

**Regular Meeting-Plan Commission/Zoning Board Of Appeals
Gregory J. Bielawski Municipal Center, Carol Stream, DuPage County, Illinois**

June 27, 2005

ALL MATTERS ON THE AGENDA MAY BE DISCUSSED, AMENDED AND ACTED UPON

Chairman John Bentz called the Regular Meeting of the Combined Plan Commission/Zoning Board of Appeals to order at 7:30 p.m. and directed Recording Secretary Wynne Progar to call the roll.

Present: Commissioners Vora, Spink, Weiss, Michaelson, Sutenbach and Bentz
Absent: Commissioner Hundhausen
Also Present: Village Planner Don Bastian and Recording Secretary Progar

MINUTES:

Commissioner Weiss moved and Commissioner Spink made the second to approve the Minutes of the Meeting of June 13, 2005 as presented. The results of the roll call vote were:

Ayes: 6 Commissioners Vora, Spink, Weiss, Michaelson, Sutenbach and Bentz
Nays: 0
Absent: 1 Commissioner Hundhausen

PUBLIC HEARING:

**#04307: Capital Design, Ltd., Northeast Corner of St. Charles Rd. & Morton Rd.
Zoning Upon Annexation to I-Industrial District**

Mr. Bastian explained that the applicant for this matter has resubmitted plans which are currently under review. Originally there was to be a presentation of the proposal for July 25, but as it appears that there will not be a quorum for that meeting the petitioner requests that this matter be continued to the meeting of August 8, 2005. Commissioner Spink moved and Commissioner Vora made the second to continue this matter to August 8, 2005. The results of the roll call vote were:

Ayes: 6 Commissioners Vora, Spink, Weiss, Michaelson, Sutenbach and Bentz
Nays: 0
Absent: 1 Commissioner Hundhausen

**#05135: Neenah Foundry Co/Patrick Tumpane, 545 Kimberly Dr.
Special Use – Outdoor Activities and Operations**

Pat Tumpane, 545 Kimberly Drive was sworn in as a witness in this matter. He explained that the request is for a special use for outdoor activities and operations and would expand the current storage area. Steve Burke, RJN 200 Front Street was sworn in a witness in this matter. He explained they are proposing to widen the entrance as well as expand the storage area and to repave it entirely and to put in five new trees at the perimeter and install a seven-foot high perimeter chain link fence with privacy slats,

There were no questions or comments from those in attendance at the call for public hearing.

Mr. Bastian reported that Neenah Foundry Company, headquartered in Neenah, Wisconsin, has operated an office and storage and distribution yard in Carol Stream at 545 Kimberly Drive for almost 35 years. Neenah Foundry is a supplier of construction castings, including products such as storm sewer inlets and manhole covers. Neenah's Carol Stream operation serves the entire state of Illinois. At this time, Neenah Foundry wishes to expand their outdoor storage and

distribution yard and make some cosmetic improvements to the property. To allow for an expansion of the outdoor storage and operations use, Regional Sales Manager Pat Tumpane is requesting a Special Use Permit in accordance with Section 16-10-2(B)(14) of the Zoning Code.

As seen on the site plan, the property is currently improved with a 2,960 square-foot office and garage building that is located generally at the northwest corner of the 35,000 square-foot fenced storage and distribution yard. Neenah Foundry is proposing to expand the outdoor storage area by adding a 22,400 square-foot paved area immediately adjacent to the southern boundary of the existing storage yard. The entire existing storage yard will be resurfaced with asphalt, and both the existing storage yard and the new expanded area will be enclosed with a new seven-foot tall chain link fence that will have plastic screening slats. The site plan (Exhibit A) indicates that five new three-inch caliper shade trees will be installed along the parkways of Fullerton Avenue and Kimberly Drive, which will help improve the appearance of the property.

Parking and Access:

The existing parking and access to the site is problematic and substandard in several aspects. First, as seen on the site plan, aerial photograph, and digital photograph (Exhibit C), the existing parking spaces extend all the way up to the right-of-way line. In the Industrial District, parking spaces are required to be set back 20 feet from the right-of-way line. The site plan includes a note indicating that the parking stall pavement within the 20-foot setback will be removed so as to provide a proper setback. Second, the existing access point off of Kimberly Drive, which is the only access serving the property, is too narrow. To alleviate this condition, the access will be widened from 24 feet to 36 feet, which should provide easier access into the site and also reduce damage to the grass areas adjacent to the entrance. The third substandard aspect related to parking is the number of spaces provided on the site. Although it was not possible to verify the number of parking spaces currently being provided on the site because the striping was completely worn away, the site plan proposes that there will be eight parking spaces in total.

Use of Space	Square Feet of Use	Code Requirement	Spaces Required
Office	2,145	1 space for each 250 square feet	8.5
Warehouse/Garage	814	4/1 st 1,200 s.f., then 1/1,500 square feet	2.7
		Total Parking Required:	11
		Provided:	8

As seen in the table, the Zoning Code requires 11 spaces based upon the use of space in the building, while the site plan currently only proposes eight spaces. One of the parking stalls is required to be a handicapped accessible parking stall and must be striped in accordance with the requirements for such spaces as provided for in the Illinois Accessibility Code. At a minimum, three additional parking stalls need to be provided on the site. In a conversation with applicant Pat Tumpane, Mr. Tumpane indicated that he would be willing to revise the plan to show that 11 parking stalls will be striped. As a note, the stalls will need to be striped in accordance with the Village's looped striping requirements.

One other issue related to access involves the manner in which trucks access the site. As seen on the site function plan (Exhibit B), a tractor trailer truck must back into the site from Kimberly Drive to access the truck loading dock area. Section 16-13-4 of the Zoning Code indicates that Kimberly Drive is classified as a major street in the Industrial District, and for major streets, vehicles are not permitted to use the public street for backing into a property due to the disruptions this causes with traffic. It would be preferable for this operational aspect of the site to be modified so that vehicles would no longer need to utilize Kimberly Drive for backing into

the site. However, we note that this business has been in operation since long before it became illegal to back into the site using Kimberly Drive. In addition, the location of the truck loading dock area, which would be difficult to relocate based upon the layout and operation of the site, serves as a constraint with respect to rectifying the truck maneuvering issue. Staff is not aware of complaints regarding this operation, however, and Mr. Tumpane has indicated that only between one to three semi trucks enter this site each day.

One final note related to access involves the second access point into the southern portion of the enlarged storage yard, as seen on the site plan. This access point is temporary in nature and will only be used to facilitate the construction of the site improvements. Once the work is complete, the temporary access will be removed, and the parkway will be restored.

Special Use:

The expansion of the existing outdoor storage and distribution yard requires approval of a Special Use Permit. In reviewing the request, staff has considered both operational and aesthetic factors. From an operational standpoint, the applicant is proposing to make improvements to the site as compared to the current conditions. For example, the existing asphalt within the required 20-foot parking setback will be deleted, with the area being restored to turf. Also, the access drive into the property will be widened from 24 to 36 feet, which will allow for easier access to the site. Finally, the significant increase in the size of the storage area should allow for more organized storage of products within the storage yard. The only significant aspect related to the operation of the site that will not be corrected involves the backing of vehicles into the property off of Kimberly Drive. Although it would be preferable for this practice to be discontinued, due to the fact that only one to three semi trucks access the property in this manner on a daily basis, it should not cause too much of an inconvenience.

From an aesthetic standpoint, the new asphalt, trees, and fence with screening slats will represent a significant improvement over the current condition of the property. We note that the new chain link fence with screening slats that will enclose the entire storage yard is proposed to be seven feet in height, which is the maximum permitted fence height in the Industrial District. Staff recommends as a condition that product or material not be permitted to be stored at a height greater than seven feet above ground level, so as to maximize the screening that will be provided by the fence. The applicant has indicated in the Form C application that they would be able to accomplish this based upon the increased amount of storage room they will have within the expanded yard.

Based upon the information discussed, staff believes that the Special Use to allow an expansion of the existing storage and distribution yard is reasonable, provided that the use can be operated in accordance with the conditions provided in the Recommendation section of this report.

Staff recommends approval of the Special Use request for the expansion of the outdoor storage and distribution yard, subject to the following conditions:

That a new seven-foot tall chain link fence and gate with screening slats be installed around the entire storage and distribution yard, and that the fence and slats must be maintained in good condition, with slats that become damaged or missing being replaced annually;

That five, three-inch caliper Ash shade trees be installed at the locations shown on the site plan. The trees shall be maintained in a healthy condition, with dead or dying trees being replaced annually;

1. That all of the existing asphalt within the 20-foot parking stall setback, except the asphalt associated with the 36-foot wide access drive, shall be removed;
2. That the access drive shall be widened from 24- to 36-feet in width;

3. That the site plan shall be revised to show that 11 parking stalls will be installed on the site;
4. That at least one handicapped accessible parking stall, striped in accordance with the standards provided in the Illinois Accessibility Code, shall be provided on the site;
5. That the parking stalls shall be striped in accordance with the Village's looped striping requirements;
6. That the temporary access point that is used during the construction of the site improvements shall be removed, and the parkway restored, once construction is complete;
7. That product or material shall not be permitted to be stored at a height greater than seven feet above ground level, so as to maximize the screening provided by the fence;
8. That a stormwater permit be obtained through the Engineering Services Department prior to the commencement of any work on the site;
9. That a Knox Box system be installed on the new gate for use by the Fire Protection District;
10. That an as-built drawing for the entire site shall be provided to the Engineering Services Department; and
11. That the facility and equipment must comply with all state, county, and village codes and requirements.

Commissioner Michaelsen asked if there is to be additional lighting for the expanded area and was told that not additional lighting was anticipated. In response to the question, the petitioner agreed that stacking would not exceed the height of the fencing and that there would not be any curbing installed. There is no expectation of additional truck traffic. Commissioner Michaelsen asked about stormwater management and Mr. Bastian explained that the redesign of the site allows the area to be just under the minimum requirements for stormwater management so none is required.

Commissioner Sutenbach asked if moving the loading dock location had been addressed and Mr. Burke said that they did investigate that, but determined that it would not be worth the loss of storage space or the change in the interior traffic pattern to accomplish it. Commissioner Sutenbach asked why the temporary drive could not be made permanent and Mr. Tumpane said that the drive does not improve the truck access and also would eliminate too much storage area.

Commissioner Weiss asked how the truck loading dock system works and Mr. Tumpane said that truck goes to the loading dock and is unloaded and those items stored then that same truck is reloaded with whatever product is required for delivery somewhere else and it leaves. It was stated that these operations generally take about one hour.

Chairman Bentz asked if this business has a special use permit now and Mr. Bastian said that this business goes back as long as the Village has been here. There are no records that show that a special use has ever been granted and it may be that in 1960, when the M-1 Manufacturing District was created, this was not a special use for outdoor material storage.

Chairman Bentz asked if the petitioner was in agreement with the 13 conditions proposed by Staff in their report and Mr. Tumpane said that they do agree.

Commissioner Michaelsen moved and Commissioner Weiss made the second to recommend approval of a special use permit for outdoor activities and operations in accordance with the

staff recommendations. The results of the roll call vote were:

Ayes: 6 Commissioners Vora, Spink, Weiss, Michaelson, Sutenbach and Bentz
 Nays: 0
 Absent: 1 Commissioner Hundhausen

The petitioner was reminded that this matter will be heard by the Village Board at their meeting on July 5, 2005 and was advised to attend that meeting.

**#05136: Spectators' Pub & Grill, Inc./John Brestler, 544 N. Gary Ave.
 Special Use – Restaurant/Tavern**

John Brestler was sworn in as a witness in this matter. He explained that he is requesting a special use permit to expand his tavern/restaurant into the space that was once a Laundromat. There were no comments or questions from those in attendance at the call for public hearing. Mr. Bastian said that John Bestler, owner/operator of Spectators Pub and Grill at 552 N. Gary Avenue, is requesting an amendment to a Special Use Permit to allow for a second expansion of his tavern/restaurant. In June 2002, the Village Board adopted Ordinance 2002-06-31, which approved the first expansion of Spectators into approximately half of the space formerly occupied by the Carol Stream Laundromat, which had been in operation in the tenant space immediately to the south of Spectators. The Special Use approval at the time allowed the size of the pub and grill to increase to approximately 2,600 square feet. The current request, which would result in Spectators occupying the remaining 900 square feet that was formerly used by the Laundromat, would result in the size of the pub and grill being increased to approximately 3,500 square feet. The primary need for the increased space is to allow room for a walk-in cooler and storage area, although an increase in customer seating area will also be provided. In order to expand the tavern and restaurant, an amendment to the special use is necessary, in accordance with Sections 16-9-3(C)(10) and (11) of the Carol Stream Zoning Code.

Parking:

One of the primary issues associated with the expansion of the tavern/restaurant facility within the shopping center is the adequacy of available parking spaces. The attached site plan (Exhibit A) indicates that 136 parking spaces serve the property. Parking for shopping centers is required as follows:

Shopping Centers:

One (space) per 250 square feet of floor space in centers containing up to 10% of the total floor area devoted to food service. Centers which provide more than 10% of total area devoted to food service uses shall provide six additional spaces for each additional 1,000 square feet of food service (area).

Including the request to expand the existing tavern/restaurant by approximately 900 square feet, the 22,500 square foot shopping center will contain 9,723 square feet devoted to food service uses. This amount exceeds 10% of the total area of the center; therefore additional parking spaces are required in accordance with the above-stated Zoning Code standard. Based upon our calculations, 135 parking spaces are required to serve the entire center, while 136 spaces are provided. Due to its close proximity to Village Hall, staff frequently observes the parking situation at the subject shopping center. Based upon the varied peak parking demand times among the different tenants in the center, and the fact that the number of spaces required by the Zoning Code would be provided, staff believes that adequate parking will exist to serve the current businesses plus the applicant's expanded tavern and restaurant use.

Based upon the information discussed above, staff has determined that the Special Use Permit

to allow for the approximate 900 square foot expansion of Spectators Pub and Grill is reasonable and will have minimal impacts on adjacent rights-of-way and properties.

Staff recommends approval of the Special Use Permit to allow the expansion of Spectators Pub and Grill, subject to the following conditions:

That future expansions of the tavern/restaurant will require another amendment to the Special Use Permit; and

That the facility shall comply with all state, county and Village codes and requirements.

Commissioner Spink asked if this will change the menu or business format and Mr. Bestler said that there will be no changes other than maybe adding a second waitress/bartender. There will not be any change to the hours of operation.

Commissioner Michaelsen asked if there are adequate washrooms since the space is expanding. Mr. Bastian said that the expansion will have to comply with the Building Code and when the submission is made for the permit it will be determined at that time if additional facilities will be required.

Chairman Bentz said that this is not a lot different from the last expansion and he does not see any negatives in regard to the expansion.

Commissioner Weiss moved and Commissioner Spink made the second to recommend approval of a special use permit for the expansion of a tavern/restaurant in accordance with staff recommendations. The results of the roll call vote were:

Ayes: 6	Commissioners Vora, Spink, Weiss, Michaelsen, Sutenbach and Bentz
Nays: 0	
Absent: 1	Commissioner Hundhausen

The petitioner was reminded that this matter will be heard by the Village Board at their meeting on July 5, 2005 and was advised to attend that meeting.

**#05137: Won Song, 240 W. Army Trail Rd.
Special Use – Restaurant**

Won Song and Tom Knauer were sworn in as witness in this matter. Mr. Song explained that request is for a special use for a restaurant at 240 W. Army Trail Road.

There were no comments or questions from those in attendance at the call for public hearing.

Mr. Bastian said that Won Song is requesting a Special Use Permit to operate a Jimmy John's Gourmet Sandwiches restaurant within the recently constructed 11,340 square foot retail strip shopping plaza on the 1.2-acre lot located on the south side of Army Trail Road, approximately 900 feet east of Merbach Drive. The restaurant would offer seating for about 35 people and would be open Monday through Saturday from 11:00 a.m. to 9:00 p.m., and on Sunday from 11:00 a.m. to 8:00 p.m. In order to operate the restaurant within the existing retail strip center, the applicant is requesting approval of a Special Use Permit in accordance with Sections 16-9-3(C) and 16-9-4(C)(1) of the Carol Stream Zoning Code.

Special Use:

With respect to the restaurant operation in the existing retail building, staff's only potential concern involves the issue of parking. As seen in the table below and on the Plat of Survey/Site Plan (Exhibit A), 58 parking spaces serve the building. The parking requirement for the 11,340 square foot shopping plaza is 45 spaces. However, once the percentage of food service uses in

the building exceeds 10% of the total floor area of the building, an additional six parking spaces for each 1,000 square feet of food service use are required.

Use of Space	Square Feet of Use	Parking Factor	Spaces Required
Shopping Plaza	11,340	1 space for each 250 sq. ft.	45.4
Proposed Restaurant	1,255	6 spaces per 1,000 above 10%	0.7
		Total Parking Required:	46
		Total Parking Provided:	58

The Jimmy John's Gourmet Sandwiches Restaurant would result in more than 10% of the total building floor area being allocated for food service use. Accordingly, additional parking spaces are required at a factor of 6 spaces per 1,000 square feet beyond the 10% food service use allowance. The proposed restaurant will exceed the 10% food service allowance by 116 square feet, which will require one (0.7 rounded up) additional space to serve the use. As such, a total of 46 parking spaces are required by the Zoning Code. As noted, 58 spaces serve the building. Accordingly, staff believes there will be adequate parking to serve the proposed restaurant use as well as the existing and future tenants of the building. It should be noted though that because of site constraints, the original developer was not able to provide a large number of extra parking spaces. As such, this building will only be able to have about 1,884 square feet of additional food service uses before the maximum food service use allotment is reached, in terms of the number of parking spaces available on the property to serve the building tenants.

Summary:

Based upon the information discussed above, staff has determined that the request for a Special Use Permit to allow for a Jimmy John's Gourmet Sandwiches restaurant to operate within a 1,255 square foot tenant space in the 11,340 square foot shopping plaza on Army Trail Road is reasonable and will have minimal impacts on adjacent rights-of-way and properties.

Staff recommends approval of the Special Use Permit to allow for the operation of a Jimmy John's Gourmet Sandwiches restaurant at 240 W. Army Trail Road, subject to the following conditions:

That building permits be obtained for all tenant completion work;

That an amendment to the Special Use would be necessary if the restaurant is expanded in the future; and

That the facility shall comply with all state, county and Village codes and requirements.

Commissioner Michaelsen asked if this building was equipped with sprinklers and Mr. Bastian commented that this is a new building and he presumes that it meets all standards required for a certificate of occupancy.

Commissioner Spink asked what signage was being used and Mr. Song said that they would have a façade sign as well as some signs in the windows.

Commissioner Sutenbach asked which unit this restaurant would be occupying and it was determined that it is two units west of the liquor store.

Commissioner Weiss asked if the parallel parking spaces in the rear were for public use and Mr. Bastian said that parking spaces were for all uses but it is expected that the employees would be using those stalls. It was also noted that there is a cross access agreement along the back of this building as well as those properties to the west all the way to Kuhn Road. Commissioner Weiss also wanted to make it clear that temporary signs are not permitted in the right of way for individual businesses. In response to the question Mr. Song said that Jimmy John Gourmet Sandwiches are a sub style of sandwich.

Chairman Bentz asked how many units were in the building and Mr. Bastian said that it could be configured to have eight units, but ultimately it is not know just how many there will be.

Commissioner Weiss asked about truck deliveries and it was determined that they would be

delivering to the back of the building since there is a service door at the rear of each unit. Commissioner Spink moved and Commissioner Michaelsen made the second to recommend approval of a special use for a restaurant at 240 W. Army Trail Road in accordance with staff recommendations. The results of the roll call vote were:

Ayes: 6	Commissioners Vora, Spink, Weiss, Michaelsen, Sutenbach and Bentz
Nays: 0	
Absent: 1	Commissioner Hundhausen

The petitioner was reminded that this matter will be heard by the Village Board at their meeting on July 5, 2005 and was advised to attend that meeting.

**#05138: Mr. & Mrs. Bill Coyne, 864 Napa St.
Variation – Driveway Width/Configuration**

Bill and Pat Coyne, 864 Napa Street were sworn in as witnesses in this matter. Mr. Coyne said that they were asking for a variation to expand their driveway. He stated that they have five vehicles in the family and with the shortened parkway it is next to impossible to park all of them on the driveway. Mr. Coyne said that when they extended the driveway there was a notch between the drive and the apron that could not be driven through. They filled in the notch with paver brick to allow easier exiting from the vehicle parked there.

At the call for public hearing the following people stated that they driveway was nice looking and that they do not have a problem with the way it is configured; Mike Lawler, 871 Napa, Maria O'Hara, 2626 Adler, John Gleason, 860 Napa and Tom Idler, 852 Napa.

Mr. Bastian stated that William and Patricia Coyne of 864 Napa Street have filed an application seeking approval of a variation that would allow the existing driveway to remain generally as constructed on their property. The request is to allow the driveway to measure 25 feet, 5 inches in width at the front property line, which exceeds the 20-foot maximum width for a two-car garage.

In May 2003, Bill Coyne applied for and received a permit for the construction of a concrete driveway on his property. Exhibits B-1 and B-2 are copies of the permit application and a blown-up detail of the plat of survey showing the width of the driveway at the property line and the manner in which the driveway would be widened. The permit that was issued and the work that was subsequently completed complied with the applicable Zoning Code standards for a driveway. However, as seen on Exhibits A and C, which are a current plat of survey and digital photos of the driveway supplied by the applicant, the applicant expanded the driveway by installing brick pavers on either side of the driveway.

A Village Engineering Inspector observed the widened driveway and questioned whether the improvements complied with applicable standards. After review of previous permit and the applicable standards by Community Development Department staff, it was determined that the driveway expansion was in violation of the driveway width standard provided in the Zoning Code. The Coynes were informed of the violation, and they elected to attempt to receive a variation to allow the driveway to remain as constructed.

In evaluation of this request, it must be stated that the applicant did work without a permit that does not comply with Zoning Code standards. The applicant's need for a variation is self-created. Staff is typically not in a position to support variation requests for cases in which work was done without a permit that is in violation of Village standards. Further, in this particular instance, the applicant received a proper permit for the driveway construction just one year earlier, so it is difficult to explain why a permit would not have been obtained for the illegal driveway expansion work. It should also be noted that the Coynes have five vehicles that are

parked at the residence. While this may not be entirely unusual in Carol Stream, at some point there is a limit to the number of vehicles that can be parked on the driveway or within the garage space at a residence. Staff would not necessarily support a variation to allow a larger driveway than permitted by the Zoning Code simply because a property owner wished to have more cars than they could find sufficient room for on their driveway.

The particular circumstances of the applicants' property and subdivision do, however, create a unique circumstance that provides some justification for the requested variations. For example, Napa Street has a 40-foot wide right-of-way, which is significantly narrower than the standard 66-foot wide right-of-way. The result of the narrow right-of-way is that the parkway on either side of the street is much narrower than the standard 18-foot parkway that is provided with a typically 66-foot right-of-way. The narrow parkway results in a greatly reduced apron depth, which has the effect of shortening the length of the driveway. It also results in a notch in the driveway, as seen on Exhibits B-2 and C, which poses maneuvering difficulties for vehicles. Another limiting factor with respect to vehicle maneuverability on the driveway is the relatively small front yard setback, at just 27 feet. Although many subdivisions in Carol Stream do have 25-foot required front yard setbacks, which are somewhat small when compared to many typical suburban lots, this factor combined with the narrow parkway serves to restrict vehicle maneuverability.

The specific variation request is to allow the driveway to measure 25 feet, five inches in width at the property line as opposed to a maximum permitted width of 20 feet. The requested variation is directly related to the applicant's need to fill in the "notch" that would otherwise be provided to construct a driveway that complies with the Zoning Code standards. The notch can be seen on Exhibit B-2, which is the survey that was submitted with the 2003 driveway permit, and it can also be seen on the photos in Exhibit C, in which the brick pavers were used to fill in the notch. By filling the notch in with the pavers, the room necessary to maneuver vehicles in and out of the driveway is provided.

For your information, the applicant has submitted a petition, included in the packet, signed by 20 residents on Napa Street. Although not all of the property owners who signed the petition are in close enough proximity to the Coyne residence so as to be able to view the driveway from their homes, the petition establishes that most of the residents on Napa who chose to sign the petition have no objection to the requested variation. It is worth noting, however, that the Village also received an anonymous letter from a Napa Street resident who strongly opposes the requested variations. The letter is also included in the packet for your review.

Summary and Recommendation:

Although staff does not condone work done without a permit that does not comply with applicable standards, we have evaluated this request based upon the particular circumstances of the property. Based upon the unique circumstance created by the narrow right-of-way, especially as it relates to the application of the driveway width and driveway widening standards, staff does not object to the requested variation.

The fact that the work was done with a permit does present some issues that will be required to be rectified if the variation is approved. If the Plan Commission/Zoning Board of Appeals determines to recommend approval of the variation, staff recommends that the approval be subject to the following conditions:

1. That the necessary building permits be obtained for the driveway expansion and electrical work that was done, and that the required permit fees be paid, including the fines that will be owed for work done without a permit;

2. That the applicant will need to provide documentation that the lights that were installed are specifically designed to handle motor vehicle traffic, and that the pavers that were used are rated for motor vehicle traffic;
3. That, in the event that it is determined that the materials used to construct the driveway widening cannot be approved by the Village, the applicant will replace the substandard materials with permissible materials;
4. That all electrical wiring, lights and other components related to the lighting must be completely removed from the Village right-of-way (the bricks may remain provided conditions 1-3 above are satisfied);
5. That the applicant agrees to remove and replace portions of the brick pavers and lighting to allow Village inspectional staff to verify that the work was done in accordance with applicable Village Codes and standards;
6. That the curb cut at the apron be repaired in accordance with the standards set forth by the Engineering Services Department; and
7. That the work must comply with all other applicable Village Codes and standards.

Commissioner Weiss asked why they installed the brick pavers and Mr. Coyne said that wanted to fill in the notched portion of the driveway to make it more accessible. Commissioner Weiss said that the photos submitted show that the notched area is filled in with pavers and it also shows additional brick paver running the length of the driveway both on the right and left sides and asked Mr. Bastian if those pavers are considered a part of the driveway expansion or are they considered a sidewalk. Mr. Bastian replied that the pavers are considered a part of the driveway expansion. There is language in the Zoning Code that if a property owner wishes to have a service walk running down to the public sidewalk, (in this case there is no public sidewalk) it is supposed to be separated from the drive way of a minimum one foot separation so as to clearly define what is a driveway and what is a service walk. It was determined that the original permit was for the expansion of the driveway at the lower end and also for the apron at the top of the driveway. The petitioner said that he was not aware of the need for a permit for the paver brick and said that he installed the pavers as well as the low voltage lighting that is made to be put into the pavers.

Commissioner Sutenbach asked if the curb had been cut and was told that it was a part of the original expansion of the driveway. Commissioner Sutenbach asked if a variance would be required if the petitioner had filled in the areas with stone or grass and Mr. Bastian said that stone or grass would not have required a variance. Commissioner Sutenbach said that in his opinion the driveway looks fine.

Commissioner Spink asked if there were any phone calls made opposing this matter and it was said that there was only the one anonymous letter. Commissioner Spink asked if any cars were able to be parked in the garage and Mr. Coyne said that his wife's car is parked in the garage. In response to the question about expanding the garage itself, Mr. Coyne stated that due to the lot shape there would be enough room for the expansion at the backside but not enough room at the front of the lot.

Commissioner Michaelsen said that he agrees with the neighbors that the driveway does look nice, but the petitioner has gone against the codes in putting in the extension and now in coming in for a variance it puts the Board in the predicament of whether it would setting a precedent for other actions.

Chairman Bentz agreed that the petitioner has done a nice job, but this is an issue of doing so without a permit. He noted that staff recommendations require that permits be applied for and inspections performed for the work that has been done.

Commissioner Sutenbach asked about the condition of repairing the curb cut and what has to be repaired. Mr. Bastian said that this is a condition that comes from the Engineering

Department. They may have standards for when a driveway is widened, the curb at the apron needs to be modified to comply with the driveway that was built. The petitioner will have to meet whatever standards in the Code that apply to this, had they come in for a permit.

Chairman Bentz stated that in order to grant this type of a variance, there needs to be some type of unusual circumstance in the property and asked that the Commissioner making the motion for this matter to include that in the motion. He indicated that in his judgment the smaller than usual setback, that there is no public sidewalk on this side of the street and that the right of way is 40 feet all contribute to the uniqueness of this property.

Commissioner Sutenbach moved and Commissioner Michaelsen made the second to recommend approval of a variation for driveway width, citing exceptional circumstances as a smaller setback on this property, there is no sidewalk on this side of the street, the narrow 40 ft. street right of way and for vehicles to safely enter and exit the property in accordance with the recommendation noted in the staff report. The results of the roll call vote were:

Ayes: 5	Commissioners Vora, Spink, Michaelsen, Sutenbach and Bentz
Nays: 1	Commissioner Weiss
Absent: 1	Commissioner Hundhausen

The petitioner was reminded that this matter will be heard by the Village Board at their meeting on July 5, 2005 and was advised to attend that meeting.

At 8:30 p.m. Commissioner Michaelsen moved and Commissioner Spink made the second to close the public hearing. The results of the roll call vote were:

Ayes: 6	Commissioners Vora, Spink, Weiss, Michaelsen, Sutenbach and Bentz
Nays: 0	
Absent: 1	Commissioner Hundhausen

NEW BUSINESS:

Mr. Bastian said that Lakewood Homes would be making a presentation of their submittal for the rezoning and a preliminary PUD plan for Fisher Farm. He noted that this submittal will not be ready for any type of approval at that time, but staff and the petitioner would like to present what is being proposed and get the Commissioners opinions, suggestions and feedback on the matter. Having a public hearing also will allow the public to ask questions and provide input on the project. Lakewood is expecting to have the matter continued until the first meeting in August. There was discussion regarding procedures to be used for the public hearing and the establishment of rules of testimony.

At 8:45 p.m. Commissioner Sutenbach moved and Commissioner Spink made the second to adjourn. The motion passed by unanimous voice vote.

FOR THE COMBINED BOARD

Presentation:

Old Business:

New Business:

Report of Officers:

VIII. Adjournment:

