

ORDINANCE NUMBER 2014 - 25

**GRANT A SPECIAL USE AT 1016 ROUTE 30
FOR A DWELLING UNIT FOR A WATCHMAN AND FAMILIES INCLUDING A
CARETAKER & A VARIANCE**

WHEREAS, Divyesh Patel/ Council Court Motel, has filed a petition for a Special Use within the B-3 Highway Business District and a variance for a 2.94 acre property located on the northeast side of Route 30, 0.06 miles north of Gastville Street, commonly known as 1016 Route 30, (PIN #03-12-100-003), in Oswego Township, and;

WHEREAS, said petition is to build a dwelling unit for a watchman and families including a caretaker in accordance with Section 9.04.C.6 of the Kendall County Zoning Ordinance; and

WHEREAS, said property is currently zoned B-3 Highway Business District since the 1974 Countywide zoning change; and

WHEREAS, Section §9.04.F.2-3 (B-3 Highway Business District- Yard Areas) of the Zoning Ordinance states that the side/rear yard setback of a structure must be a minimum of twenty (20) feet; and

WHEREAS, said petition is to allow construction of a dwelling unit for a watchman and families including a caretaker to be located five (5) feet from the side/rear yard setback line to the north abutting the ComEd right-of-way; and

WHEREAS, said property is legally described as:

THAT PART OF THE NORTH HALF OF THE NORTH HALF OF SECTION 12, TOWNSHIP 37 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTH LINE OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 12 WITH THE NORTHEASTERLY RIGHT OF WAY LINE OF U.S. ROUTE 30; THENCE NORTHWESTERLY ALONG THE NORTHEASTERLY RIGHT OF WAY LINE OF SAID U.S. ROUTE 30; 240 FEET FOR THE POINT OF BEGINNING; THENCE NORTHEASTERLY AT RIGHT ANGLES TO SAID NORTHEASTERLY RIGHT OF WAY LINE TO THE WESTERLY RIGHT OF WAY LINE OF THE ELGIN, JOLIET AND EASTERN RAILWAY COMPANY; THENCE NORTHERLY ALONG SAID WESTERLY RIGHT OF WAY LINE TO THE NORTH LINE OF SAID SECTION 12; THENCE WEST ALONG SAID NORTH LINE TO A POINT 115.39 FEET EASTERLY OF (MEASURED ALONG SAID NORTH LINE) THE POINT OF INTERSECTION OF SAID NORTH LINE WITH THE NORTHEASTERLY RIGHT OF WAY LINE OF SAID U.S. ROUTE 30; THENCE SOUTHWESTERLY 57.26 FEET TO A POINT ON THE NORTHEASTERLY RIGHT OF WAY LINE OF SAID U.S. ROUTE 30 WHICH IS 68.09 FEET SOUTHEASTERLY OF (MEASURED ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE) THE POINT OF INTERSECTION OF THE NORTH LINE OF SAID SECTION 12 WITH SAID NORTHEASTERLY RIGHT OF WAY LINE; THENCE SOUTHEASTERLY ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE TO THE POINT OF BEGINNING, IN THE TOWNSHIP OF OSWEGO, KENDALL COUNTY, ILLINOIS.

WHEREAS, all procedures required by the Kendall County Zoning Ordinance were followed including notice for public hearing, preparation of the findings of fact in accordance with Section 13.08.J of the Zoning Ordinance, and recommendation for approval by the Special Use Hearing Officer on September 3, 2014; and

WHEREAS, the findings of fact were approved as follows:

That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. A watchman's quarter will actually help the public health, safety, morals, comfort and general welfare having security on site.

That the special use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The Zoning classification of property within the general area of the property in question shall be considered in determining consistency with this standard. The proposed use shall make adequate provisions for appropriate buffers, landscaping, fencing, lighting, building materials, open space and other improvements necessary to insure that the proposed use does not adversely impact adjacent uses and is compatible with the surrounding area and/or the County as a whole. The petitioner is trying to locate the watchman's quarters as far from any residents as possible with the motel that's been in existence to be the buffer. This will help security on site and also inform the owners of what's going on at all times on the site.

That adequate utilities, access roads and points of ingress and egress, drainage, and/or other necessary facilities have been or are being provided. A driveway already exists to the property and a new septic field will be installed onsite.

That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendation of the Hearing Officer. This property is zoned commercial and used in a commercial capacity. The watchman's quarter conform to the applicable regulations of the commercial district.

That the special use is consistent with the purpose and objectives of the Land Resource Management Plan and other adopted County or municipal plans and policies. The special use is consistent with the LRMP and municipal plans and policies as the property is zoned commercial and it's always good to have a watchman's onsite.

WHEREAS, all procedures required by the Kendall County Zoning Ordinance were followed including notice for public hearing, preparation of the findings of fact in accordance with Section 13.04.A.3 of the Zoning Ordinance, and recommendation for approval by the Zoning Board of Appeals on September 3, 2014; and

WHEREAS, the findings of fact were approved as follows:

That the particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship or practical difficulty upon the owner if the strict letter of the regulations were carried out. There is not much location that can be built on this property

as the large open space is where the septic system is and the rest of the property used to the railway ROW.

That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification. Due to the ComEd ROW on the north, the vacated railway ROW to the east, Route 30 to the south this variance would not be applicable to any other property around.

That the alleged difficulty or hardship has not been created by any person presently having an interest in the property. This motel has been here quite some time before 1973 and the current owner purchased it in the year 2000.

That the granting of the variation will not materially be detrimental to the public welfare or substantially injurious to other property or improvements in the neighborhood in which the property is located. The requested variance should not affect any of the neighbors nor be detrimental to the public welfare or injurious to other property or improvements in the neighborhood. The variance would help keep the building further from any properties and closer to the ComEd ROW which will never be built on.

That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values within the neighborhood. The watchman's quarters will not impair an adequate supply of light and air to adjacent properties. It will not add any congestion on Route 30. The watchman's quarters will actually benefit the property values in the neighborhood as it will have 24 hour security on site.

WHEREAS, the Kendall County Board has considered the findings and recommendation of the Special Use Hearing Officer & Zoning Board of Appeals and finds that said petition is in conformance with the provisions and intent of the Kendall County Zoning Ordinance; and

WHEREAS, this special use & variance shall be treated as a covenant running with the land and is binding on the successors, heirs, and assigns as to the same special use conducted on the property; and

NOW, THEREFORE, BE IT ORDAINED, that the Kendall County Board hereby grants approval of a B-3 Highway Business special use to build a dwelling unit for a watchman and families including a caretaker.

NOW, THEREFORE, BE IT ORDAINED, that the Kendall County Zoning Board of Appeals hereby grants approval of the variance to build a dwelling unit for a watchman and families including a caretaker to be located five (5) feet from the side/rear yard setback line to the north abutting the ComEd right-of-way.

Failure to comply with the terms of this ordinance may be cited as a basis for amending or revoking this special use permit.

IN WITNESS OF, this Ordinance has been enacted by the Kendall County Board this 16th day of September, 2014.

Attest:



Kendall County Clerk
Debbie Gillette



Kendall County Board Chairman
John Shaw