



**MINUTES  
MEETING OF VILLAGE OF FRANKFORT  
PLAN COMMISSION / ZONING BOARD OF APPEALS  
OCTOBER 14, 2021–VILLAGE ADMINISTRATION BUILDING  
432 W. NEBRASKA STREET**

**Call to Order:** Chair Rigoni called the meeting to order at 6:30 P.M.

**Commissioners Present:** Chair Maura Rigoni, Dan Knieriem, Ken Guevara, Nichole Schaeffer

**Commissioners Absent:** Will Markunas, David Hogan, Lisa Hogan

**Staff Present:** Senior Planner Christopher Gruba, Senior Planner Janine Farrell, Director of Community and Economic Development Michael Schwarz, and Village Attorneys Jim Murphy, George Mahoney and Hannah Lamore

**Elected Officials Present:** Mayor Keith Ogle, Trustee Borrelli, Trustee Rossi

Chair Rigoni provided an overview of the meeting process and swore in members of the public who wished to speak.

**A. Approval of the Minutes from September 23, 2021**

**Motion (#1):** Approval of the minutes from September 23, 2021

Motion by: Guevara

Seconded by: Knieriem

Approved: (3 to 0, Schaeffer abstained)

**B. Public Hearing: 300 S. Maple St. (tabled from August 26, 2021, September 9, 2021, and September 23, 2021)**

Chair Rigoni introduced the case, a Village-initiated action to rezone 300 S. Maple, commonly called the BorgWarner property, from I-1/Limited Industrial to R-4/Attached Single Family Residential. Farrell provided a brief overview of the project, noting that it had been discussed at the public hearing held on August 26, 2021. She noted that the commission received two documents via email from the property owner that were not provided in the packet.

Farrell recapped the previous presentation:

- The property is currently zoned I-1 with a PUD. If the zoning doesn't change, any I-1 use permitted by right could occupy the space and operate; does not require review/approval by the Plan Commission/Village Board. Any I-1 Special Uses would require review/approval by the Plan Commission/Village

Board. Any “major change” to the PUD requires review/approval by the Plan Commission/Village Board.

- If rezoned to R-4, the non-conforming uses are permitted to continue. The current uses would be allowed to continue but cannot be expanded unless a variation is obtained. If the uses are discontinued for a continuous period of six months, they cannot be reestablished unless an extension is granted by the Village Board.
- If rezoned to R-4, the non-conforming structure is allowed to remain. Normal maintenance and non-structural repairs of the buildings would be permitted. No structural alterations or expansions are allowed unless a variation is obtained.
- For the Findings of Fact:
  1. The existing uses of property within the general area of the property in question are recreational, institutional, commercial, office, and residential uses. The subject site is the only industrial use in the area.
  2. The zoning classification of property within the general area of the property in question; The subject site is the only industrially zoned property in the area.
  3. The suitability of the property in question to the uses permitted under the existing zoning classification; Due to the parcel’s location, not all permitted limited industrial or I-1 uses would be suitable for the property.
  4. The trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classification; The industrial use was there since the late 1950s with the residential area to the north and east. Development since 1998 when it was placed into its current zoning has been towards residential and recreational to the west.
  5. The change in zoning is in conformance with the comprehensive plan of the Village and its official map. The Future Land Use Map designates it as single-family attached residential and two specific goals address the need for a variety of housing types.

Schwarz provided some additional information regarding the project. Summarized, he noted the following:

- The rezoning from I-1 to R-4 would promote the health, safety and welfare of the community. Given that Borg Warner has announced its intention to leave the property, there are unknowns with respect to the future industrial uses of the property.
- The rezoning to R-4 would help protect residents from undue vehicle traffic, noises and light.
- If rezoned from I-1 to R-4, the property can continue to be used as a legal non-conforming use under the Zoning Ordinance. There is no evidence to demonstrate that a rezoning to R-4 will decrease the property value of the community.
- The Comprehensive plan states that additional density is desirable in the downtown and mentions the need for townhome development.
- The subject property is surrounded on three sides by recreational and residential uses.
- A rezoning to R-4 would help preserve the value of surrounding properties.

- The subject property, if rezoned to R-4, would still be able to function as it had before as a non-conforming use and the Zoning Ordinance takes into account non-conformities.
- There is no evidence to suggest that rezoning to R-4 would decrease the value of the land.
- Robinson Engineering estimates that approximately 96 residential units could be constructed on the site. These 96 dwelling units will generate a relatively known amount of traffic, whereas it is unknown how much traffic a future industrial user of the property would generate if the property were to remain zoned as I-1.
- BorgWarner had previously operated 24-hours a day in three shifts. The operations are now down to one shift. A future industrial user could potentially operate 24-hours a day again, resulting in considerably more traffic than exists today. The potential for the BorgWarner property to generate more traffic than currently exists is a real concern. Further, continued use as industrial could lead to greater semi-truck traffic in the neighborhood with the resulting impact to residents from traffic and noise.
- There is no evidence that the R-4 will increase traffic more than what is there today.
- Regarding the environmental condition of the property, BorgWarner has been operating on-site for at least 60 years and may have knowledge of any potential environmental contamination. Per the CERCLA Act (Comprehensive Environmental Response Compensation and Liability Act), BorgWarner is required to notify the public of any known on-site contamination.
- Redevelopment of the property under the R-4 will better preserve the value of the surrounding properties than if redeveloped under the I-1 zone district.
- Regarding the future tax revenue generated from the site, there is reason to believe that redevelopment of the property under the R-4 zone district would lead to greater tax revenue for the Village. Currently, BorgWarner pays \$90,457 in taxes per year. The Village's consulting engineer has estimates that approximately 96 townhomes could be built on the BorgWarner property if it was redeveloped. Using the townhomes of Founders Place which is located directly to the west of the BorgWarner property as an estimate, if the site were redeveloped as with 96 townhomes, with an estimated \$8,629 taxes collected per unit, the total property tax revenue would be approximately \$828,000 per year.
- The Village's Comprehensive Plan was adopted in December of 2019. BorgWarner announced in May of 2020 that they would be cease operations at the end of 2021. The goals and objectives listed in the Comprehensive Plan predates BorgWarner's decision to leave the property.

Chair Rigoni asked for questions from the commissioners. There were none.

Chair Rigoni opened the meeting for public comment.

Rod Carter, attorney for BorgWarner, approached the podium. Summarized, he noted the following:

- Staff provided many facts tonight that he was not privy to ahead of time.
- He believed that the purpose of the Plan Commission's adjournment was to

allow time for the Village to work with BorgWarner.

- He stated that the reason that the Village is deciding to rezone the property at this point is time is because BorgWarner is leaving.
- He asked the commissioners how they would feel if their property was rezoned and subsequently lost half of its value.
- He questioned why the Village was only deciding to rezone the BorgWarner property and no other property in the Village.
- The Village is backing BorgWarner into a corner, leaving them no choice but to file a lawsuit.
- The Village does not have a basis to rezone the property.
- There has not been any outreach from the Village to the attorney for BorgWarner.
- The potential buyer of the BorgWarner property is paying attention to the proposed rezoning and is walking away from the deal.
- The Comprehensive Plan does not state that it would take action to rezone properties.
- It appears that the commissioners have already decided how they would vote prior to the meeting tonight.

Chair Rigoni asked for any other public comment. There was none.

Chair Rigoni asked for comments from the commissioners.

Summarized, Commissioner Knieriem stated the following:

- The Plan Commission has had time to think about the decision to rezone the property since the initial public hearing in August.
- He has lived in Frankfort for his entire life and has always wondered why the BorgWarner facility was located in the middle of the downtown residential area.
- He noted that it may have been common for industrial properties to be constructed in the middle of residential areas in the past so that employees could walk to work, but that times have changed where that is no longer customary.
- The Comprehensive Plan clearly states that more residential development is desired in the downtown and that the future land use map illustrates the property as single-family attached residential. A lot of time was put into drafting the Comprehensive Plan and it would be a disservice to ignore the goals and objectives.
- The residents have made clear that they would like the property rezoned residential.

Summarized, Commissioner Guevara stated the following:

- Both BorgWarner and the Village have differing opinions about whether tax revenue would be lost or gained if the property were rezoned. The Plan Commission does not have a formal study before them regarding tax revenue gain/loss, but they do have a Comprehensive Plan from which to base their decision.

Summarized, Commissioner Schaeffer stated the following:

- She has a vested interest and lives in the downtown area. Borg Warner is surrounded by residential and park uses and that it makes sense to rezone the property at a time when Borg Warner is leaving and to implement the goals of the Comprehensive Plan.
- As an environmental engineer by profession, she is also concerned about the impact to the environment and the surrounding residential uses if the property were to remain zoned I-1. She noted that it is important for the Village to prevent air and water pollution in this area.

Summarized, Chair Rigoni stated the following:

- Noted that she did not agree with Mr. Carter that she had already decided how she would vote prior to the meeting tonight and that she believes dialogue is important and would like to hear public comment.

Attorney Rod Carter asked Chair Rigoni what she would like to hear at the public hearing tonight. Chair Rigoni responded that she was waiting to see if any other members of the public would come out to voice their opinions on the matter.

Chair Rigoni, again:

- She asked staff if the property could be rezoned, could the use continue. Schwarz responded in the affirmative.
- She asked staff if the PUD needs to be changed in any way. Schwarz responded that the PUD would remain in place.

Chair Rigoni asked for any further public comment. There was none.

**Motion (#2):** Motion to close the public hearing.

Motion by: Knieriem

Seconded by: Guevara

Approved: (4 to 0)

**Motion (#3):** Recommend the Village Board approve a Zoning Map amendment (rezoning) from I-1/Limited Industrial to R-4/Attached Single Family Residential for the property located at 300 S. Maple Street, also addressed as 281 S. Locust St., in accordance with public testimony and Findings of Fact.

Motion by: Knieriem

Seconded by: Guevara

Approved: (4 to 0)

**C. Final Plat: Nebraska Pines** *(Tabled from September 23, 2021)*

Chair Rigoni introduced the case for a two-lot subdivision called Nebraska Pines, located at 314 W. Nebraska St. Farrell stated that a revised Final Plat was received

which would require variations. Staff requests this case be tabled until the October 28, 2021 Plan Commission/Zoning Board of Appeals meeting where it will be discussed as a workshop.

**Motion (#4):** Table until the October 28, 2021, Plan Commission/Zoning Board of Appeals meeting.

Motion by: Schaeffer

Seconded by: Guevara

Approved: (4 to 0)

**D. Public Hearing: 49 N. White St. (Tabled indefinitely August 12, 2021)**

Chair Rigoni introduced the case. The applicants, Chris Warfield and Betsy Doogan, are requesting four variations for the property located at 49 N. White St.:

1. Garage height from 15 ft. to 19 ft.;
2. Open patio setback from the side yard (south) from 10 ft. to 4 ft.;
3. Accessory structure (open porch) setback from the rear yard (east) from 10 ft. to 4 ft.;
4. Accessory structure (open porch) setback from the side yard (south) from 10 ft. to 4 ft.

Farrell presented the case:

The case was tabled indefinitely at the August 12<sup>th</sup> public hearing since the applicants wished to have a portion of the patio covered. The information presented at that meeting will not be presented again since the findings on the Standards of Variation are unchanged and the conditions of the request are also largely unchanged.

Farrell presented images on the screen comparing the August 12<sup>th</sup> proposal to the current proposal.

- For the current proposal, a portion of the outdoor patio is now covered.
- The Bowen Street façade of the garage is unchanged from August 12<sup>th</sup>.
- On the rear or south façade, the outdoor fireplace and sliding door were eliminated. The door was replaced with a window.
- The lot and structures are nonconforming. The rear yard and lot coverage calculations exceed the maximum permitted, but the open porch does not count towards these calculations per Zoning Ordinance regulations.
- The impervious coverage calculation is within the 40% permitted.
- The garage height variation is due to the elevating the roof to install a new garage door and header, while maintaining the required 8/12 roof pitch.

Staff received a new letter of support from the neighbor, Melissa Whitman at 47 N. White St., and read it into the record: "This is regarding confirming my approval of Mr. & Mrs. Warfield's garage and patio remodel. My name is Melissa Whitman and I am the neighbor immediately to the south of the couple. It is with pleasure that I write this letter of approval for Chris and Betsy. They have sent me the updated and revised

plans to review for their remodel. At this time, I approve all of their new ideas. This remodel and addition will add an updated look and character to their newly remodeled home.”

Chair Rigoni asked the applicants if they wished to speak.

Chris Warfield and Betsy Doogan approached the podium. Mr. Warfield stated that this is the same plan as last time, but with a covered portion over the patio to provide shade since this is south facing.

Chair Rigoni clarified for the public that this case was reviewed as a workshop in June and had a public hearing in August where previous discussion on the proposal occurred.

Chair Rigoni asked the commissioners if they had any initial questions of staff or the applicants.

Commissioner Knieriem asked if pavers will be used and expressed concerns about adequate drainage. The applicants stated that pavers will be used and that they are working with the landscape company to properly route the drainage. The commissioners discussed the need to add a condition about drainage to the variation requests or if noting their concerns in the minutes was adequate. They agreed to note in the minutes that drainage shall be properly routed to prevent impact to the neighbors.

Commissioner Schaeffer asked if the drain tile was connected to the sanitary sewer. The applicants stated no, it flows on the surface to the street.

Chair Rigoni asked if there was any public who wished to comment. There was none.

Chair Rigoni asked if there were any additional comments from commission. There were none.

Chair Rigoni confirmed with the applicants that they intend to plant shrubs between the patio and the patio line to the south.

**Motion (#5):** Motion to close the public hearing.

Motion by: Schaeffer                      Seconded by: Guevara

Approved: (4 to 0)

**Motion (#6):** Recommend the Village Board approve a variation from Article 5, Section D, Part 3, ‘a,’ 1, ‘a’ for maximum garage height from 15 ft. to 19 ft. for the property located at 49 N. White St., in accordance with the reviewed plans, public testimony, Standards of Variation, and with the following one (1) condition:

1. The garage shall not be used as a temporary or permanent dwelling.

Motion by: Guevara                      Seconded by: Schaeffer

Approved: (4 to 0)

**Motion (#7):** Recommend the Village Board approve a variation from Article 1, Section I, Part 1 for open patio setback from the side yard (south) from 10 ft. to 4 ft. for the property located at 49 N. White St., in accordance with the reviewed plans, public testimony, and Standards of Variation.

Motion by: Schaeffer

Seconded by: Guevara

Approved: (4 to 0)

**Motion (#8):** Recommend the Village Board approve a variation from Article 5, Section D, Part 2, 'b' for an accessory structure (open porch) setback from the rear yard (east) from 10 ft. to 4 ft. for the property located at 49 N. White St., in accordance with the reviewed plans, public testimony, and Standards of Variation.

Motion by: Schaeffer

Seconded by: Guevara

Approved: (4 to 0)

**Motion (#9):** Recommend the Village Board approve a variation from Article 5, Section D, Part 2, 'b' for an accessory structure (open porch) setback from the side yard (south) from 10 ft. to 4 ft. for the property located at 49 N. White St., in accordance with the reviewed plans, public testimony, and Standards of Variation.

Motion by: Schaeffer

Seconded by: Guevara

Approved: (4 to 0)

#### **E. Public Hearing: 11195 Siena Dr.**

Chair Rigoni introduced the case, being a request for a 215 square-foot accessory structure, whereas 144 square feet is permitted. Farrell presented the details of the case:

- The parcel is lot 12 in the Vistana of Frankfort Subdivision.
- The property is zoned R-2.
- The lot is 21,792 square feet in size.
- The applicant is proposing to make outdoor living improvements to the property, primarily located to the rear of the residence (south). These improvements include landscaping, patios, a fire feature, kitchen, and pergola.
- With the proposed improvements, all setbacks are met and lot coverage, rear yard coverage, and impervious coverage are within the maximum amount permitted.
- A letter of approval was received from the HOA; dated September 24, 2021.
- The proposed height of the pergola is 9'4", within the 15' maximum permitted.
- The pergola measures 16'2" x 13'3" from the outer edge of the post to outer edge of post (214.22 sq. ft.). Under the roof, the pergola measures 15'3" x 18'2" (240.71 sq. ft.). For the actual area, the Zoning Ordinance dictates that it is the outer edge of the wall or post. A variation for the size of the pergola is required.
- The pergola is "cedar stained" according to the plans. Three of the sides are



open and the western side has horizontal slats of wood spaced apart, semi-open.

Farrell reviewed the three (3) standards of variation:

1. A larger size pergola would result in a greater return. If the pergola was constructed at the allowed size of 144 sq. ft., the property could still yield a reasonable rate of return.
2. The plight of the owner is not due to any unique circumstances. The Zoning Ordinance limits all pergolas to 144 sq. ft.
3. The variation is not expected to alter the essential character of the locality. Within the Vistana of Frankfort and Sara Springs Subdivisions, detached accessory structures are common. There are also several attached pergolas, specifically.

Farrell reviewed the seven (7) supplemental standards of variation:

1. There are no hardships of land.
2. The conditions are generally applicable to other R-2 properties.
3. The purpose is not to make more money out of the property.
4. The hardship is the limited size of pergolas in the Zoning Ordinance for all properties, regardless of their size.
5. The proposed pergola is not expected to be detrimental to the public welfare.
6. The architecture will complement the primary residence.
7. The proposed pergola is not expected to impair adequate air for adjacent properties, increase the risk of fire or otherwise diminish property values within the neighborhood.

The commission did not have any questions of staff regarding the request.

The applicants, James & Sarit Hampton, approached the podium. They believed that the proposed pergola would complement their home and allow for more usable outdoor living space and that the pergola is intended to provide shade.

Commissioner Knieriem stated that he did visit the site and noticed that it is heavily landscaped along Wolf Road, thereby screening the proposed pergola. He also stated that when viewing the site in person, the proposed 215 square foot structure would be a reasonable size and that the open slats on the sides and roof will make the structure appear less imposing.

Commissioner Guevara noted that when oversized accessory structures have solid, masonry walls that they appear bulkier and lead to a more involved conversation regarding a size variance.

Commissioner Schaeffer stated that the plans seemed well-conceived. She asked whether all of the landscaping illustrated on the site plan was proposed. The applicants answered in the affirmative. She asked whether the plan met the requirements for impervious lot coverage. The applicants responded in the affirmative.

Chair Rigoni commented on the dense landscaping along Wolf Road. She asked whether grass was proposed between the pergola and the house. The applicants

responded in the affirmative.

**Motion (#10):** Motion to close the public hearing.

Motion by: Schaeffer

Seconded by: Guevara

Approved: (4 to 0)

**Motion (#11):** Recommend the Village Board approve a variation from Article 5, Section D, Part 3 for a detached accessory structure (pergola) from 144 sq. ft. to 215 sq. ft. for the property located at 11195 Siena Drive, in accordance with the reviewed plans, public testimony, and Standards of Variation.

Motion by: Schaeffer

Seconded by: Guevara

Approved: (4 to 0)

**F. Public Hearing: 20550 S. LaGrange Rd. Suite 230**

Staff noted that this item will be tabled due to the application originally listing Suite 203 when it should have been Suite 230 and was noticed incorrectly.

**Motion (#12):** Table until the October 28, 2021, Plan Commission/Zoning Board of Appeals meeting.

Motion by: Schaeffer

Seconded by: Guevara

Approved: (4 to 0)

**G. Public Comments – None**

**H. Village Board & Committee Updates**

Farrell noted that the special use permit for \$how & Go Kustomz for auto repair & service was approved by the Village Board.

**I. Other Business – None.**

**J. Attendance Confirmation (October 28, 2021)**

Chair Rigoni asked the Commissioners to notify staff if they will be unable to attend the October 28<sup>th</sup> meeting. Commissioner Schaeffer stated that she will not be able to attend.

**Motion (#13):** Adjournment 7:43 P.M.

Motion by: Schaeffer

Seconded by: Guevara

Unanimously approved by voice vote.

Approved October 28, 2021

As Presented \_\_\_\_\_ As Amended X

Maura a. Rigoni /s/Maura Rigoni, Chair

Christy Duh /s/ Secretary