

**TOWN OF CORTLAND
DEKALB COUNTY, ILLINOIS**

ORDINANCE NO. 2023-__

**AN ORDINANCE REGARDING CERTAIN VARIATION REQUESTS
FOR PROPERTY LOCATED AT
73 W. ELM AVENUE, CORTLAND, ILLINOIS**

**ADOPTED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE
TOWN OF CORTLAND
THIS ____ DAY OF _____, 2023**

Published in pamphlet form
by the authority of the President
and Board of Trustees of the
Town of Cortland, DeKalb
County, Illinois this ____
day of _____, 2023.

ORDINANCE NO. 2023-__

**AN ORDINANCE REGARDING CERTAIN VARIATION REQUESTS FOR PROPERTY
LOCATED AT 73 W. ELM AVENUE, CORTLAND, ILLINOIS**

WHEREAS, the corporate authorities of the Town of Cortland are authorized by the Illinois Municipal Code, 65 ILCS 5/11-13-5, to vary the application of zoning regulations relating to the use, construction, or alteration of buildings or structures or use of land within the Town; and

WHEREAS, Ryan ODonnell has applied for variations from the requirement of Sections 9-5-3D and 9-5-5C of the Cortland Zoning Regulations to aggregate pavement rather than asphaltic or concrete pavement in 1) parking areas and 2) loading areas; and

WHEREAS, the subject property is located in the I-1 Light Industrial District; and,

WHEREAS, a public hearing was held on December 6, 2023, at 6:00 p.m. before the Town's hearing officer pursuant to proper notice and in compliance with the laws of the State of Illinois and ordinances of the Town of Cortland; and,

WHEREAS, the hearing officer has recommended approval of the variations to allow aggregate pavement in 1) parking areas and 2) loading areas; and,

WHEREAS, the Cortland Board of Trustees accepts and adopts the Report of Hearing Officer concerning the requested variations; and,

WHEREAS, the Cortland Board of Trustees finds that the Applicant has met his burden of demonstrating practical difficulties and particular hardship concerning variations from the required regulations.

NOW THEREFORE, BE IT ORDAINED by the Corporate Authorities of the Town of Cortland, DeKalb County, Illinois as follows:

SECTION 1: That variations from Off Street Parking and Loading regulations shall hereby be granted to allow aggregate pavement in 1) parking areas and 2) loading areas in derogation of the requirement of asphaltic or concrete pavement. Further, that the Report of Hearing Officer dated December ____, 2023, is attached hereto and incorporated herein as Exhibit "A".

SECTION 2: That this ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED BY THIS BOARD OF TRUSTEES of the Town of Cortland, Illinois, at a regular meeting thereof held on the _____ day of December 2023, and approved by me as Mayor on the same day.

AYES:

NAYS:

ABSENT:

Mark Pietrowski, Mayor

ATTEST:

Cheryl Aldis, Town Clerk

Town of Cortland, Illinois

In the matter of:

APPLICATION FOR ZONING VARIATION

Filed by: Ryan O'Donnell

Subject

Property: 73 W. Elm Avenue, Cortland, Illinois
PIN: 09-29-128-011

REPORT OF HEARING OFFICER

A Public Hearing on the above-described matter took place at:

Cortland Town Hall
59 S. Somonauk Road
Cortland, Illinois 60112

December 6, 2023, at 6:00 p.m.

Hearing Officer: Jeffrey L. Lewis

Introduction

On October 18, 2023, Ryan O'Donnell (the "Applicant") submitted an Application for Zoning Variation regarding the property at 73 W. Elm Avenue, Cortland, Illinois (the "Property"). The details of the application and the conditions sought to be addressed are adequately detailed in the Advisory Report dated November 30, 2023, from Brandy Williams, Engineer and Zoning Administrator.

This report is being submitted as the requisite Findings of Fact and written recommendation of the Hearing Officer, in compliance with Section 9-9-3 of the Cortland Zoning Ordinance.

The Hearing Officer conducted a Public Hearing on this matter on December 6, 2023, at 6:00 p.m., at the Cortland Town Hall. Based on the evidence presented and the Findings of Fact below, the Hearing Officer concluded that **the application should be granted.**

The Hearing Officer recommends that the Town Board approve the requested variation.

Following are the Hearing Officer's **Findings of Facts and Recommendation to the Board.**

Findings of Fact

At the Public Hearing conducted in this matter, the Hearing Officer considered the following evidence:

- Testimony of the Applicant, Ryan O'Donnell
- Testimony of Brandy Williams, Engineer and Zoning Administrator for the Town
- Advisory Report of town staff, dated November 30, 2023
- Application for Zoning Variation filed October 18, 2023, and two exhibits attached thereto

In addition, the Hearing Officer viewed the subject property and the surrounding neighborhood on December 6, 2023, during daylight hours.

At the Public Hearing, Brandy Williams testified that the Town had received no written statements or correspondence regarding the Application.

No parties appeared at the Public Hearing other than Ryan O'Donnell.

As a matter of clarification, the Application as filed states that Applicant is seeking a variation of Section 9-5-3D of the Town Ordinances. The Advisory Report and all subsequent material makes reference to both 9-5-3D and 9-5-5C. The Hearing Officer clarified with Brandy Williams that the Application has been treated as a request for a variation from both ordinances, because the use of the property includes both parking (9-5-3D) and loading (9-5-5C). The Hearing Officer proceeded to consider the Application as requesting relief from both ordinance requirements.

Pursuant to Section 9-9-3.B.4 of the Cortland Zoning Ordinance, the Hearing Officer submits the following **Findings of Fact**:

- a. The proposed variation is consistent with the general purposes of this title.*

Title 9 of the Cortland Zoning Ordinance includes twenty-one (21) provisions that describe the purposes of said ordinance. The Property is vacant, unimproved land adjacent to the current operation site of O'Donnell Crane. Applicant testified that the O'Donnell Crane facility has been in operation for many years, with little or no change to the structures or improvements. The property has been used for light industrial purposes since prior to the 2009 enactment of the current ordinances (both 9-5-3D and 9-5-5C were enacted 06-22-2009). In addition, the Town's zoning ordinances and comprehensive plan show that the Property is being used in conformity with the Town's intended designs.

The evidence tended to show that granting this variation request would not substantially alter the current use of the Property, nor would it contravene the Town's zoning map or comprehensive plan.

- b. Strict application of the district requirements would result in great practical difficulties or hardship to the applicant and prevent a reasonable return on the property.*

Sections 9-5-3D and 9-5-5C of the Town ordinances require installation of hard surface material for parking and loading areas. Applicant testified that the weight of the trucks, cranes, and other vehicles would make asphalt and similar surfaces impractical. The vehicle traffic would damage the surface significantly. Applicant also testified that using concrete would require thicker than usual concrete, probably 8 inches or more. That would cost as much as \$400,000 - \$500,000 to install, which would be cost prohibitive for the intended use of the Property.

- c. The proposed variation is the minimum deviation from such requirements that will alleviate the difficulties/hardship, and allow a reasonable return on the property.*

Using stone for the surface areas will properly support the weight of the industrial vehicles on the Property, it will be easily maintained, and the installation cost will not be prohibitive. No alternative option was offered that would support Applicant's present and intended use of the Property at a reasonable cost.

- d. The plight of the applicant is due to peculiar circumstances not of his own making.*

Applicant did not participate in circumstances which led to the current situation. The relevant ordinances were enacted in 2009, after Applicant became the owner of the Property. The O'Donnell Crane business, which was located on the Property prior to

2009, has used loose stone as a surface material since before the Town enacted this building requirement.

- e. *The peculiar circumstances engendering the variation request are not applicable to other property within the district, and therefore, that a variation would be a more appropriate remedy than an amendment (rezoning).*

The Property's location adjacent to the railroad tracks, with similar light industrial properties on both east and west sides, make this a unique situation in the Town. In addition, the nature of O'Donnell Crane's heavy vehicular traffic makes this an unusual scenario. There was no evidence of similar circumstances within the Town that would be treated differently than the Property at issue.

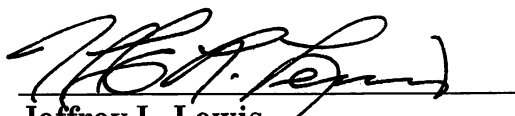
- f. *The variation, if granted, will not alter the essential character of the area where the premises in question are located nor materially frustrate implementation of this municipality's comprehensive plan.*

The Property has been consistently used as O'Donnell Crane's base of operation since before the present versions of Sections 9-5-3D and 9-5-5C were enacted. Furthermore, the property to the west of the subject Property is light industrial. The property to the east is a large grain bin operation, with a crushed aggregate surface similar to that being requested by Applicant. Granting the variation will allow Applicant to make use of the subject Property in a manner that fits with the surrounding properties.

COMMENT:

Applicant described his plans for improving the Property if this variation is approved. He confirmed that he will follow the Town's requirements for engineering and drainage, which is likely to improve the water runoff for the immediately adjacent properties. Using a nonporous surface like asphalt or concrete for the subject Property will increase the burden on a water drainage area that is already problematic due to its lack of slope and poor runoff. Applicant's intended improvements will provide an added benefit to the subject Property and its immediate neighbors.

Respectfully Submitted,


Jeffrey L. Lewis,
Hearing Officer

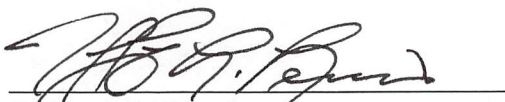
Date: 12/7/2023

Hearing Officer's Recommendation

Pursuant to Section 9-9-3.B.5 and 65 ILCS 5/11-13-11, based on the Findings of Fact as previously set forth, the Hearing Officer submits the following recommendation for consideration by the Town Board:

It is recommended that the Application for Zoning Variation for the property at 73 W. Elm Avenue, Cortland, Illinois (PIN: 09-29-128-011) be APPROVED.

Respectfully Submitted,


Jeffrey L. Lewis,
Hearing Officer

Date: 12/7/2023

Jeffrey L. Lewis
Klein, Stoddard, Buck & Lewis, LLC
2045 Aberdeen Court
Sycamore, Illinois 60178
Phone: 815-748-0380
Fax: 815-748-4030
Email: jlewis@kleinstoddard.com

ADVISORY REPORT

TO: Jeffrey Lewis, Hearing Officer

FROM: Brandy Williams, Engineer and Zoning Administrator

DATE: November 30, 2023

SUBJECT: Zoning Variation – 73 West Elm Avenue, Cortland IL 60112
Public Hearing scheduled for December 6th, 2023, 6:00 PM

APPLICANT/CONTACT: Ryan O'Donnell
1525 Tesla Court
Sycamore, IL 60178

PROPOSAL

The applicant has filed with the Town of Cortland a request for variation of the requirement to construct hard surface pavement in accordance with Title 9, Chapter 5 of the Cortland Town Code regarding the property at 73 West Elm Avenue, Cortland Illinois, PIN 09-29-128-011. Applicant is requesting a variation from Sections 9-5-3D and 9-5-5C of the Cortland Town Code to allow variation from asphaltic or concrete pavement to aggregate pavement for a proposed expansion of storage area. The petitioner's application, including Concept Plan, is attached as Exhibit A.

LOCATION AND DESCRIPTION

The subject property is located at 73 West Elm Avenue between Elm Avenue and the Union Pacific Railroad. This property is comprised of Lots 1 through 8 and Lots 13 through 20, vacated adjacent alley and vacated adjacent Nina Street all in Block 6 in the Original Village of Cortland, platted in 1855. The total area is approximately 2.5 acres. The subject property, which also includes the address 59 West Elm Avenue, has two industrial buildings.

Existing and Surrounding Zoning: The subject property is zoned I-1, Light Industrial. The properties to the east and west are zoned I-1, Light Industrial. The properties to the south across West Elm Avenue and north across Union Pacific Railroad Right of Way are zoned R-1, Single Family Residence.

Existing and Surrounding Land Uses: The property to the west is maintained and vacant. The property to the east has a frame garage. The properties to the south are improved with buildings being used as single-family residences. The property immediately to the north is railroad right of way. Beyond the right of way is a multi family residence.

BACKGROUND

Created in 1855 via a plat in the Original Village of Cortland, the subject property was designed for single family residential purposes. Town property files do not indicate the year in which or the applicant that requested the zoning to I-1, Light Industrial. However, records indicate the subject property has been zoned I-1 since at least 1995. Address prior to current addressing conversion was 4403 Elm Street

Staff has not located any variances that were granted for this property.

TECHNICAL REVIEW

The existing site pavement surface consists of aggregate. The aggregate is level and well maintained with what appears to be positive drainage. The thickness of the existing pavement cross section was not provided but appears to be sufficient to support the extreme loads created by movement and storage of cranes.

Any future permit application submittals will be required to include a site plan with relevant data such as boundary and easement information as well as other requirements per Town Code. Whether future pavement is aggregate (should this variance be granted) or hard surface, state and local drainage and stormwater management requirements will be enforced.

NEXT STEPS

After the public hearing, the Hearing Officer is to make a recommendation to the Town Board regarding the requested variation. Along with this recommendation the Hearing Officer shall include findings of fact that clearly indicate the Officer's reasons for his recommendation. If there are any recommended conditions to be placed upon the variation these conditions are to be included in a separate statement. The recommendation is to be made within "a reasonable time after the public hearing." (Section 9-9-3B5 of the Municipal Code) Section 9-9-3B6 notes that the Town Board has thirty (30) days after receiving the Hearing Officer's recommendation to accept, reject or modify the Officer's recommendation. The Town Board's regularly scheduled meetings are held the 2nd and 4th Monday of the month (upcoming dates include January 8th, January 22nd, and February 12th 2024).

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Brandy Williams", written in a cursive style.

Brandy Williams
Engineer and Zoning Administrator