant Township
Member Marv Raymond, Newport Township
Chairman George Bell, Libertyville Township

3. **Pledge of Allegiance**

4. **Hearing Opening**

Chairman Bell opened the hearing at 1:00 p.m. and reviewed the petition with those in attendance. The format of the meeting was described to those in attendance by Chairman Bell. All those who were to give testimony were sworn in.

5. **Staff Report**

Mr. Tooke stated that the ZBA recommendation is advisory and that the Board's recommendation will be forwarded to the Lake County Planning, Building and Zoning Committee (PB&Z). The PB&Z Committee will also provide a recommendation on the request, which is then sent to the full County Board. The County Board has final authority to act on the rezoning. ZBA Rezoning Case #RZON-000252-2017 is a rezoning request from the Residential-3 zoning district to the General Commercial zoning district. The applicant is Donald F. Rogers Trust, record owner. The property address is 12585 W. North Avenue, Lake Bluff, Illinois, and contains approximately 0.32 acres respectively. The legal notice for the case was published in the Daily Herald on March 23, 2018. A companion mailing was sent to area neighbors, in accordance with the Lake County Code. The notice document was corrected and mailed to area neighbors on March 29, 2018, because the date of the meeting was correctly identified, but the incorrect day of the week was stated in the notice. Correspondence about the case has been received from Lake County Building and Code Enforcement Division (on-site poster notification), Lake County Department of Planning, Building and Development (staff report), staff of the Lake County Division of Building and Engineering, Lake County Health Department, Lake County Division of Transportation, and Public Works, and the McHenry-Lake County Soil and Water Conservation District (Natural Resources Information Report).

The original application and deed was handed to Chairman Bell.

6. ZBA Questions to Staff

Member Raymond asked what kind of uses can be placed on the property if it is rezoned from residential to commercial. Mr. Tooke stated that various uses can be placed on the property. Besides the proposed parking use, various retail uses could be placed on the property. Certain uses would require a conditional use permit, which would be considered by the board.

Member Reindl stated that development may be limited by availability of sewer and water. Mr. Tooke stated that the residential nature of North Ave. reduces the likelihood of commercial development of the property.

7. Points of Information

Ms. Sloan summarized points of information on the property, covering the content in the staff report section on "additional information." She explained the concept of a conditional rezoning, which requires that any conditions be volunteered by the applicant and have a nexus with the use or range of uses for the site, as well as a nexus with the standards of criteria of approval.

Member Reindl asked at who's direction is the road being installed. Ms. Sloan explained that the property owners adjacent to the alley are responsible for improvement and maintenance of the alley. The alley is not a public road and is not maintained by the Highway Commissioner. The alley was platted with the subdivision in 1927, and other alleys are improved and used as a secondary means of access for properties, such as access to dumpster enclosures.

Member Reindl asked if the County was going to have anything to do with the alley after it is constructed and expressed concern about the safety of speed bumps. Ms. Sloan stated that this point could be discussed after the petitioner's presentation.

Ms. Sloan stated the petitioner is Mr. Dan Rogers, who has retained Mr. Richard Kopsick as his representative.

Chairman Bell asked if it would be possible to add another condition to disallow any direct access to North Ave. Ms. Sloan stated that if the applicant were to volunteer that condition today, the condition could be added.

Member Raymond asked whether there would be weight limits for the alley. Ms. Sloan stated that there would not be and that there is no way to practically enforce such a condition. The size and type of vehicle would be limited by ability to maneuver in the alley.

8. Petitioner's Testimony

Mr. Kopsick presented on behalf of the applicant. He mentioned a zoning change was approved for the property to the west in 2011 in conjunction with the gas station nearby, and the landscape buffer has mitigated any impacts. Mr. Kopsick believes this proposal is similar in nature and an appropriate action in light of the Lake County Regional Framework Plan's future land use designation, as well as the changing conditions of the area. There are three or four nearby commercial property with additional parking needs. Mr. Kopsick believes the rezoning action will not result in adverse impacts to the surrounding properties, and he noted that area neighbors were in attendance and supportive of the plan. He then identified the proposed conditions which

he believes would mitigate impacts of the action. He asked the Zoning Board to vote in favor of the application and thanked them for their consideration.

9. ZBA Questions to the Petitioner

Member Raymond asked if a guarantee or bond could be required to ensure the proposed alley improvements would be constructed. Mr. Rogers replied and explained that he has been a lifelong resident of the area and that his word is better than a bond. He explained the history of the property and that his property had owned the subject property for more than 50 years and he has maintained the alley since he was old enough to drive a tractor. Mr. Rogers stated he is committed to continuing to maintain the alley.

Member Zerba asked what would happen if the property was sold within the next year. Mr. Rogers stated that it would all be redeveloped, and the condition of that property is that future development be tied to the redevelopment of the IL Rte. 176 parcel. Ms. Sloan explained that guarantees or bonds are generally tied to a development in the near term, because the instrument requires maintenance to maintain currency. Furthermore, the guarantee is linked to the individual constructing the improvements, and in this instance, a future owner would likely be developing the site. Staff would monitor the condition of paving the alley, and an enforcement action would occur if the owner did not comply. Mr. Waggoner stated in the course of our discussion with Mr. Rogers, from the time he became aware of the violation to today he has been cooperative with staff throughout that entire process.

Member Raymond asked how the property would be used in future. He stated that the property is park-like now, and he is concerned that future uses of a restaurant or gas station could be allowed. Mr. Tooke explained that a conditional use permit would be required for certain uses, such as a gas station. Ms. Sloan stated that the future use of the property would be market-driven, and that a stand-alone business would not be a desired use, as the property is not visible from the commercial corridors along IL Rte. 176 and IL Rte. 43. Mr. Rogers stated that he does not believe the Highway Commissioner would authorize access to North Ave. for a commercial business.

Member Raymond asked if the alleyway under the jurisdiction of Shields Township. Mr. Kopsick stated that the alleyway is under the jurisdiction of Lake County and it is maintained by the property owners and that the Highway Commissioner does not have a role in alley maintenance or construction. Mr. Rogers stated that he did not believe a gas station would be approved by the Zoning Board or Highway Commissioner, and he thinks there would be significant neighbor opposition. Ms. Stalter offered clarification that the alley is not under County DOT jurisdiction. It does not meet County highway standards according to the statute. It is in unincorporated Lake County, so it is under Lake County zoning jurisdiction. It is privately maintained. It is not under Highway Commissioner jurisdiction or the actual County authority.

Member Stimpson expressed concern about maintaining the existing stockade fence, as its condition is in decline. Mr. Rogers stated that the neighbors across the street would prefer the existing fence remain and do not wish to see a new fence installed. Mr. Rogers stated he plans additional fence maintenance.

Member Stimpson noted the property to the west does not have a fence buffer and instead has an extensive vegetative buffer, establishing a more park-like setting, and she asked if Mr. Rogers had considered a similar approach. Mr. Rogers responded that he believes the neighbors across the street prefer the solid fence, which blocks the view of the restaurants and any refuse.

Member Reindl stated that he was concerned about liability posed by the speed bumps. Mr. Rogers explained he would be installing speed humps, not speed bumps, and speed humps are wider and less jarring. Speed humps would slow traffic, because a number of passenger vehicles leave the gas station and speed through the alley and Graffiti Grill's parking lot to turn onto IL Rte. 176. This is a very dangerous condition. Deterrent measures in place at this time are a sandwich board sign discouraging cut-through traffic, as well as Lake County Sheriff presence. The Lake County Sheriff occasionally issues tickets for avoiding the traffic signal by cutting through the alley.

Member Reindl expressed continued concern and asked whether this condition could be removed. Ms. Sloan responded that such a change could be made, if volunteered by the applicant. Mr. Kopsick stated that the County would not be liable for any damages related to the speed humps.

Chairman Bell asked if the alley is considered a roadway. Some discussion ensued, and it was restated that the alley is not a roadway and is privately maintained,

Member Reindl inquired about enforcement of the proposed signage. Some discussion ensued.

Member Zerba asked if the applicant had heard any objections from his neighbors. Mr. Rogers indicated he had not, and he stated he believes a number of neighbors are supportive, including his mother, a nearby homeowner, and Mr. Grum, who lives directly east of the lot. Further, Mr. Rogers said he would be willing to make changes if requested by Mr. Grum.

Member Zerba noted there is access to the site from North Avenue and asked if that would remain. Mr. Rogers indicated no change is proposed and that it is occasionally used by pedestrians.

Member Zerba asked if the lawn area would remain, and Mr. Rogers replied that it would.

Member Zerba asked for information on the proposed landscaping.

Member Hockney stated his concern about fence maintenance had been satisfied. Brief discussion of the site plan layout ensued.

Member Hockney asked the applicant what type of development he would foresee in the future. Mr. Rogers replied that he has seen proposals for a Chase Bank or Taco Bell restaurant, and that such a proposal would require additional parcels beyond the Graffiti Grill property.

Member Raymond asked if the existing Graffiti Grill restaurant would be demolished, and Mr. Rogers stated it would.

Member Bell requested clarification on the future development condition. Mr. Rogers indicated he owns the subject property and restaurant, and development would involve those parcels. He stated it is possible other nearby properties could be included.

Member Hockney asked about the redevelopment timeline, and the applicant responded that he was uncertain.

Member Raymond asked for clarification on the surrounding jurisdictions and zoning districts. Mr. Tooke explained that the corridor in question is in the unincorporated area and that the neighboring parcel to the west had been rezoned from R-3 to GC.

10. Public Statement

Robert Grum stated he lives in the home directly east of the subject property and he indicated his support for the project

11. Closed Testimony Discussion

Member Raymond expressed concern that sometimes applicants offer high promises they do not meet, and that enforcement can be challenging. Chairman Bell clarified that the Zoning Board of Appeals is offering a recommendation.

Member Stimpson indicated she did not have a problem with the proposal, considering the added conditions and support of the neighboring property owner.

Member Reindl expressed that he still has some reservations about the proposed speed humps, but he is more comfortable with the proposal.

Member Zerba indicated support of the request.

Member Hockney indicated support of the request.

Chairman Bell stated he was comfortable with the request. Chairman Bell inquired about whether a condition would be appropriate to prohibit access from North Avenue. Discussion ensued.

12. Close of Testimony

A Motion to close testimony was made by Member Raymond and seconded by Member Zerba.

13. Motion

Member Stimpson made a motion for case number #RZON-000252-2017 to grant the petition to rezone PIN 12-19-117-002 from Residential-3 (R-3) to General Commercial (GC) subject to the petitioners proposed conditions attached as Exhibit A as it meets all the standards as written in the staff recommendation. Member Reindl seconds the motion.

14. Action

The motion passes 6-0.

15. Adjournment

Member Raymond moved to adjourn the meeting. This motion was seconded by Member Hockney and passed unanimously. The meeting was adjourned at 2:00 p.m.