

**VILLAGE OF PLEASANT PRAIRIE  
ZONING BOARD OF APPEALS  
9915 39th Avenue  
Pleasant Prairie, WI 53158  
September 24, 2019  
6:00 p.m.**

Members Present: Mark Riley, Chairperson, Dwayne Pinon, Angelina Kielar, Steve Kumorkiewicz (Alternate #1) and Sammie Lancia. Dragon Obradovich was excused.

Also Present: Jean Werbie-Harris, Community Development Director; Aaron Kramer, Deputy Planner and Zoning Administrator; and Jan Petrovic, Clerical Secretary.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CORRESPONDENCE.**
- 4. CITIZEN COMMENTS.**

Mark Riley:

Looking out into our audience seeing none.

- 5. CONSIDER THE MINUTES OF THE JANUARY 26, 2016 BOARD OF APPEALS MEETING.**

Steve Kumorkiewicz:

I make a motion to approve.

Sammie Lancia:

I second.

Jean Werbie-Harris:

**SO THERE'S A MOTION BY STEVE KUMORKIEWICZ AND SECOND BY SAMMIE LANCIA. ALL THOSE IN FAVOR?**

Voices:

Aye.

- 6. NEW BUSINESS**

- A. PUBLIC HEARING AND CONSIDERATION OF A SUBSTITUTION USE for the**

**request of Alfred Dino Rizzitano R & S Management LLC and owner of the property located at 9042 39th Avenue, to use the buildings for storage of tools and equipment associated with his property management company and to allow a portion of the building to be used by Liquid Systems LLC, a local painting contractor to temporarily store their painting supplies in the building, which is classified as a non-conforming use.**

Jean Werbie-Harris:

So I will begin by reading the findings of facts. And I'm Jean Werbie-Harris, and I'm the Development Director and the Zoning Administrator for the Village of Pleasant Prairie. So I'm going to read these items into the record. And this is a request for a substitution use.

Findings of Fact:

1. Alfred Dino Rizzitano with R & S Management, LLC, the owner of the property located at 9042 39th Avenue is proposing to use the existing two buildings for the storage of tools and equipment associated with his property management company and to allow a portion of one of the buildings to be used by Liquid Systems, LLC, a local painting contractor, to temporarily store their painting supplies. This information is provided as Exhibit 1 in your packets.
2. The subject property is known as Lot 2 of CSM 1315 and is located in a part of the U.S. Public Land Survey Section 14, Township 1 North, Range 22 East of the Fourth Principal Meridian, in the Village of Pleasant Prairie. It's further identified as Tax Parcel Number 92-4-122-144-0049.
3. On May 6, 2002, as a part of a comprehensive Village-wide rezoning effort, this property was rezoned from the then B-1, Neighborhood Business District, to the R-6, Urban Single Family Residential District. This rezoning effort was commenced related to the Village efforts for eventual compliance with the State's Smart Growth law which required that all municipalities who participate in planning, development and zoning activities prepare, adopt and maintain a Comprehensive Plan and further that all related ordinances shall be consistent with the Comprehensive Plan on or before January 1, 2010.
4. At that time the property was rezoned from the B-1 District into the R-6 District. The property included two buildings, an eastern building which is 720 square foot and a western building which is 630 square feet and a gravel parking area. The buildings were occupied by the then current property owner, Thomas Peterson, for the storage of electrical construction equipment associated with Wind Point Electric and for his personal storage.
5. In 2010, the Village Board rezoned this property and the surrounding area from the R-6 District to the current R-4 (UHO), Urban Single Family Residential District with an Urban Holding Overlay District.
6. Pursuant to the Village Code of Ordinances, Article V, Section 18-35 entitled Jurisdiction and Powers, part A. (3), it grants the authority to the Zoning Board of Appeals to hear

and grant applications for a substitution of more or equally restrictive nonconforming use for nonconforming uses provided that no structural alterations are made. Whenever the Zoning Board of Appeals permits such a substitution, they may not thereafter be changed without application and a hearing.

7. Section 420-140 I. of the Village Zoning Ordinance, entitled Changes and Substitutions, states: Once a nonconforming use or structure has been changed or altered so as to comply with the provisions of this chapter, it shall not revert back to a nonconforming use or structure. Once the Board of Appeals has permitted the substitution of a more or equally restrictive nonconforming use for an existing nonconforming use pursuant to the provisions of Chapter 18, Article V of the Code, the existing use shall lose its status as a nonconforming use and become subject to all the conditions required by the Board.
8. In 2008, the Board of Appeals approved a substitution use, and this is provided as Exhibit 2, for an equally restrictive nonconforming use, and this is for A & M Painting to use the buildings for a painting contractor's office and shop. A & M Painting was a full-service painting and decorating company that performed commercial and light industrial jobs. The Board of Appeals allowed the items to be stored only inside the buildings, and this included paint and paint-related products, spray paint pumps, scaffolding, ladders, a small fishing boat, a lawn tractor and related lawn and property maintenance items and miscellaneous tools. An enclosed job trailer, 12 foot by 6 foot, was also allowed to be parked outside on the site. A & M Painting moved out of the property in November of 2018 and has sold the property to the petitioner.
9. At this time the petitioner who owns an apartment management company R & S Management, LLC, in Kenosha has purchased the property, and he is requesting a substitution use that is similar and not more intensive than the substitution use approved on the property, and that's identified as Exhibit 2. Specifically, the petitioner owns and manages approximately ten properties through the City of Kenosha and intends to store day-to-day items related to the property management business such as tools, ladders, equipment, wood, lawn mower, trailer, pick-up truck, snow plow and other miscellaneous parts. They have one flat bed single axle trailer that they would like to park outside occasionally but will be stored inside the majority of the time. If in the future they purchase a 6 by 12 enclosed trailer to replace the flatbed they would like to park this outside similar to the last occupant.

While the Village staff does not support the request for outside parking or storage of a trailer or for outside storage of supplies or materials on site, the staff recommends that the conditions of this substitution use be more in line with a home based business since this is really located within a residential area. In addition, the petitioner is requesting to allow a portion of one of the buildings to be used by Liquid Systems, LLC, a local painting contractor, to temporarily store their painting supplies until they find of a permanent site.

10. On September 12, 2019, the required notice was published in the *Kenosha News* and the abutting and adjacent property owners within 100 feet were notified via regular mail of this public hearing to consider the request, and the owner was provided a copy of this staff report on September 20, 2019.

With that I'd like to continue the public hearing and introduce the petitioner to make a presentation to the Board of Appeals.

Alfred Rizzitano:

I'm Alfred Rizzitano. This is my wife Jodee. I'm not exactly sure --

Jean Werbie-Harris:

Okay, for the record you do need to give your address also for the record please.

Alfred Rizzitano:

Home address is 1431 40th Avenue, Kenosha, Wisconsin. Bought the property, we have some properties in Kenosha that we take care of. Pretty much would be used, just like it said, just to store everything that we have in there. I met with Jean several -- or Peggy several times in the office. We went over what she told me to do, some formalities that we had to go through to allow that to happen, but it didn't seem like it much of an issue so we went ahead and bought the property.

The trailer that was mentioned in there would never be parked outside. That's just a [inaudible] trailer we put a lawn mower on and we go cut the lawns at the properties. In the future when I read the other one it said that a 6 by 12 trailer was allowable. That's kind of a desire of mine. I don't know that I would have it parked out in the middle of the lot like they did before. If anything, if it was something to come and talk to you someday if it were to happen I would do some landscaping, some fencing, something. I wouldn't want it sitting out in the open anyway.

A couple of things I've noticed, other people park in the lot. The Advanced Disposal truck turns in the lot. These are just things I've been noticing as I've been pulling in and out of there. I don't need an ocean of gravel over there. My intention was just to put nice grass, some landscaping and keep it real nice. I don't know how many times -- what I would need to do to do some of those upgrades to come here every time if I want to do any of those things. What would be, you know, okay, some landscaping would I need to come back?

Jean Werbie-Harris:

So typically the Board of Appeals they would listen to things like substitution uses or temporary uses or some type of variance to a property. Anything that involves a specific site change such as additional landscaping or modifying the parking lot those typically would be reviewed and approved by the Village staff or would go to the Village Plan Commission depending on the extent of what you're requesting.

Alfred Rizzitano:

So stop in and see them, and they'll let me know what the next step is.

Jean Werbie-Harris:

You'd stop in and talk to myself or my staff. But the question this evening is whether or not -- it's a residentially zoned property, and it's whether or not he could continue to put another commercial use in this building similar to what the previous user had done. And that was the intention of the purpose of the property. And the staff just wants to be aware of the fact that residential development areas and zoned areas do not typically allow for any type of outside trailers unless they are parked in the side or the rear yard and they are screened from public use. And they're really not intended to be commercial trailers. In those cases they would have to be more of a residential in nature. I haven't seen your trailers. I'm not sure if you brought pictures.

Alfred Rizzitano:

So the one trailer wouldn't be outside. I would never leave it outside. The trailer that I was planning on getting would be something that just from looking at the photos I would have just parked it in between the two buildings or to the side, but I would have had to do some sort of fencing or landscaping. I have no outdoor storage requirement. We don't store old things. These are just tools, paint, some ladders. My trailer would go in the garage. There's no employees per se unless I'm pulling in in the morning and grabbing some things and leaving. Maybe in the evening to come back and put some stuff back. Tenants don't come to the building for any reason. Just needed some storage. That's it really. Like I said the trailer is something that would be nice in the future.

But I've seen pictures of what it looked like before, and I've been trying to talk to some of the local people. And everyone I've talked to -- I put up some signs don't park there. And I've driven by on a Friday night and three cars parked in there. So in the morning I'll leave a little note. Same cars don't park there again. Some other people have parked there. I don't really have parking requirements. My truck might be there when I bring the other one out. But this isn't really going to be a high impact space.

Jean Werbie-Harris:

So just on a side note, if there are people parking illegally in your private parking lot, and if you have a sign up there that says private parking or no parking or something to that effect, then the police can -- notify them, they can ticket them, they can have them towed, they can do a number of things. It's your liability if people park in your lot and you don't give them permission.

Alfred Rizzitano:

I have since then put a sign up. It seems to be pretty good. I don't know whose car that is in the picture. I've never seen it before. I know the Advanced Disposal truck turns around in there. Like I said I don't need all that gravel. It looks like of old with all that gravel. I was just going to plant grass and some landscaping and stuff around the building. To be there for the person who collects the garbages and the UPS trucks they all seem to utilize. So I mean I can leave it if you want it there. If not, eventually I'd like to remove that and just have nice grass planted there. Maybe a spot or two for a car but that's it.

But the trailer if I need to come back -- if I ever buy one it would be nice because I don't know

how formal they have to be just to have a trailer there. It is something that would be nice. But however it would need to be handled on that site I would comply with. If you say no, if you decide to have a trailer you have to come in here and have a fence put on the one side or park it in between the two garages with a gate in the front, you wouldn't see it from the left or the right or the back or on the side, however you would handle it.

Mark Riley:

Any other comments? Any other comments from the petitioner?

Alfred Rizzitano:

No. I had done a drawing when I first bought the building. Just I was going to show you if I did put the trailer in the middle what a fence would look like. But not important to what the overall picture is.

Jean Werbie-Harris:

You can go ahead and bring that up, and we can just identify it as the next exhibit which would be Exhibit 3.

Alfred Rizzitano:

I'm not sure the trailer would fit there. I don't want the trailer to be a sticking point here. It's just the one item that seemed to be frowned upon [inaudible] if I decide to at some point.

Mark Riley:

No other comments?

Alfred Rizzitano:

No.

Mark Riley:

Okay. I'll allow the Board now to ask any questions of the petitioner. Any?

Steve Kumorkiewicz:

No, the only thing I'm looking here is you've got a gate here between the two buildings.

Alfred Rizzitano:

Correct.

Steve Kumorkiewicz:

And I believe it's a good idea.

Alfred Rizzitano:

It's a good idea?

Steve Kumorkiewicz:

It's a good idea in my opinion, yes. Because [inaudible] nobody see it.

Alfred Rizzitano:

Right.

Steve Kumorkiewicz:

So I'm with it 100 percent.

Dwayne Pinon:

Did the previous owner have permission to store a trailer on the property?

Jean Werbie-Harris:

He did, and it was intended to be parked between the buildings. And most of the time it was not. It was parked out on the property. It then had commercial advertising signage on it, and it was visible to 39th Avenue. And there were just repeated violations. We didn't have a code enforcement officer at that time. We do now. So my concern is that if there is a trailer on the property, and if the Board of Appeals decides to allow one, it needs to be between the two buildings, and it needs to be completely screened with a fence in the front and the back. Other than that it would appear to my code enforcement officer and myself that it would be a violation. They're not typically allowed in this district, but if you do allow it, it needs to be screened and not parked out in the front.

Mark Riley:

I don't believe the petitioner is asking for that at this time.

Jean Werbie-Harris:

He's not at this time, but this is a process and it's a public hearing. Right now he's paid to have his voice heard before the Board of Appeals. So my recommendation is that he should ask for it. If that's what he's looking to do he should ask you now while you're all right here and we've got all these facts that we're putting before you even if he decides not to do it.

Angelina Kielar:

If that wouldn't fit for some reason, what would your alternative be?

Alfred Rizzitano:

The only other place would be to the left or to the right. A wood, let's call it a trash enclosure, a wood fence gate area with landscaping around it that the trailer would go in. Either side would be acceptable to me. And you could even put based on your aesthetic approval or whatever.

Angelina Kielar:

I think that's fair.

Alfred Rizzitano:

There's 15 or 16 feet to the side that's way more than the six feet that I would use for a trailer. A little extra wiggle room just to get it in there. Or even to the right, I thought it would be neat -- just, again, you think of things. It's all gravel all the way up to the building. And maybe it would look nice to have a little decorative ten by ten square area of fencing where you could actually put some landscaping around it and kind of cover. I've removed a lot of the tree and shrub from around it that because that was kind of falling with some timber going across there just real quickly. So either side would be acceptable. It's nice to know that if that option exists that I have your blessing to do that. But I don't have the trailer right now. I would never, ever need anything larger than the size that was here previously. I think that's where he kept it.

Angelina Kielar:

Did you talk to the neighbors at all and ask them their thoughts?

Alfred Rizzitano:

The guy right across from me stopped in to say hello all the time. I really don't believe I would have a problem with him. He's talked to me about some additions. I was an architect for 20 years in Burlington, and so he's talked to me about doing some additions on the house. And the people to the left other than when their cars were parked in the lot, but I was real nice with them, I believe they're tenants. I think one of the owners may live down the street because he stopped and said hello one day.

Steve Kumorkiewicz:

It's a very quiet neighborhood.

Mark Riley:

Any other questions from the Board to the petitioner?



Jean Werbie-Harris:

So I'd like to read the staff's recommendation. The staff recommends approval of the substitution use to use the buildings for storage of tools and equipment related with R & S Management, LLC, a property management company, and to allow a portion of the building to be used by Liquid Systems, LLC, a local painting contractor, to temporarily store their painting supplies since there will be no discernible difference between the previously approved use and the proposed uses. Furthermore, the staff recommends that the substitution be approved subject to the conditions as outlined in the staff memorandum. And they really pertain to no structural alternations shall be made to the existing structures on the property. If the Board of Appeals permits the substitution, the use may not thereafter be changed without an application and hearing before the Board of Appeals.

There are a number of other comments that we've added in here which include business hours of operation, again, limited to 7 a.m. to 7 p.m. Monday through Friday. The owner may visit the site on Saturdays and Sundays and get his supplies and things that he needs. No more than two passenger vehicles associated with the business shall be parked on the site at any one time. And any job trailers if approved shall be parked inside the building. The site shall not be used to store any junked, dismantled, inoperable or unlicensed vehicles. The site shall not be used to sell or display any vehicles for sale. There shall be no customer or employee parking permitted on 91st Street or 39th Avenue. All parking needs to occur on the site.

There shall be no outside storage on the site. All materials and equipment and trailers shall be kept and stored inside the building. Again, if the Board of Appeals decides that a trailer could be parked between two buildings, the staff could be supportive of that. Not supportive of any trailers parked on the east side of the building abutting 39th Avenue, especially any trailers that had commercial advertising. No other vehicles, trucks, automobiles, boats, RVs, trailers shall be parked on the site, and this includes weekends.

And all aerosol paint storage shall be within the easternmost concrete block constructed building. The amount of aerosol paint shall be limited to 12 standard size cans. The Village Fire and Rescue Department considers this type of aerosol storage as incidental so we don't have to worry about fire sprinklers and other things like that. The only signage allowed for this site will be a non-illuminated sign on the door of the eastern building which identifies the occupants of the building. A permit is required to be applied for, granted and obtained for any interior minor alterations to the site of the building including the painting or exterior of the building.

The owner or applicant understands that the lot use and structures on the property are considered legal, nonconforming, and that the lot use and structures on the property are subject to Section 420-140 of the Village Zoning Ordinance entitled Non-Conforming Lots, Structures and Uses. The granting of this substitution use does not waive any other requirements which are imposed by the Village Zoning or Land Division Ordinance, building or municipal codes.

The Village staff will prepare a substitution use grant document to be executed by the property owner. It does need to get recorded at the Register of Deeds office. And the owner is responsible for recording and filing these fees. The document shall be executed prior to the Village issuing any building and zoning permits for the property for occupancy. The building and zoning commercial application shall be submitted for an occupancy permit and an annual business

license application with the required application fee of \$25 shall be submitted. If the Board of Appeals determines that a substitution shall not be granted, then they should clearly state in their reason for the record why it should be denied.

Mark Riley:

Okay, at this time I'd like to ask the Board for a motion.

Steve Kumorkiewicz:

I make a motion to approve the application subject to the conditions.

Mark Riley:

Would you like to make a statement about the trailer yea or nay? Trailer storage?

Steve Kumorkiewicz:

Yeah, I feel the trailer storage should be okay between the two buildings. You've got 9.9 feet between the two buildings which is plenty to put a trailer and a little fence in the back and gate in the front [inaudible].

Angelina Kielar:

I agree. And actually if for some reason it doesn't fit alternatively on the side as long as it's fenced off appropriately.

Mark Riley:

Do we have a second on the motion?

Sammie Lancia:

I second the motion, and I support the trailer being kept between the buildings secured by fencing on both sides so that the commercial advertising is not visible from the road. That is already in the previous right of use.

Mark Riley:

So that was part of your motion, too?

Steve Kumorkiewicz:

Yes, include that.

Mark Riley:

**SO WE HAVE A MOTION BY STEVE KUMORKIEWICZ AND A SECOND BY**

**SAMMIE LANCIA. WE'LL TAKE A VOTE.**

Dwayne Pinon:

Yes.

Mark Riley:

Yes.

Angelina Kielar:

Yes.

Steve Kumorkiewicz:

Yes.

Sammie Lancia:

Yes.

Jean Werbie-Harris:

Motion carries.

Mark Riley:

The motion carries. You got what you came looking for and then some.

Jean Werbie-Harris:

You want to just contact Peggy tomorrow and she can finalize the paperwork and you can work through her.

Alfred Rizzitano:

Thank you.

Mark Riley:

Is there any other business?

**7. ADJOURNMENT.**

Steve Kumorkiewicz:

So moved.

Dwayne Pinon:

I second.

Mark Riley:

All in favor?

Voices:

Aye.

Mark Riley:

Adjourned.

**Meeting Adjourned: 6:27 p.m.**