



**FINDINGS OF FACT AND RECOMMENDATIONS OF THE
ZONING BOARD OF APPEALS TO THE
COOK COUNTY BOARD OF COMMISSIONERS**

June 2, 2021

**Re: William & Lauren Bushwaller
SU-2104 & V-2113
Cook County District #17**

APPLICATIONS:

- 1) Applicant seeks a Special Use (SU) for Planned Unit Development (PUD) with a companion Variance to the zoning requirements of the in the R-4 Single Family Residential District (SFRD). The Applicant is requesting a SU for a PUD to construct a new custom SFR on a property designated as an "Environmentally Sensitive Area" by the Cook County Comprehensive Land Use and Policies Plan, in Section 18 of Orland Township.
- 2) The Applicant's companion Variance to: 1) reduce the lot area from the minimum required 40,000 square feet, to an existing 26,201 square feet, and 2) reduce the front yard setback from the minimum required 26.4 feet (@ 20% of lot depth) to 25.20 feet in order to construct a new SFR, if granted under the companion SU/PUD, in Section 18 of Orland Township.

RECOMMENDATIONS:

- 1) **ZBA Recommendation to grant SU 2104 and,**
- 2) **ZBA Recommendation is to grant V 2113, as a companion to SU 2104**

BACKGROUND SUMMARY

The Subject Property measures 198 frontage feet along 115th Court by a depth of 132 feet for a total square footage of 26,201 square feet. The property slopes at an approximate 7 per cent (7%) grade to the north and east. It is located on the east side of 115th Court, in Section 18 Orland Township, Cook County District #17. The Subject Property's common addresses are 15531 S. 115th and 15541 S. Court Orland Park, Unincorporated Cook County, Illinois 60467. The lot is a consolidation of two parcels with Parcel Identification Numbers of 27-18-403-004-0000 and 27-18-403-005-0000. The consolidated lot is approximately 26,201 square feet (0.60 ac.) and the Owner is proposing to construct a single-family, two story home with an impervious lot coverage area equal to 4,012 square feet (+/-).



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Pursuant to due notice, an in the manner prescribed by law a public hearing was held on April 7, 2021, at 10:00AM. The meeting was held before the Cook County Zoning Board of Appeals virtually via Microsoft Teams video conference.

Present at the virtual public hearing were the following ZBA Board Members and Staff: Acting Chairman Paul J. Montes; ZBA Member Judith E. Hamill; ZBA Member Henry Oszakiewski; ZBA Member Judge Anthony Iosco; ZBA Member Barrett Peterson; Kindy Kruller, Ex-Officio, Bureau of Economic Development; James Wilson, ZBA Secretary; Sapho Sukru Erel, ZBA Assistant Secretary and Ex-Officio for Cook County Chairman of the Committee of Building and Zoning Peter Silvestri, and Ryan Chapman ZBA Land Planner.

Also, present Jennifer O'Flaherty, Representing Commissioner Sean Morrison, CCD #17; Kathy Hilton, Representing Commissioner Sean Morrison, CCD #17; Rubina Alam, Zoning Administratrix, Department of Building and Zoning; Applicant was represented by John J. Pikarski, Jr., Law firm of Gordon and Pikarski, 55 W. Monroe Street, Suite 940, Chicago, Illinois 60603 representing the Owners William & Lauren Bushwaller, 16929 New England Avenue, Tinley Park, IL., Applicant Brian Baetz, Morgan Homes LLC, 8 Spruce Court, Lemont, IL 60439; Mike Ford, DesignTech Civil Engineer, 9930 W. 190th Street, Suite L, Mokena, Illinois 60448.

FACTS TAKEN:

Applicant's Case in Chief - John J. Pikarski, Jr .

John J. Pikarski. Jr. testified the propose SFR will have a living and dine-in kitchen, living room and master bedroom on the first floor and 3 bedrooms and a small den on the second floor. As far as the front yard variance is concerned, it occurs at an 18-inch bump out for the chimney and everything else the building front yard complies with the Zoning Ordinance. He testified that the entire subdivision is laid out in lots that are 13,000 square feet. Mr. & Mrs. Bushwaller own the two lots and are intending on building on both, which gives a total lot of 26,000-plus square feet. There is only one other lot on the block that is of the same size, in other words, two lots of record are directly across the street from the Subject Property. The other properties in the neighborhood are laid out and built to 13,000 square feet. (Transcript Pg. 8.)

Owner - Lauren Bushwaller

Mrs. Bushwaller testified that she and her husband are a family of 5 having three children ages 5, 7 and 9 and are looking to establish their roots and build their custom family home in unincorporated Orland Park. They purchased two .3 acre lots for a total of .6 acres in August of 2019. She testified that most homes in the DeLuga Woods area sit on lots containing .3 acres. There is only one other home in the subdivision built on a lot containing .6 acres. The proposed single-family dwelling will be on a similar lot size. It will have a 38-foot south side yard, and 80- foot north side yard, a 50-foot rear yard and a 25.2 feet front yard at its narrowest point. The front yard variance occurs only at the bump out for the chimney. 115th Court ends at the north lot



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line of our south lot. The home was sited at its location by Mr. Ford from DesignTek.

Mrs. Bushwaller testified that they have met many of the neighbors in the last year-and-a-half, and that they are in support of the proposed request. (Transcript Pg. 12)

Owner – William Bushwaller testified that he had obtained a permit for tree removal from the Cook County Building Department and that landscape architects have been retained to develop a plan to refurbish and replace any trees that were removed with like or similar species.

Acting Chairman Montes inquired about the topography of the Subject Property and will there be the replacement of trees post abatement. Mr. Bushwaller testified that the landscape architects will develop a plan to refurbish any trees that are removed and will replace with like or similar to the environmental standards that Cook County requires.

ZBA Member Hamill added the County's Regulations speak to different lots of land because of their environmental sensitivity. Meaning that there is tree growth and mature trees, and thus have water run-off. And those are looked at and thus this particular parcel was deemed as "environmentally sensitive". She continued that it's not a bad thing that Cook County looks at those lots that way and brings cases like this before ZBA. She inquired if there will be any impacts of any kind of water run off to neighbors. (Transcript Pg. 18)

Applicant - Brian Baetz/Morgan Homes LLC

Mr. Baetz testified as the builder of the new SFR and stated that there is a full basement underneath the first floor of the home that is a walk out based upon the contour of the land. The adjacent neighbor to the north is all public land. He testified that the site plan was designed by Mr. Ford and all of the water run-off and all of the drainage is accounted for.

Acting Chairman Montes stated with regards to the water run-off and based on the topography and what is concerned, it appears as though it goes from east to west. That's the natural run in the lay of the land that it continues to slope down. He inquired as to what continues after that area. Is there a body of water that's within another 200, 300 feet?

ZBA Member Hamill added that the zoning regulations speak to different lots of land because of environmental sensitivity. Meaning that they have tree growth and mature trees, as well as water run-off. And those are looked at and therefore this particular parcel was deemed that way. Ms. Hamill also inquired about the water run-off.

Mr. Bushwaller testified and answered that the run-off goes to a low point to the north of the properties of our two lots, and there is no dwelling to the east. The site pitches from the southwest corner to the northeast corner



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of the two combined lots, and there's no dwellings there. It is a natural area where there's a natural low point.

Ms. Kindy Kruller stated that the area is Cook County Forest Preserve Land, known as "McGinnis Slough" that's adjacent which is the body of water. (Transcript Pgs.18-20)

While looking at an aerial photo and considering that the Bushwaller Family have three children, ZBA Member Hamill inquired if there is a pathway for visiting wildlife into the Subject Property. Mr. Bushwaller replied that "that was endearing...being one with nature" but "do not anticipate ever putting a fence." He stated that "We welcome the deer to pass through our back yard any day." (Transcript Pg. 30)

COOK COUNTY DEPARTMENTAL COMMENTS

THE FOLLOWING COMMENTS WERE RECEIVED FROM THE VARIOUS COOK COUNTY DEPARTMENTS AS SO INDICATED :(")

Planning & Development

Economic Impact-"As a single family home, there is limited impact anticipated."

Community Need-"This is single family home in a residential area."

Trend of Development-"This is single family home in a residential area."

Demographics-"As of the 2000 census, there were 51,077 people, 18,675 households, and 14,361 families residing in the village. The population density was 2,668.4 people per square mile (1,030.4/km²). There were 19,045 housing units at an average density of 995.0 per square mile (384.2/km²). The racial makeup of the village was 93.53% White, 0.73% African American, 0.07% Native American, 3.47% Asian, 0.04% Pacific Islander, 1.04% from other races, and 1.13% from two or more races. Hispanic or Latino of any race were 3.67% of the population.

There were 18,675 households, out of which 32.2% had children under the age of 18 living with them; 66.3% were married couples living together, 7.9% had a female householder with no husband present, and 23.1% were non-families. 20.6% of all households were made up of individuals, and 10.0% had someone living alone who was 65 years of age or older. The average household size was 2.71 and the average family size was 3.16.

In the village, the population was spread out, with 24.4% under the age of 18, 7.1% from 18 to 24, 24.8% from 25 to 44, 27.3% from 45 to 64, and 16.4% who were 65 years of age or older. The median age was 41 years. For every 100 females, there were 91.7 males. For every 100 females age 18 and over, there were 87.7 males.



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The median income for a household in the village was \$67,574, and the median income for a family was \$77,507 (these figures had risen to \$76,760 and \$95,405 respectively as of a 2007 estimate[11]). Males had a median income of \$57,275 versus \$34,763 for females. The per capita income for the village was \$30,467. About 2.1% of families and 3.1% of the population were below the poverty line, including 3.9% of those under age 18 and 3.0% of those age 65 or over. Since 2000, the average household income in the Orland Park area has risen substantially to an estimated \$90,917 in 2006.”

Property Values- “No issues foreseen.”

Environmental Control

Noise and odor regulations-“There is no apparent odor issue for a Planned Unit Development (PUD) in R-4 Single Family Residence District to construct of a new single family home on property designated as “Environmentally Sensitive” by the Cook County Comprehensive Land Use and Policies Plan and a companion variance (VA-21-0013) in section 18 of Orland Township under the jurisdiction of Cook County Department of Environment and Sustainability.

The Department does not specifically regulate or have jurisdiction on noise. However, to be protective of the environment, the Department reviewed these issues and did not identify any apparent problems.”

Soil geology and composition “The Department does not specifically regulate or have jurisdiction on soil geology and composition as these topics are not currently addressed in the municipal code. However, to be protective of the environmental, the Department reviewed these issues and did not identify any apparent problems.”

Wetland mitigation and compensation “The Department does not specifically regulate or have jurisdiction on wetland mitigation and compensation as these topics are not currently addressed in the municipal code. However, to be protective of the environment, the Department reviewed these issues and did not identify any apparent problems.”

Discharge of effluent and particulates into the air, land and water “The Department does not specifically regulate or have jurisdiction on land and water pollution as these topics are not currently addressed in the municipal code. However, to be protective of the environment, the Department reviewed these issues and did not identify any apparent problems.

There is no apparent particulate emission issue for a Planned Unit Development (PUD) in R-4 Single Family Residence District to construct of a new single family home on property designated as “Environmentally Sensitive” by the Cook County Comprehensive Land Use and Policies Plan and a companion variance (VA-21-0013) in section 18 of Orland Township under the jurisdiction of Cook County Department of Environment and Sustainability.”



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Forest Preserve

Compatibility of the proposed use with Forest Preserve holdings:	"No issues foreseen"
Impact on value of Forest Preserve holdings:	"None anticipated"
Future Forest Preserve acquisitions:	"Does not apply"

Highway

Wetland mitigation and compensation: "There are no wetland or riparian areas within the parcel per the National Wetland Inventory Maps."

Floodway and floodplain capacity and storage: "The parcel is located in an environmentally sensitive area for flooding, but the parcel is outside of the 100-year floodplain. The Base Flood Elevation (BFE) for Spring Creek is 691.0' on the NAVD88 system. The proposed base of foundation, at its lowest, is at 691.0'. The proposed septic field is situated between the 694 and 691 contours."

Drainage detention requirements: "The single-family home would not require detention."

Roads, bridges, culverts, driveways, sidewalks, ingress, egress and access control "Orland Township owns & maintains 115th Ct. The driveway, culvert, grading, and any other work will need to be permitted within the right-of-way."

Subdivision regulations: "This application does not involve a subdivision."

Drainage, utilities, road easements and dedications : "No requirements in this area should affect the application."

Criteria from other regulatory agencies: "A permit from the Cook County Department of Health is needed for the proposed septic system. A permit is need from the Illinois Department of Public Health for the proposed well. Tree removals will require a permit. Approval from Orland Township for work within the 115th Ct. ROW is needed prior to issuing a County permit.Plans will need to comply with the local fire protection requirements.

Erosion and sediment control requirements: "The proposed erosion control should be maintained throughout work. The silt fence should be as far south as practicable to avoid accidental fill in sensitive areas. Stockpiles should be protected with additional silt fence."

Public Health

"No Comments submitted"



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Building and Zoning

Site plan review: "The site consists of two parcels with a lot area of 26,201 sq. ft. and new single-family home will be served by well and septic"

Land use and permit review of properties in the vicinity of the proposed use: "Predominantly Single family homes."

Lot size: "Lot area is less than 40,000 q. ft required for property on well and septic so need a Variance for it."

Subdivision regulations: "Combining two lots to building a single family home."

POSITION OF VILLAGES AND OTHERS:

The Municipalities were notified with respect to the hearing for the Applications, as being within 250 feet of the lot line of the Subject Property are as bordering or having a proximate interest in the Subject Property, are the Villages of Orland Park and Homer Glen. There was no response from any municipality during the call of the villages.



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FINDINGS of FACT:

Pursuant to § 13.8.9 of the Cook County Zoning Ordinance, the Board makes the following Findings of Fact, as to the Special Use:

- 1. Establishment, Maintenance or operation of the special use will not be detrimental to or endanger public health, safety or welfare.**
The Subject Property is located on the east side of 115th Court. The site has 198 frontage feet along 115th Court and a depth of 132 feet for a total of 26,201 square feet. The property is currently unimproved. The proposed use of a single-family home in a single family home zoned district will not be detrimental to the public health, safety and general welfare .
- 2. Establishment, Maintenance or operation of the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the users already permitted, nor diminish and impair property values within the neighborhood:**
The establishment of a single family home on two lots of record, which are zoned for single family homes, will not be injurious to the use and enjoyment of other properties in the immediate vicinity for the purposes already permitted nor substantially diminish or impair property value within the neighborhood. The proposed building is so designed and proposed to be maintained in conformance with all of the standards of the zoning and building codes of the County of Cook.
- 3. Establishment, Maintenance or operation of the Special Use will not impede the normal and orderly development and improvement of surrounding property for permitted uses:**
Since the proposed site is the last undeveloped site in the subdivision, the establishment of the special use will not impede the normal and ordinary development and improvement of surrounding property for uses permitted in the district.
- 4. Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided:**
The site is served by all the utilities necessary for the proposed use. A septic field has been designed so as to provide services necessary for the single-family dwelling.
- 5. Adequate measures have been, or will be, taken to provide ingress and egress to minimize traffic congestion in public streets:**
The use of the subject site as a single-family dwelling will produce a low volume of traffic. 115th Court ends at the south lot line of the north parcel of the property.
- 6. Establishment, Maintenance or operation of the Special Use shall in all other respects conform to all Cook County Ordinances, unless otherwise authorized by the Cook County Board of Commissioners pursuant to the recommendation of the Zoning Board of Appeals:**
The operation of the Special Use shall in all respects conform to all of the Cook County ordinances.



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Pursuant to §9.5.10 of the Cook County Zoning Ordinance, the Board makes the following Findings of Fact as to the Planned Unit Development ("PUD") Standards:

- 1. PUD conforms with the planning objectives, policies and maps of the County as specified in the Cook County Comprehensive Land Use and Policies Plan.**
The Cook County Comprehensive Land Use and Policies Plan advocates use of vacant land for zoned purposes. A single-family home in a single-family zoned district adheres to the aforesaid plan.
- 2. PUD is of a type and character and contains uses that are needed in the area.**
The character of the area is exclusively single-family dwellings. The construction of a single-family home on the last buildable lot in the area conforms to the dominant characteristic of the subdivision.
- 3. PUD is designed and laid out to preserve environmentally sensitive area, natural resources, habitat and topographic features to the fullest extent possible.**
The siting of the home on the subject site is dictated by the property owner's engineer. The slopes to the north and east. The engineer has taken into consideration the aforesaid in the engineering study.
- 4. PUD is designed in conformity with the provisions of the Cook County Subdivision Manual or any successor subdivision document.**
The proposed single-family home will occur on two existing lots of record which are consistent with the Cook County Subdivision Manual or its successor.
- 5. PUD is designed to provide horizontal spacing between buildings which takes into consideration the purpose and objectives of this article.**
The proposed single-family dwelling will have 80-foot north side yard, a 38-foot south side yard, a 50-foot rear yard minimally a 25.2-foot front yard. The aforesaid more than adheres to proper horizontal spacing standards.
- 6. PUD complies with the industrial performance standards enumerated in Article 6 of this ordinance if the PUD contains industrial uses.**
The proposed single-family home has no industrial components and thus need not comply with industrial performance standards of the Ordinance.
- 7. PUD complies with the parking requirements enumerated in Article 11 of this ordinance.**
The proposed single-family home is designed with an enclosed two car garage and sufficient driveway parking thus meeting Country parking requirement standards.



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8. PUD provides appropriate yards, setbacks and buffers between the PUD and adjacent zoning lots.

As indicated in paragraph 5, the proposal will have a north side yard of 80 feet, a south side yard of 38 feet, a rear yard of 50 feet and a front yard of minimally 25.2 feet, thus more than adequately complying with Cook County zoning standards.

9. PUD has adequate utilities, access roads, drainage and other necessary facilities.

As previously indicated, there is an access road to the subject site. All utilities are or will be provided to the proposed use. A new septic system and well will be installed to support the new home. Existing infrastructure will not be overburdened.

10. PUD has ingress and egress designed to minimize traffic congestion in public streets.

Low density 115th Court provides access to the proposed dwelling. Ingress and egress will be provided by a driveway.

11. PUD and its maintenance and operation will not be detrimental to or endanger public health, safety or general welfare.

Public health, safety and welfare of the neighborhood will in no way be endangered by the properly engineered and constructed proposed single-family residence.

12. PUD and its maintenance and operation will not be injurious to the use and enjoyment of other property in the immediate vicinity for the uses already permitted, nor diminish and impair property values within the surrounding area.

The introduction of one luxury single family home into a mature subdivision will not in any way diminish the use and enjoyment of other uses in the subdivision nor diminish or impair property values.

13. PUD and its maintenance and operation will not impede the normal and orderly development and improvement of surrounding property.

The introduction of a single-family residence into a mature subdivision will not impede the orderly improvement of surrounding properties.

14. PUD shall provide more open space than would be required in a standard subdivision.

The subject site contains approximately twice the number of square feet of all but one other use in the subdivision. With the exception of the variances sought, the proposal more than adequately provides required open space. Of the 26,201 square feet of the lot, only 4,012 square feet will be covered with impervious material.



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15. PUD shall be designed to connect to existing or planned pedestrian and bicycle systems in the vicinity.

The proposal maintains a consistent pattern of established residential single-family homes thus allowing the proposed home to connect to the existing street, pedestrian, and bicycle systems in the vicinity.

Pursuant to §13.6.3 of the Cook County Zoning Ordinance, the Board makes the following Findings of Fact as to the Variance Standards.

1. Physical surroundings, shape or topographical condition of the property would result in hardship upon the owner, as distinguished from a mere inconvenience, if the provisions of this ordinance were followed.

The property in question contains 26,201 square feet (two lots of record). The property is zoned R4. Because of the well and septic system requirement (40,000 square feet), the failure to obtain a variance would prohibit the construction of the proposed single-family home.

2. Conditions which are unique to the property exist and are not applicable to other properties within the same zoning classification.

The subject site is unique inasmuch as it is the last vacant lot in the subdivision and slopes at an approximately 7% grade to the northeast. The aforesaid attributes are clearly unique to the subject site.

3. The Variance sought is not based exclusively upon a desire to make the property more profitable.

The applicants are seeking zoning relief to create a single-family home in which they intend to reside with their family. Increasing profit is not a motive for the variances sought.

4. The hardship or alleged difficulty is caused by this ordinance and not by any person presently having an interest in the property.

The lot size requirement and front yard requirement of the Ordinance are the subject of the relief sought. The lot size cannot be changed. The siting of the home was dictated by the engineer. The front yard relief (25.2 feet vs. 26.7 feet) only exists for the "bump out" of the chimney.



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5. The Variance will not be detrimental to the public welfare or injurious to other properties or improvements in the neighborhood.

The construction of a luxury single family on a lot twice the size of almost every lot in the subdivision cannot be detrimental to the public welfare or injurious to other properties or improvements in the area.

6. The Variance will not impair an adequate supply of light and air to adjacent properties, substantially increase congestion in the public streets, increase the danger of fire, cause increased flooding risk to adjacent property, endanger public safety or substantially diminish or impair property values within adjacent neighborhoods.

The introduction of a single family dwelling having a north side yard of 80 feet, a south side yard of 38 feet, a rear yard of 50 feet and a front yard of minimally 25.2 feet will not impair an adequate supply of light and air to adjacent properties nor increase congestion on the public streets, increase danger of fire, endanger public safety or diminish or impair property values. This properly engineered construction will not increase flooding risk to adjacent properties.

COMPREHENSIVE PLAN:

The Cook County Comprehensive Plan designates the Subject Property as "Residential".



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RECOMMENDATIONS:

Based on the foregoing Findings, the Zoning Board of Appeals recommends 4-0 ayes, 1-0 present vote (Hamill), to the Cook County Board of Commissioners that **Special Use/SU-2113** for a PUD with a companion Variance to the zoning requirements in the R-4 SFRD. The approval allows construction of a new custom SFR on a property designated as an "Environmentally Sensitive Area" by the Cook County Comprehensive Land Use and Policies Plan be granted, under the companion Variance/V-2113 request, in Section 18 of Orland Township. If granted, all pertinent records, maps and the Plan shall be changed in accordance with this recommendation.

Based on the foregoing Findings, the Zoning Board of Appeals recommends 4-0 ayes, 1-0 present vote (Hamill), to the Cook County Board of Commissioners that **Variance/V-2113** allow for the: (1) reduction of the lot area from the minimum required 40,000 square feet, to an existing 26,201 square feet and (2) reduce the front yard setback from the minimum required 26.4 feet (@ 20% of lot depth) to 25.20 feet in order to construct a new SFR, if granted under the companion Special Use in Section 18 of Orland Township. If granted, all pertinent records, maps and the Comprehensive Plan shall be changed in accordance with this recommendation.

Respectfully submitted,
Zoning Board of Appeals

A handwritten signature in black ink, appearing to read "Paul J. Montes II", is written over a horizontal line.

Paul J. Montes II, Acting Chairman

PJM/SEASE