
Report of the Planning & Zoning Commission

Romeoville, Illinois

ORD 17-1364

An Ordinance Approving a Special Use Permit for a Planned Unit Development – Final Development Plan for B & W Truck Repair at 667 Parkwood Ave

**TO: Village President, Village Clerk & Board of Trustees
Village of Romeoville, Will County, Illinois**

B & W has submitted plans for a truck repair facility at 667 Parkwood Avenue.

On April 25, 2017, the Planning & Zoning Commission held a Public Hearing to discuss and consider the request various requests. The application was evaluated according to the requirements and regulations outlined by the Comprehensive Plan - Chapter 157, Development / Subdivision Regulations - Chapter 158, and Zoning Code - Chapter 159.

Testimony and presentations were heard from the staff, the applicant, the Public, and the Commission. The following issues and opinions were discussed.

Senior Planner, Nathan Darga, read the Project Compliance Report. He reported that this site was formerly the Seebert Landscaping Company which burned down several years ago. B&W has purchased the property and is proposing to redevelop the site with a truck repair and inspection facility. The site is approximately 1.5 acres in size. The applicant is proposing a 11,752 square foot building with an area for truck repair and inspection and an area for office. The facility will feature a safety lane where trucks can drive through the building and complete their necessary inspections. There will be four bays for repair.

During the concept plan review it was noted that there is a dispute with the neighbor to the north (Wayne Cassells, Keneal Graphics, 679 Parkwood) who has been driving on the B&W property to access his truck dock on the side of his building. The Planning Commission and Village Board requested that the applicant try to work out access with the neighbor. The current proposal shows access to the Keneal property with a gate. Trucks would enter through the B & W access lane and be able to maneuver through the gate. The applicant and the neighbor have not come to terms on whether this is acceptable to both parties. It does, however, fulfill the Village request to provide access. Additional arguments are a private matter between the two property owners.

Since the concept plan the building has been changed to all precast concrete. There are no longer any code exceptions being requested for metal building construction. The two code exceptions that are being requested are reducing the front yard parking setback from 25' to 10' and reducing the building setback on the south side from 20' to 16.93'. These reductions are necessary to move the building southwest enough to allow for the trucks maneuver on site, including the maneuver to allow access to the Keneal property.

The applicant will also be providing the Village a 60' x 45' easement area for a future project to relocate and reconstruct the Parkwood lift station. This is part of the reason for shifting the building to the south.

Chairman Venn asked if the Village is confident that all the gas and oil storage meets requirements. Planner Darga stated the all regulations would be followed inside and outside of the building.

Mr. Chris Lavoie, Consulting Engineer was sworn in. Mr. Lavoie stated that there is a triple basin outside at the point of exit of the safety lane and it would comply with all the regulatory codes.

Mr. Wayne Cassells, was sworn in. Mr. Cassells passed out two (2) handouts to the Commissioners. Mr. Cassells is the owner of lot 2 (679 Parkwood) Kneal Graphic Solutions and has been in the Village just over 30 years. Mr. Cassells feels he has had a solid working relationship with the Village over the years. Mr. Cassells is concerned about the ingress/egress issue for his trucks with the new development of B & W Trucking Facility. Mr. Cassells referenced a letter he received from the Village signed by Steve Gulden dated Sept. 7, 2016 stating the depressed dock on the south side did not appear to have a building permit. Mr. Cassells stated that his building was designed for the corner lot that he purchased from Mr. Rediehs in Sept. 1986. Mr. Cassells discussed the handouts and talked about a proposed road that was never completed. The road project was stopped by the Army Corps in 1989 due to wetland infringement. The roadway area was filled in by Kneal Graphics and used for its trucks. Seebert Landscape later purchased the property (lot 3), and made improvements to the proposed road and allowed Kneal Graphics to use the area.

Mr. Cassells stated that the subdivision was replotted in March of 1993 and passed out another handout to the Commissioners. The subdivision new plat, approved by the Village and the County shows a named street called Braasch Dr. in the easement area.

Mr. Cassells stated that he is willing to work with B&W to find a solution that works better for Kneal Graphics.

Commissioner Scieszka asked staff to explain the 1993 plat handout.

Planner Darga stated that first handout was a concept plan showing several streets. The original plat from 1986 only recorded the lots on Parkwood and the lines have never moved. The 1993 plat that shows (handout) Braasch Dr. does not actually cover the lots in question it covers the lots behind. The lots on Parkwood are just shown as reference. This plat also shows Greenwood Dr. being dedicated as a public street. There are no roadways shown for the subject area in any tax maps or anything dedicating it to the Village. These are the conclusions that were arrived at after researching the property before sending the letter dated Sept. 7, 2016 to Mr. Cassells.

Mr. Cassells stated that he was sold a corner lot by the developer and designed his building for a corner lot and has used the area for ingress/egress for 30 years.

Commissioner Holloway asked if there is an easement recorded at Will County Recorder's office with respect to this property.

Planner Darga stated that staff has not been able to find any easement that was recorded or dedicated to the Village or stating that lot 2 (Kneal Graphics) has rights to the area. The Village does understand that Kneal has been using the area and asked B&W to work Kneal during the planning for their development and staff believes they have done that. The Village believes that this is a private matter between the two parties and should be resolved by them.

Chairman Venn asked if the Village has fulfilled its obligation to PH17-2248. Planner Darga stated that he believes it has.

Mr. Jim Wagner was sworn in.

Mr. Wagner stated that there was some discussion about moving the truck docks to the north side of the

building but it was cost prohibitive. Mr. Cassells retained an engineer to supply plans for access through the existing 60 ft. roadway easement that it uses. This plan was rejected by the developer. The plan shown tonight by B & W with the trucks backing in over 200 ft. with a blind turn is unacceptable to Mr. Cassells.

Commissioner Scieszka asked for clarification on the term "easement" that keeps being used. Mr. Darga stated that there is no recorded easement. The plat shows an area that states reserved for future roadway and utilities.

Commissioner Burgess asked what would happen in the future with the current situation. Planner Darga stated that the easement needs to be recorded.

Mr. Wagner stated that the important document is the recorded document, Romeoville Industrial Park Unit One drawing. Mr. Wagner passed out copies to the Commissioners. Mr. Wagner explained that in September of 1986 when the property was subdivided Mr. Cassells owned lot 2 (lot 3 is the development property) and the drawing shows a 60 ft. strip on lot 3 that states reserved for utility and roadway easement. Mr. Wagner feels according to Illinois law that when this was recorded it created the easement and all parties have a right to use it whether it is dedicated or not.

Mr. Wagner stated that Mr. Cassells building was designed and approved with the loading docks on the south side to utilize the easement area so the trucks could make the turn needed. Mr. Wagner agrees that the easement is on lot 3 but is subject to the rights that are held by those that have the right to use the easement including the owner of lot 2. Mr. Wagner stated that this is called an Express Easement. Mr. Wagner stated that the other important point is something called a Prescriptive Easement. This type of easement provides adverse protection when someone has been openly and obviously using a piece of land over the course of 30 years in Illinois. Mr. Wagner states that Mr. Cassells, due to recorded documents and use over the years has a right to continue to utilize the land and that the owner of the land to the south cannot do anything to interfere with that.

Mr. Wagner stated that Mr. Cassells does not have a problem with the owner to the south developing the property as long as it does not infringe on his rights of ingress/egress to his property. Mr. Wagner stated that the trucks can make the turns needed within the 60 ft. easement. Mr. Wagner handed out another drawing that Mr. Cassells engineers came up with today (4/25/17) showing an alternative plan for the trucks to use while staying on the 60 ft. easement. Mr. Wagner would like the Commissioners to defer their decision on this Public Hearing until both parties come to an agreement.

Commissioner Holloway asked Mr. Wagner about the Prescriptive Easement and if it is an automatic right or would have to be approved by a court of law. Mr. Wagner stated that it can be declared but would have to be decided by the court if it is challenged.

Steve Rockwell, Director of Community Development asked Mr. Lavoie to assist Planner Darga in showing the Commission B&W's drawing showing the proposed access for Kneal Graphics. Mr. Lavoie showed the drawing on the overhead screen to the Commission and discussed the plan they are proposing. Mr. Lavoie stated that his client has looked at many options. In October he did receive a drawing from Mr. Cassells' engineer that shows a turning motion that goes far beyond the reserve area for the easement. Mr. Lavoie stated that his client disputes that the easement exists. Mr. Lavoie stated that his client has extended the "Olive Branch" to try and come to a workable solution but the caveat is that it must be a workable solution for both parties. Mr. Lavoie feels that this proposed drawing does this. Mr. Lavoie has only received one drawing since last September from Mr. Cassells that totally disregarded B&W's development. Mr. Lavoie has been instructed by his client to work with Mr. Cassells and wants to be a good neighbor and feels that the plan presented tonight works for everyone. Mr. Lavoie has researched all the documents and does not believe that the loading dock for Kneal Graphics was put in with the original building and can find no record of it. Also the easement does not show up in title to the

property and was only noted as reserved for future use. Mr. Lavoie has been trying to work with Mr. Cassells but unfortunately only received the second proposal since October at tonight's meeting. Mr. Lavoie has been working on the project and feels what was presented tonight works and is asking for the approval of the Commission.

Mr. Cassells talked about the plan from his engineers that was presented tonight. He is concerned about the plan from B & W with the trucks having to back in over 200 ft. Mr. Cassells is willing to work with B&W to find a solution.

Mr. Lavoie stated that his client is willing to work with Mr. Cassells to find a solution that works. However, Mr. Lavoie stated that he would like to move forward on the premise that they are providing a solution that works. B & W is willing to work with Mr. Cassells and record the easement, but must have a solution that works for both parties. Mr. Lavoie feels that the only fair solution proposed since last October is the one he presented tonight. Any solution must be equitable for both parties and cannot leave B & W's property undevelopable because of turning motion. Mr. Lavoie is asking this Commission to move this plan forward and B & W will continue to work with Mr. Cassells to find a solution.

Chairman Venn stated that this Commission is not litigators or judges or should they be but, it seems that there is a large portion of this case that still needs to be investigated by the Village. Chairman Venn is suggesting that when the Commission makes its motion they consider tabling this for a month to give both parties time to reach a solution.

Steve Rockwell Community Development Director commented that if this plan is approved tonight and presented at the May 3, 2017 Board Meeting that any additional documents would have to be turned in by Wednesday April 26, 2017. Mr. Rockwell stated that this matter has been going on for some time and does not feel that a month's delay will solve anything. Mr. Rockwell stated that the prescriptive easement could be a court matter and recommends that this move forward contingent on staff comments and let the Village Board proceed.

From the testimony and presentation made by the Petitioner / Applicant, Witnesses, General Public, and Staff recommendation on the request, the Commission hereby finds the following:

1. The application complies with the provisions of the Comprehensive Plan (Chapter 157).
2. The application complies with the provisions of the Development Regulations (Chapter 158).
3. The application complies with the provisions of the Zoning Code (Chapter 159) as amended by this PUD.

THEREFORE, the Planning & Zoning Commission of the Village of Romeoville hereby recommends to the Village President and Board of Trustees the Approval of ORD 17-1364 contingent on outstanding staff comments.

Motion by: Commissioner Scieszka
Seconded by: Commissioner Holloway

Roll call of the membership present the 25th day of April, 2017 with the following vote:

6 members voting AYE	0 members voting NAY
0 members ABSTAINING	1 members ABSENT and not voting.

Steve Pyle	ABSENT	David Venn	AYE
Dan Repetowski	AYE	Rich Holloway	AYE
Paul Scieszka	AYE	Jim McConachie	AYE
Petra Burgess	AYE		

MOTION Carried.

Respectfully submitted on May 3, 2017.

CHAIRMAN, Planning & Zoning Commission

Attested by:

SECRETARY, Planning & Zoning Commission