

AGENDA MEMO
PLANNING AND ZONING COMMISSION
February 6, 2019

Case

PZC 2018-11

Zoning Text Amendment

Chemical Uses

Petition

The City of Darien has petitioned for approval of a text amendment of the Zoning Code regarding standards for chemical related uses and activities, currently in Chapter 9: Office and Industrial Districts, Chapter 12: Performance Standards, and Chapter 13: Definitions.

Status

This hearing was opened on January 16, 2019. Testimony was received at that hearing and minutes are included in this packet. The PZC continued the hearing to February 6, 2019. Staff has requested more time to research.

It is recommended that the PZC take any questions from the audience and then continue this hearing to the February 20, 2019 meeting of the PZC.

AGENDA MEMO
Planning and Zoning Commission
February 6, 2019

Case

PZC 2019-01 419 Plainfield Road (tower height variation)

Issue Statement

Tri-State Fire Protection District has petitioned for a variation to Section 5A-5-12 (C) of the Zoning Code, that otherwise limits the height of towers to 60 feet, for a proposed communications tower 150 feet tall to be built in the rear yard of the Tri-State Fire Station at 419 Plainfield Road.

Status

Attached is the application form submitted by the Tri-State FPD and their request for more time to prepare their presentation. It is recommended that the PZC open this hearing on February 6, take any questions from the audience, and then continue this hearing to the March 6, 2019 meeting of the PZC.

CITY OF DARIEN, ILLINOIS, Community Development Department

Staff Use Only	
Case No.:	PZC 2019-01
Date Received:	1/7/19
Fee Paid:	NA
Check No.:	NA
Hearing Date:	2/6/19

Variation/Special Use/Rezoning petition to the Mayor and City Council of the City of Darien:

PETITIONER INFORMATION

TRISTATE FIRE PROTECTION DISTRICT

Petitioner's Name

(SAME AS AT LEFT)

Owner's Name

SAM MOLINARO, FIRE CHIEF

Contact Name

Address, City, State, Zip Code

419 PLAINFIELD RD DARIEN, IL 60561

Address, City, State, Zip Code

Phone #

(630) 323-6445

Phone #

Email

(630) 645-6450

Fax #

SMOLINARO@TRISTATEFD.COM

Email

PROPERTY INFORMATION

419 PLAINFIELD ROAD

Property address

1.5

Acreage

0927207021

PIN(s)

R2

Zoning

Provide legal description on a separate sheet and attach, such as the plat of survey.

REQUEST

Brief description of the request(s):

Variation

Simple Variation

Special Use

Rezoning

ERECT 150 FOOT MONOPOLE TO ALLOW FOR MICROWAVE CONNECTIVITY TO THE NEW DUPAGE COUNTY C.I.A.D. & FIRE STATION ALERTING SYSTEMS. TO ALSO ALLOW CONNECTIVITY VIA MICROWAVE BETWEEN ALL FOUR TRISTATE STATIONS 150 FEET

I, SAM MOLINARO, FIRE CHIEF, do hereby certify that I am the owner of record (or one of the owners of record or the attorney for the owners of record of the aforesaid described property) and I hereby make application as such.

Sam Molinaro

Signature

Subscribed and sworn to before this 2nd day of January, 2019.

Theresa F. Rader

Notary Public



Steven Manning

From: Chief Molinaro <smolinaro@tristatefd.com>
Sent: Monday, January 21, 2019 12:16 PM
To: Steven Manning
Cc: Dan Gombac
Subject: RE: Petition Review

Steve,

Thanks for the heads up. As Pat & I discussed with Dan last week, we are pushing back the hearing to the March 6th date in order to ensure we'll have everything we need as far as documentation from the tower company and our consultants to make a proper presentation/pitch.

Sam Molinaro

Fire Chief

Tristate Fire Protection District

419 Plainfield Rd.

Darien, IL 60561

Office (630) 828-2201

Fax (630) 654-6450

Email smolinaro@tristatefd.com

CITY OF DARIEN
DU PAGE COUNTY, ILLINOIS

ORDINANCE NO. 0-02-19

**AN ORDINANCE AMENDING THE DARIEN ZONING CODE
SECTION 5A-2-2-3 (G) VARIATIONS**

(PZC 2018-08: Variation Criteria)

**ADOPTED BY THE
MAYOR AND CITY COUNCIL
OF THE
CITY OF DARIEN**

THIS 21ST DAY OF JANUARY, 2019

**Published in pamphlet form by authority of the
Mayor and City Council of the City of Darien,
DuPage County, Illinois, this 23rd day
of January, 2019.**

ORDINANCE NO. 0-02-19

**AN ORDINANCE AMENDING THE DARIEN ZONING CODE
SECTION 5A-2-2-3 (G) VARIATIONS**

(PZC 2018-08: Variation Criteria)

WHEREAS, the City of Darien is a home rule unit of local government pursuant to the provisions of Article VII, Section 6, of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit of local government, the City may exercise any power and perform any function pertaining to its government except as limited by Article VII, Section 6; and

WHEREAS, the City of Darien has adopted Zoning Regulations set forth in the Darien City Code Title 5A; and

WHEREAS, the City Council has deemed it reasonable to periodically review said Darien Zoning Code and make necessary changes thereto; and

WHEREAS, pursuant to proper legal notice, a public hearing was held before the Planning and Zoning Commission on December 5, 2018, regarding this matter; and

WHEREAS, the Planning and Zoning Commission filed its findings and recommendations with the City Council recommending approval of the text amendment described herein; and

WHEREAS, on December 26, 2018 the Municipal Services Committee has filed its findings and recommendations with the City Council recommending approval of the text amendment described herein; and

WHEREAS, the City Council approves and adopts the findings and recommendations of the Municipal Services Committee and incorporates such findings and recommendations herein by reference as if they were fully set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DARIEN, DU PAGE COUNTY, ILLINOIS, IN THE EXERCISE OF ITS HOME RULE POWERS, as follows:

SECTION 1: Title 5A of the Darien City Code, “Zoning Code” is hereby amended by deleting in its entirety Section 5A-2-2-3 (G) of the City Code of Darien and is hereby replaced with the following:

“Section 5A-2-2-3 (G) Criteria

1. Eligibility: The City may grant variations to any provision of this Zoning Code, except for variations to the ‘Non-Conforming Buildings, Structures, and Uses’ provisions, which are in Chapter 4 of this Zoning Code, and the ‘Permitted Uses’ and ‘Special Uses’ provisions of each zoning district, which are in Chapters 7,8, and 9 of this Zoning Code.
2. State Decision Criteria: The City may grant variations only if the finding-of-fact supports each of the following, as required by the Illinois Municipal Code, Sections 11-13-4 and 5.
 - a. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the zone.
 - b. The plight of the owner is due to unique circumstances.
 - c. The variation if granted will not alter the essential character of the locality.
3. City Decision Criteria: The City may grant variations based on the finding-of-fact that supports the following criteria outlined below by the City to be the most relevant to the subject property situation.
 - a. Essential Need? The owner would suffer substantial difficulty or hardship and not mere inconvenience or a decrease in financial gain if the variation is not granted.
 - b. Problem with Property? There is a feature of the property such as slope or shape or change made to the property, which does not exist on neighboring properties, which makes it unreasonable for the owner to make the proposed improvement in compliance with the Zoning Code. Such feature or change was not made by the current owner and was not known to the current buyer at the time of purchase.
 - c. Smallest Solution? There is no suitable or reasonable way to redesign the proposed improvements without incurring substantial difficulty or

- hardship or reduce the amount of variation required to make such improvements.
- d. Create Neighbor problem? The variation, if granted, will not cause a substantial difficulty, undue hardship, unreasonable burden, or loss of value to the neighboring properties.
 - e. Create Community Problem? The variation, if granted, may result in the same or similar requests from other property owners within the community, but will not cause an unreasonable burden or undesirable result within the community.
 - f. Net Benefit? The positive impacts to the community outweigh the negative impacts.
 - g. Sacrifice Basic Protections? The variation, if granted, will comply with the purposes and intent of the Zoning Code set forth in Section 5A-1-2(A) and summarized as follows; to lessen congestion, to avoid overcrowding, to prevent blight, to facilitate public services, to conserve land values, to protect from incompatible uses, to avoid nuisances, to enhance aesthetic values, to ensure an adequate supply of light and air, and to protect public health, safety, and welfare.”

SECTION 2: This ordinance and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such ordinance should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the corporate authorities of the City of Darien that to the extent that the terms of this ordinance should be inconsistent with any non-preemptive state law, that this ordinance shall supersede state law in that regard within its jurisdiction.

SECTION 3: This Ordinance shall be in full force and effect from and after its passage and approval, and shall subsequently be published in pamphlet form as provided by law.

ORDINANCE NO. 0-02-19

PASSED BY THE CITY COUNCIL OF THE CITY OF DARIEN, DU PAGE COUNTY, ILLINOIS, this 21st day of January, 2019.

AYES: 7 - Belczak, Chlystek, Kenny, Marchese, McIvor, Schauer

NAYS: 0 - NONE

ABSENT: 0 - NONE

APPROVED BY THE MAYOR OF THE CITY OF DARIEN, DU PAGE COUNTY, ILLINOIS, this 21st day of January, 2019.

Kathleen Moesle Weaver
KATHLEEN MOESLE WEAVER, MAYOR

ATTEST
Joanne E. Ragona
JOANNE E. RAGONA, CITY CLERK

APPROVED AS TO FORM:
John B. Murphy, III
CITY ATTORNEY



**MINUTES
CITY OF DARIEN
PLANNING & ZONING COMMISSION MEETING
January 16, 2019**

PRESENT: Lou Mallers- Chairperson, Robert Cortez, Michael Desmond, Robert Erickson, Brian Gay, Brian Liedtke, Mary Sullivan, Ralph Stompanato, Steven Manning - City Planner, Bryon Vanna – City Administrator

ABSENT: John Laratta

Chairperson Mallers called the meeting to order at 7:00 p.m. at the City Hall – City Council Chambers, Darien, Illinois and declared a quorum present and swore in the audience members wishing to present public testimony.

REGULAR MEETING:

A. Hearing

Case: PZC 2018-09 - 6710 Rt. 83 - (sign variation) Olympic Signs, as agent for the owner of The Auto-Mobile Center of Darien, has petitioned for approval of a variation to Section 4-3-16 of the Darien Sign Code to allow an electronic message center on the ground sign at 6710 Rt. 83.

Mr. Steve Manning, City Planner reported that the petitioner and owner of The Auto-Mobile Center on Route 83 is requesting a sign variation to the ground sign. He reported that the multi-tenant shopping center is occupied by 3 businesses with a ground sign 29 feet by 10 feet containing 7 panels one of which shows digital time and temperature. Mr. Manning reported that the sign is approximately 80 feet from the edge of the pavement from Route 83.

Mr. Manning reported that the petitioner is proposing to cover the time and temperature panel at the bottom of the sign and replace the top 2 panels with an electronic message center, 5' by 10' wide that would illuminate images of products or services that would remain static for 10 seconds and would not flash or chase and have limited brightness in the evening. He reported that the existing sign does not conform to the Sign Code. He further reported that there are two ground signs on the Willowbrook side of Rt.83 including Pete's grocery store with an electronic message center sign approximately 8' by 8'.

Mr. Manning reported that the City granted a variation to Chuck's Restaurant, and Our Lady of Peace for a changeable electronic message sign conditions.

Chairperson Mallers opened the meeting to anyone wishing to present public comment.

Mr. Albert Santa Maria, Olympic Signs (Sign Contractor) reported that their proposed sign would give tenants the ability to advertise to the car flow during the evening and morning traffic. He reported that they have found that 10 seconds is appropriate to avoid too much flash. He further reported that the lighting can be adjusted to tone it down or brighten it up and that the sign would be turned off from 2:00 a.m. – 4:00 a.m.

Chairperson Mallers questioned if there would be text and photos.

Mr. Santa Maria reported that the sign will have both and that the copy and photos would fade in and out with the movement to a minimum.

Mr. Manning reported that the other two signs in Darien change every 60 seconds. He said that the rate of image change should not be distracting to drivers. He further reported that other message boards are about three feet off the ground.

Commissioner Desmond questioned if the lighting the portion closer to the ground is an option.

Mr. Santa Maria stated that there is mature landscaping with a hedge and trees in front of the sign.

Commissioner Liedtke questioned if the petitioner could move up the 3 static panels to the top of the sign and put the changeable image sign in the middle of the sign structure.

Mr. Santa Maria stated that they would have to reconstruct the sign and that it is a well-built sign and still in good shape.

Mr. Robert Whitehead, the owner of the property stated that the proposed sign will catch a driver's peripheral and that they will be able to see it from a distance which is a safer way to see from afar.

Commissioner Cortez questioned the legal non-conforming status.

Mr. Manning reported that the sign was built over 30 years ago and conformed to code at that time but that the code changed after it was built. He stated that the sign code had an amortization clause, which required all non-conforming signs be removed. However, that clause has been deleted, so this sign can remain but not be enlarged.

Commissioner Liedtke questioned the business hours and if the petitioner was comfortable turning the sign off at 11:00 pm and turning it back on at 7:00 am.

The petitioner stated that the area is zoned commercial and that the one neighbor has been there for over 30 years and has never complained. He stated that he is proposing to pay for a sign for the tenants for economic reasons. He further stated that all of the businesses are owner/operators and that the sign will be a reminder to drivers sitting in traffic. The petitioner also stated that in the 30 plus years that he has always been a good neighbor not posting flags, etc. and that this is solely to help the tenants build up their businesses.

Commissioner Stompanato questioned if there would be any flashing advertising.

The petitioner stated that he preferred not to flash the sign and that it doesn't do anyone any good. He stated that he is trying to be classy.

Mr. Santa Maria stated that they would like to have a little action but prefer a fade but not flashing. He stated that they will not have ticker tape movement.

Chairperson Mallers stated that the sign will help the businesses economically and that traffic barely moves fast on Route 83.

Commissioner Desmond stated that he is concerned with the height. He stated that the Pete's sign has the sign above and the changeable images below. He questioned if there is an alternative to not putting the sign at the top. He further stated that he understands the need to advertise but that the proposed image sign is not a necessity and that the petitioner has been there for over 30 years.

Commissioner Liedtke questioned if there was a cost analysis done without the sign.

The petitioner stated that the tenants are paying one third less versus 30 years ago and that none of them are original owners. He stated that he is paying out of pocket to help the businesses stay afloat.

Commissioner Cortez stated that he is struggling with the upper tier and questioned why they couldn't put the sign where the Oil Express is and remove the shrubs.

The petitioner stated that it could be done but the sign will be further away. He stated that the other two signs in town are right on the street and that he spent a lot of money on the landscaping to hide the trucks and cars from the street to keep the area nice.

Commissioner Gay questioned if the sign lighting will be different.

Mr. Santa Maria stated that the lighting will be clearer with a crisper look and won't carry any more lumens.

Commissioner Sullivan questioned if the sign would illuminated all night.

There was no one else in the audience wishing to present public comment.

Commissioner Liedtke made a motion and it was seconded by Commissioner Gay to approve the variation for an electronic sign with the conditions of no flashing or blinking and with auto dimming and static color with slow motion with a minimum of 10 seconds to help benefit the tenants and that the petitioner meets the State and City Criteria.

Upon roll call vote, THE MOTION FAILED 4-4.

AYES: Cortez, Gay, Liedtke, Mallers

NAYS: Desmond, Erickson, Stompanato, Sullivan

B. Public Hearing Case: PZC 2018-10-313 Roger Road-(lot width variation) Marius Grigoras, as contract purchaser, has petitioned for approval of a variation to Section 5A-7-2-5(A) of the Zoning Code that otherwise requires a 75 foot lot width for a proposed house to be built on a vacant lot commonly known as 313 Roger Road.

Mr. Steve Manning, City Planner reported that the petitioner would like to purchase the lot to construct a single family home. He reported that the lot width is 70 feet measured on the perpendicular to the side lot lines and the standard for lot width is 75 feet. He reported that a house with the required 10 foot side setbacks would still be 50 feet wide and could be as much as 147 feet deep. Mr. Manning reported that the petitioner would prefer to front the house on Roger Road.

Mr. Manning reported that most of the lots in the neighborhood are 75 feet wide with some even more narrow. He said that apparently this lot has never been built on before and was approved prior to annexation.

Chairperson Mallers opened the meeting to anyone wishing to present public comment.

The petitioner, Mr. Marius Grigoras reported that he presently lives in Bensenville and would like to build a two story house with a basement and attached garage for his family.

Commissioner Erickson stated that he believed there were a couple homes built recently on Roger Road.

Mr. Manning reported that the newer houses are on wider lots and conformed to the code.

Commissioner Sullivan stated that the home would fit in with the area.

Commissioner Desmond questioned if anyone has tried to build on this lot.

Mr. Manning said no, not to his knowledge.

Chairperson Mallers stated that this has been a vacant lot for a number of years and will be an improvement to the neighborhood. He reported that there were no comments from the neighbors.

Commissioner Gay questioned if there any requests for curb cut on the back of the property.

Mr. Manning reported that there were not.

There was no one in the audience wishing to present public comment.

Commissioner Desmond made a motion and it was seconded by Commissioner Sullivan to approve the variation for Section 5A-7-2-5(A) of the Zoning Code that otherwise requires a 75 foot lot width for a proposed house to be built on a vacant lot commonly known as 313 Roger Road and that the petitioner meets all the variation City and State Criteria improving the character of the neighborhood.

Upon roll call vote, THE MOTION CARRIED 8-0.

Chairperson Mallers announced that this would be forwarded to the Municipal Services Committee on Monday, January 28th at 6:30 p.m.

**C. Public Hearing Case: PZC 2018-11 - Chemical Uses (zoning text amendment)
City of Darien has petitioned for approval of a text amendment of the Zoning Code, Title 5A, Chapter 9: Office and Industrial Districts, Chapter 12: Performance Standards, and Chapter 13: Definitions, regarding standards for chemical-related uses and activities.**

Mr. Steve Manning, City Planner reported that at the October 29, 2018 City Council Goal Setting meeting the Council discussed land use regulation and oversight by the City Council. He reported that the consensus of the Council was to review the City Code and recommend revisions in land uses with goal of minimizing uses that may pose a hazard and requirements for public

notification in a case of an EPA violation. He said that staff is hoping to get good input at these hearings to help refine the text of the amendment.

Chairperson Mallers opened the meeting to anyone wishing to present public comment.

Mr. Ron Swanson, Cygnet Controls Inc. stated that he started his business in the 80s and that he was next to Sterigenics. He stated that in the 90s they redeveloped the industrial park in Darien that was proposed contaminated and it was cleaned up by Rockwell. Mr. Swanson stated that he was concerned that light manufacturing was being considered eliminated. He displayed a product of what he builds to the PZC and stated that he builds control panels and that the process does not involve chemicals. He stated that his business has been in Darien since the 90s the employees live in the community. Mr. Swanson stated that he was specifically referring to letter h. of the document and that there are a lot of companies in Darien that fall under the same category. He asked that the City not eliminate (h) in the list of permitted uses in the ORI district, which includes 'light industrial uses'.

Commissioner Desmond questioned if there is any industrial waste.

Mr. Swanson stated that he does not and in fact he has less than is what is in a home garage.

Mr. Manning stated that this request was initiated by the City Council to look at deleting uses that have chemical processing or storage and to minimize such hazardous uses. He reported that staff has put together a draft code amendment and that the process will take at least two hearings. He explained that the text amendment identifies certain uses in the OR&I, Research and Light Industry District limiting business process or land uses with chemical manufacturing classified by Tier II under the EPA. He stated that there is also language regarding storage.

Mr. Paul Schoenbeck, 1000 Frontage Road stated that elimination will hinder building owners opportunity to secure tenants and that elimination will take the "R" out of research and that the City needs to look at this case by case. Mr. Schoenbeck stated that 31 properties in Darien is not a lot and that this would create hardship for tenants and people to come into Darien.

Mr. Keith Lang, 8101 Clarendon Hills Road stated that he owns a building next to Ron and that he agrees with Paul. He stated that he is concerned that his building rentals will decrease and that the permit process involves review by the City and that case by case is a much better solution.

Commissioner Desmond asked for an example so that he could better understand.

Mr. Lang stated that he has a tenant who has an auto body shop who does body work to cars which requires paint and falls under warehousing. He stated that the general term warehousing is a concern.

Commissioner Desmond stated that the concern is in tenants with strong chemicals that fall within the Tier II category.

Mr. Lang stated that the term is too broad and that the City cannot strike warehouse and industrial.

Mr. Schoenbeck stated that with restrictions the uses that are struck will make it difficult to rent space. He stated that when realtors work to rent the space that they do not get into details and all they will see is that warehousing will be out.

Mr. Josh Mallory, Miskatonic Brewing Company stated that nothing in the area comes close to EPA Tier II. He stated that he reviewed the list and that there are uses that are struck that should not be struck. Mr. Mallory stated that the City should require the business to identify if they fall under Tier II.

Mr. Bryon Vana, City Administrator stated that he appreciated the discussion and that there were a lot of good points. He stated that the process for regulating chemicals is above the municipality and that a company is required to present material data sheets. Mr. Vana stated that the City is looking at a broad range of uses instead of specifics.

Mr. Lang stated that the City does not have to eliminate anything but rather look at Tier II. He stated that it is too hazy and that eliminating Tier II will require a business to go for a special use permit.

Mr. Vana stated that he will discuss with the City Attorney to get more specifics.

Chairperson Mallers stated that the process is in motion and that there are a lot of moving parts..

Mr. Peter Friedman, Attorney representing Sterling Bay, 1035 S. Frontage Road stated that they will submit written comments regarding the draft. He stated that he has extensive knowledge of industrial zoning and applauded the City for modernizing the code. Mr. Friedman stated that he will work with staff to provide Sterling Bay's proposal and that he liked the discussion regarding eliminating certain chemicals.

There was no one else in the audience wishing to present public comment.

Commissioner Erickson made a motion and it was seconded by Commissioner Stompanato to continue Public Hearing Case: PZC 2018-11 to the next regular meeting of the PZC on February 6, 2019.

Upon roll call vote, THE MOTION CARRIED 8-0.

Mr. Manning stated that he welcomes any comments.

Commissioner Sullivan questioned if the businesses were notified.

Mr. Manning reported that a public notice is required for a Text Amendment and also the notice was mailed as well to the 31 businesses in the ORI district.

CORRESPONDENCE

None

OLD BUSINESS

None

NEW BUSINESS

Mr. Steve Manning, City Planner reported that the Municipal Services Committee reviewed the Text and Variation Criteria and had little comment and that it will be go to the City Council for final vote on January 21, 2019.

APPROVAL OF MINUTES

Commissioner Erickson made a motion and it was seconded by Commissioner Desmond to approve the December 5, 2018 Regular Meeting Minutes.

Upon roll call vote, THE MOTION CARRIED 8-0.

NEXT MEETING

Chairperson Mallers announced that the next meeting is scheduled for Wednesday, February 6th at 7:00 p.m.

PUBLIC COMMENTS (On any topic related to planning and zoning)

There was no one in the audience wishing to present public comment

ADJOURNMENT

With no further business before the Commission, Commissioner Gay made a motion and it was seconded by Commissioner Cortez. Upon voice vote, THE MOTION CARRIED unanimously and the meeting adjourned at 9:00 p.m.

RESPECTFULLY SUBMITTED:

APPROVED:

**Elizabeth Lahey
Secretary**

**Lou Mallers
President**