

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL WORKSHOP
JANUARY 22, 2008 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Special Use 4923-4927 Seeley Avenue	Resolution ✓ Ordinance Motion Discussion Only	Tom Dabareiner, AICP Community Development Director

SYNOPSIS

A Special Use ordinance has been prepared for 4923-4927 Seeley Avenue for the construction of an accessory structure on a lot of record prior to the construction of a principal structure. The Special Use is being requested for the construction of a gazebo.

STRATEGIC PLAN ALIGNMENT

The Five Year Plan for 2007-2012 identified the *Preservation of Our Residential and Neighborhood Character* as one of the Goals. Supporting this goal is the objective *Continuing Reinvestment in the Neighborhoods*.

FISCAL IMPACT

N/A.

RECOMMENDATION

Approval on the February 5, 2008 active agenda.

BACKGROUND

The petitioner owns two adjacent lots of record on Seeley Avenue. There is a single family home on the northern lot, and the southern lot is vacant. The petitioner is proposing to build a new gazebo on the vacant lot. Per the Zoning Ordinance, residential accessory structures may only be built on a lot with a principal structure (e.g. a house), unless there are two adjacent lots held in common ownership. In the latter situation, accessory structures may be constructed prior to a principal structure, provided a Special Use is granted by the Village Council.

To be eligible for the special use, the properties must meet the following conditions:

1. The lots must be held in common ownership.
2. One of the lots must have a principal structure established.
3. The common lot line must be shared for at least 100 feet or 50 percent of the lot line, whichever is greater.

In this case, the lots meet all three of the criteria. The lots are side by side and share a common lot line for approximately 200 feet. The petitioner is not requesting any variations from the Zoning Ordinance. The proposed improvements meet all bulk regulations as noted in the table below:

4923-4927 Seeley Ave	Required	Proposed
Setbacks		
Front (west)	30 feet	178 feet (Gazebo)
Side (south)	6 feet	10 feet (Gazebo)
Rear (east)	6 feet	10 feet (Pavilion)
Lot Coverage (maximum)	32% (3,840 sq. ft.)	10.2% (2,436 sq. ft.)

The Plan Commission considered the petition at its January 7, 2008 meeting and recommended approval of the Special Use with the conditions as noted in the staff report. Staff concurs with the Plan Commission recommendation.

ATTACHMENTS

Aerial Map

Ordinance

Staff Report with attachments dated January 7, 2008

Draft Minutes of the Plan Commission Hearing dated January 7, 2008



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ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING A SPECIAL USE
TO PERMIT AN ACCESSORY STRUCTURE AT 4923-4927 SEELEY AVENUE**

WHEREAS, the following described property, to wit:

Lots 86 and 87 in Branigar Brothers' Wooded Homesites, being a subdivision in the North Half of Section 7, Township 38 North, Range 11 East of the Third Principal Meridian, and the North Half of Section 12, Township 38 North, Range 10 East of the Third Principal Meridian, according to the plat thereof recorded October 2, 1920 as Document No. 144598, in DuPage County, Illinois.

Commonly known as 4923-4927 Seeley Avenue, Downers Grove, IL (PIN 09-07-209-010,-011).

(hereinafter referred to as the "Property") is presently zoned in the "*R-3, Single Family Residential District*" under the Comprehensive Zoning Ordinance of the Village of Downers Grove; and

WHEREAS, the owner of the Property has filed with the Plan Commission, a written petition conforming to the requirements of the Zoning Ordinance, requesting that a Special Use per Section 28-502(a) of the Zoning Ordinance be granted to allow an accessory structure (gazebo).

WHEREAS, such petition was referred to the Plan Commission of the Village of Downers Grove, and said Plan Commission has given the required public notice, has conducted a public hearing respecting said petition and has made its findings and recommendations, all in accordance with the statutes of the State of Illinois and the ordinances of the Village of Downers Grove; and,

WHEREAS, the Plan Commission has recommended approval of the requested Special Use, subject to certain conditions; and,

WHEREAS, the Village Council finds that the evidence presented in support of said petition, as stated in the aforesaid findings and recommendations of the Plan Commission, is such as to establish the following:

1. The proposed use at that particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community.
2. The proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, or general welfare of persons residing or working in the vicinity or injurious to property values or improvements in the vicinity.
3. The proposed use will comply with the regulations specified in this Zoning Ordinance for the district in which the proposed use is to be located.
4. The proposed use is one of the special uses specifically listed for the district in which it is to be located and, if approved with restrictions as set forth in this ordinance, will comply with the provisions of the Downers Grove Zoning Ordinance regulating this Special Use.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Downers Grove, in DuPage County, Illinois, as follows:

SECTION 1. That a Special Use of the Property is hereby granted to permit an accessory structure (gazebo) at 4923-4927 Seeley Avenue on a lot prior to the construction of a principal structure.

SECTION 2. This approval is subject to the following conditions:

1. The proposed gazebo shall substantially conform to the plans and specifications prepared by Gazebo Junction, Inc. and Plat of Survey prepared by Jens K. Doe dated June 17, 2004 attached to this report except as such plans may be changed to conform to Village codes, ordinances, and policies.
2. That the gazebo shall be removed prior to the sale of the properties at 4923-4927 Seeley if the properties are not transferred simultaneously to a single entity.
3. The Village shall record the Special Use ordinance with the DuPage County Recorder of Deeds.

SECTION 3. The above conditions are hereby made part of the terms under which the Special Use is granted. Violation of any or all of such conditions shall be deemed a violation of the Village of Downers Grove Zoning Ordinance, the penalty for which may include, but is not limited to, a fine and or revocation of the Special Use granted herein.

SECTION 4. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Mayor

Passed:

Published:

Attest: _____

Village Clerk



Village of Downers Grove

STAFF REPORT

TO: Plan Commission

HEARING DATE: January 7, 2008

FROM: Department of Community
Development

PREPARED BY: Jeff O'Brien, AICP
Senior Planner

TITLE

PC 04-08; 4923 Seeley Avenue: The petitioner is requesting a Special Use to construct an accessory structure on a lot of record prior to the construction of principal structure. A gazebo is proposed on the vacant lot immediately south of 4923 Seeley Avenue. Both lots are held under common ownership.

APPLICATION/NOTICE: The application has been filed in conformance with applicable procedural and public notice requirements.

GENERAL INFORMATION

OWNER(S): Marshall Schmitt and Linda Matheson
4923 Seeley Avenue
Downers Grove, IL 60515

APPLICANT: Marshall Schmitt and Linda Matheson by James F. Russ, Jr.
4915 Main Street
Downers Grove, IL 60515

PROPERTY INFORMATION

EXISTING ZONING: R-3 Single Family Residential
EXISTING LAND USE: Single Family Residence
PROPERTY SIZE: Approximately 23,893 square feet
PINs: 09-07-209-010 & 09-07-209-011

SURROUNDING ZONING AND LAND USES:

	ZONING	FUTURE LAND USE
NORTH:	R-3 Single Family Residential	Residential 0-6 DU/Acre
SOUTH:	R-3 Single Family Residential	Residential 0-6 DU/Acre
EAST:	R-3 Single Family Residential	Residential 0-6 DU/Acre
WEST:	R-3 Single Family Residential	Residential 0-6 DU/Acre

ANALYSIS

SUBMITTALS

This report is based on the following documents which are on file with the Department of Community Development:

1. Applications/Petitions for Public Hearing
2. Project Summary/Cover Letter
3. Plat of Survey
4. Proposed Site Plan
5. Gazebo Plans

DESCRIPTION

The petitioner owns two (2) adjacent lots of record on Seeley Avenue. There is a single family home on the northern lot, and the southern lot is vacant. The petitioner is proposing to build a new gazebo on the vacant lot. Per the Zoning Ordinance, residential accessory structures may only be built on a lot with a principal structure (e.g. a house), unless there are two adjacent lots held in common ownership. In the latter situation, accessory structures may be constructed prior to a principal structure provided a special use is granted by the Village Council.

To be eligible for the special use, the properties must meet the following conditions:

1. The lots must be held in common ownership.
2. One of the lots must have a principal structure established.
3. The common lot line must be shared for at least 100 feet or 50% of the lot line, whichever is greater.

In this case, the lots meet all three of the criteria. The lots are side by side and share a common lot line for approximately 200 feet.

COMPLIANCE WITH THE FUTURE LAND USE PLAN

According to the Future Land Use Plan, the subject property is designated as Residential at a density of 0-6 dwelling units per acre. The property is zoned R-3, Single Family Residential. The proposed use would compliment the uses in the vicinity. The proposal is consistent with the intent of the Future Land Use Plan and will not diminish the use of the surrounding properties.

COMPLIANCE WITH THE ZONING ORDINANCE

The property is zoned R-3, Single Family Residential. An accessory structure on a lot prior to a principal structure is an allowable special use in the R-3 district provided the three criteria listed above are met. The properties meet the requirements and are eligible for consideration of this special use. The proposed site plan meets the bulk zoning requirements.

PUBLIC SAFETY REQUIREMENTS

The gazebo will have to meet all Village Building and Life Safety Codes. Upon staff's initial permit review, it appears these codes will be met.

NEIGHBORHOOD COMMENT

Staff has not received any written or verbal comments regarding this petition at this time.

FINDINGS OF FACT

The standards for a special use are listed below. Staff believes the standards for the special use have been met. Staff believes the proposed use is compatible with the surrounding area and will not have an adverse impact on the development or the existing trend of development in the neighborhood. As such, staff is recommending approval of the special use.

Section 28.1902 Standards for Approval of Special Uses

The Village Council may authorize a special use by ordinance provided that the proposed special use is consistent and in substantial compliance with all Village Council policies and land use plans, including but not limited to the Comprehensive Plan, the Future Land Use Plan and Master Plans and the evidence presented is such as to establish the following:

- (a) That the proposed use at that particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community.*
- (b) That such use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, or general welfare of persons residing or working in the vicinity or injurious to property values or improvements in the vicinity.*
- (c) That the proposed use will comply with the regulations specified in this Zoning Ordinance for the district in which the proposed use is to be located or will comply with any variation(s) authorized pursuant to Section 28-1802.*
- (d) That it is one of the special uses specifically listed for the district in which it is to be located.*

RECOMMENDATIONS

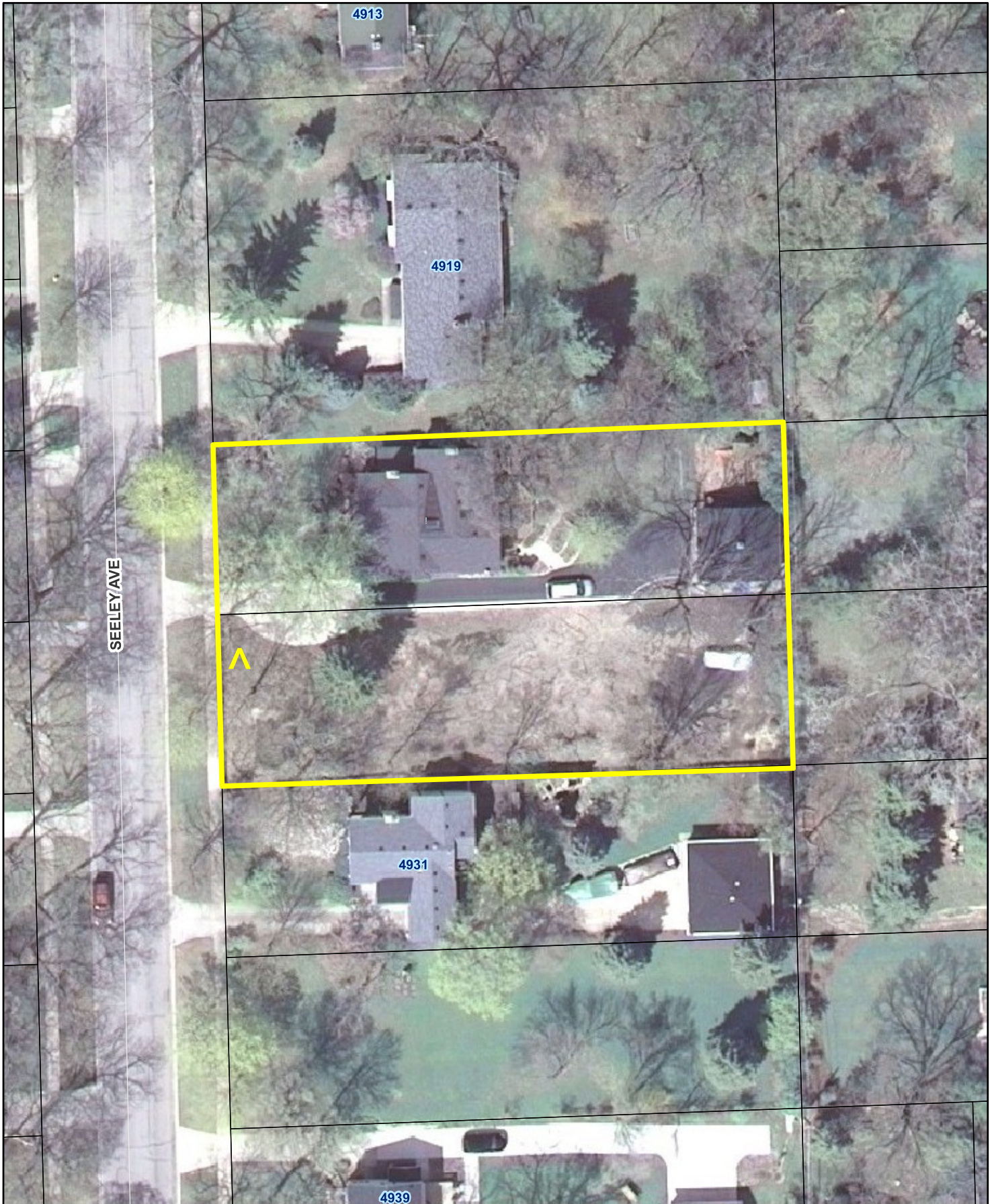
The proposed special use for the construction of a gazebo at 4923 Seeley Avenue is compatible with the surrounding zoning and land use classifications. Based on the findings listed above, staff recommends that the Plan Commission make a motion recommending approval of the special use for construction of an accessory structure on a lot prior to the construction of a principal structure subject to the following conditions:

1. The proposed gazebo shall substantially conform to the plans and specifications prepared by Gazebo Junction, Inc. and Plat of Survey prepared by Jens K. Doe dated June 17, 2004 attached to this report except as such plans may be changed to conform to Village codes, ordinances, and policies.
2. A restriction shall be recorded against the properties with the DuPage County Recorder of Deeds that requires demolition of the gazebo prior to the sale of the properties if they are not transferred simultaneously to a single entity.

Staff Report Approved By:

Tom Dabareiner, AICP
Community Development Director

TD:jwo
-att



PC 04-08 4923 Seeley Avenue (Special Use)
PINs: 09-07-209-010 & -011



AVE

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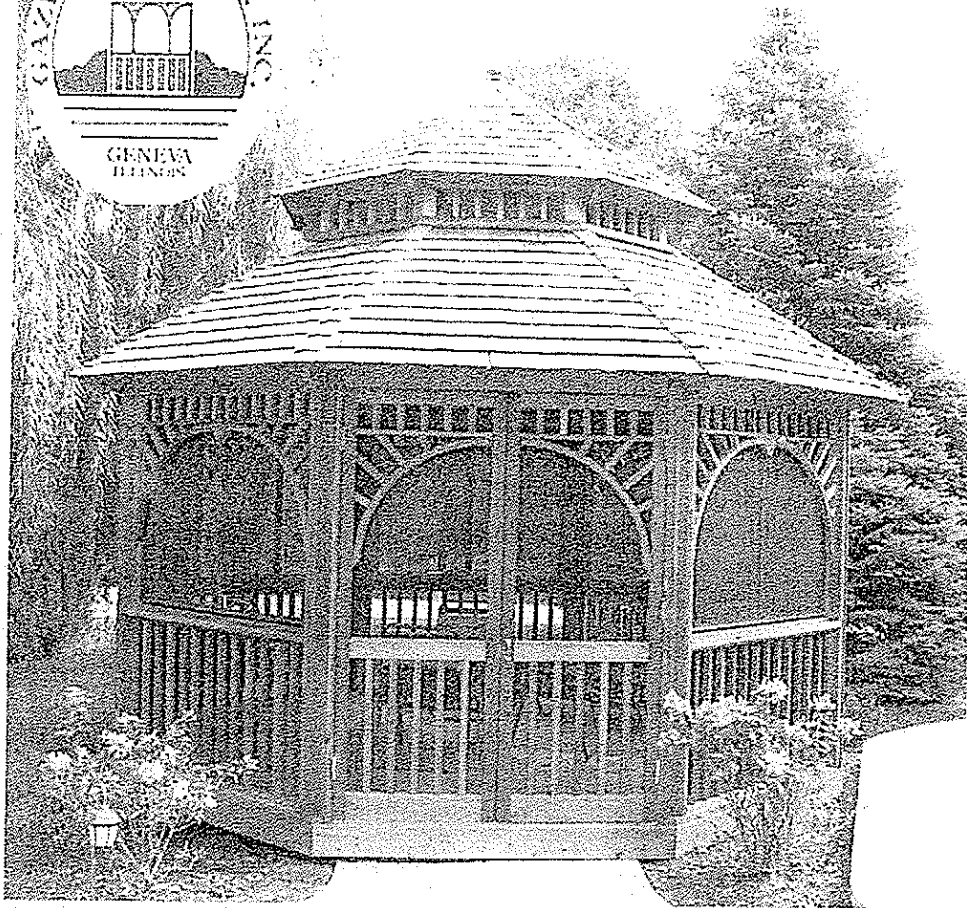
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Gazebo Junction, Inc.

*Outdoor Elegance
Made Affordable*



2627 Kaneville Ct.

Geneva, IL 60134

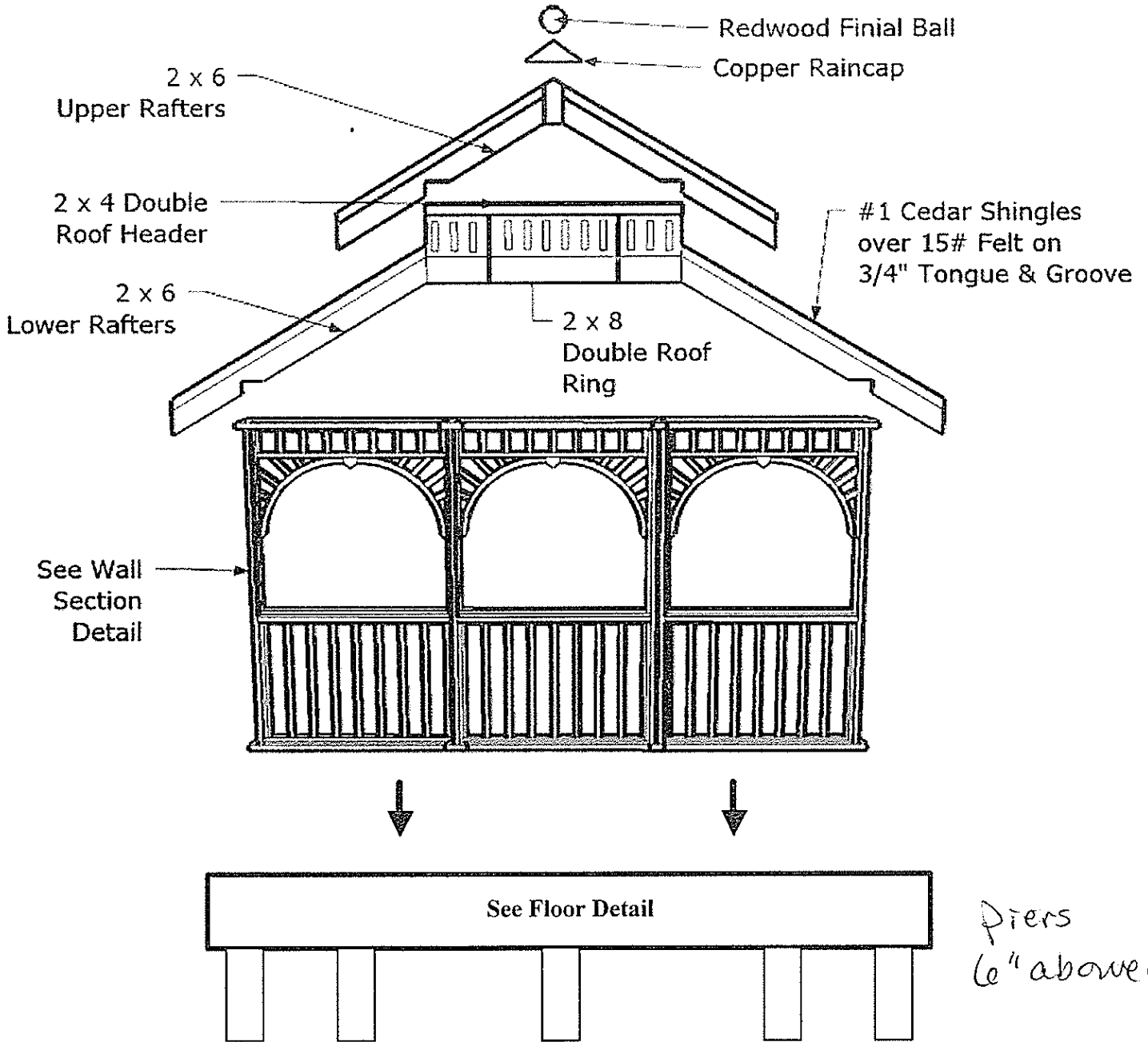
630-208-8182

Toll Free - 800-966-9261

Fax - 630-208-8277

www.GazeboJunction.com

DOUBLE ROOF GAZEBO DETAIL

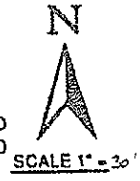


4923 Seeley

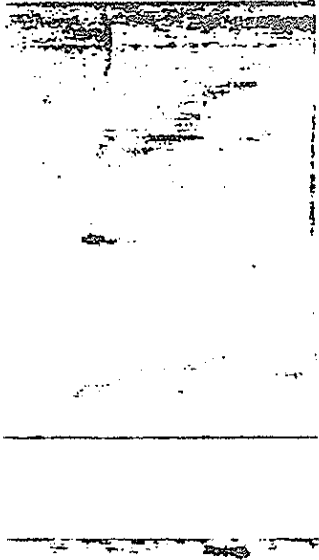
R.C. MORRISON
Surveying Services
(708) 759-0205
Fax @ (708) 759-9291

PLAT OF SURVEY

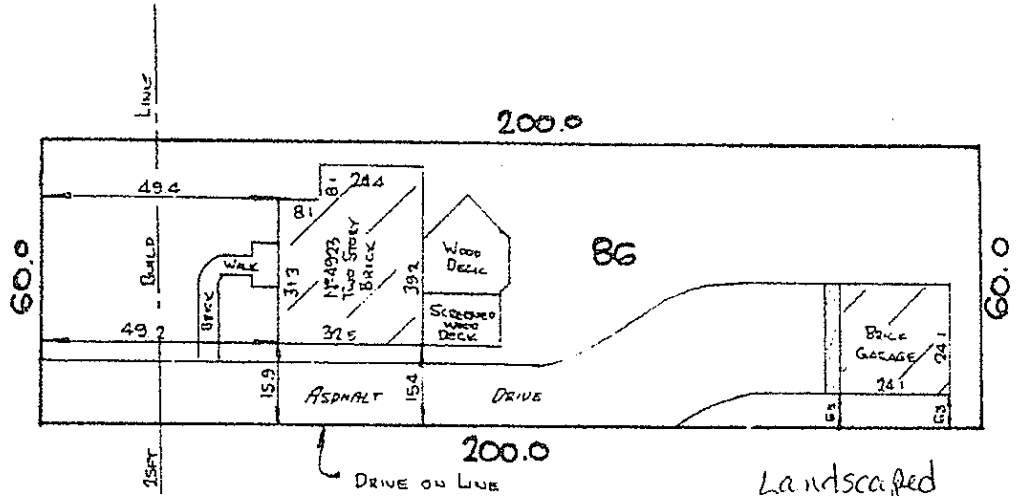
Raymond C. Morrison
108 Lee Lane
Bolingbrook, IL 60439



LOT 86 IN BRANIGAR BROTHERS' WOODED HOMESITES, BEING A SUBDIVISION IN THE NORTH HALF OF SECTION 7, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND THE NORTH HALF OF SECTION 12, TOWNSHIP 38 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 2, 1920 AS DOCUMENT NO. 144598, IN DUPAGE COUNTY, ILLINOIS.



SEELEY STREET



Landscaped yard 4927

1600 PIPES FOUND AT ALL CORNERS

gazebo



State of Illinois }
County of Will } SS

I, Raymond C. Morrison, an Illinois Registered Land Surveyor, do hereby certify that I have surveyed the parcel of Land Hereon described and that the Plat hereon drawn is a correct representation of said survey.

Dated at Bolingbrook, Illinois, this 16TH day of JUNE, A.D., 19 90

RCM
Illinois Registered Land Surveyor No. 35-2176

CLIENT MENCONI
JOB NO. 2930-90

For Building Lines, Easements and Other Restrictions not shown hereon refer to your Deed, Title Policy, Zoning Ordinance, etc.

4427 Seeley

7100 West Touhy Avenue
Chicago, Illinois 60631-4200

TOPOGRAPHICAL-ALTA-C&M-BOUNDARY-SUBDIVISIONS-MORTGAGE-CONDOMINIUM

Phone: (773) 775-0310
(773) 775-0331
Fax: (773) 775-7512

Jens K. Doe
Professional Land Surveyors, P.C.

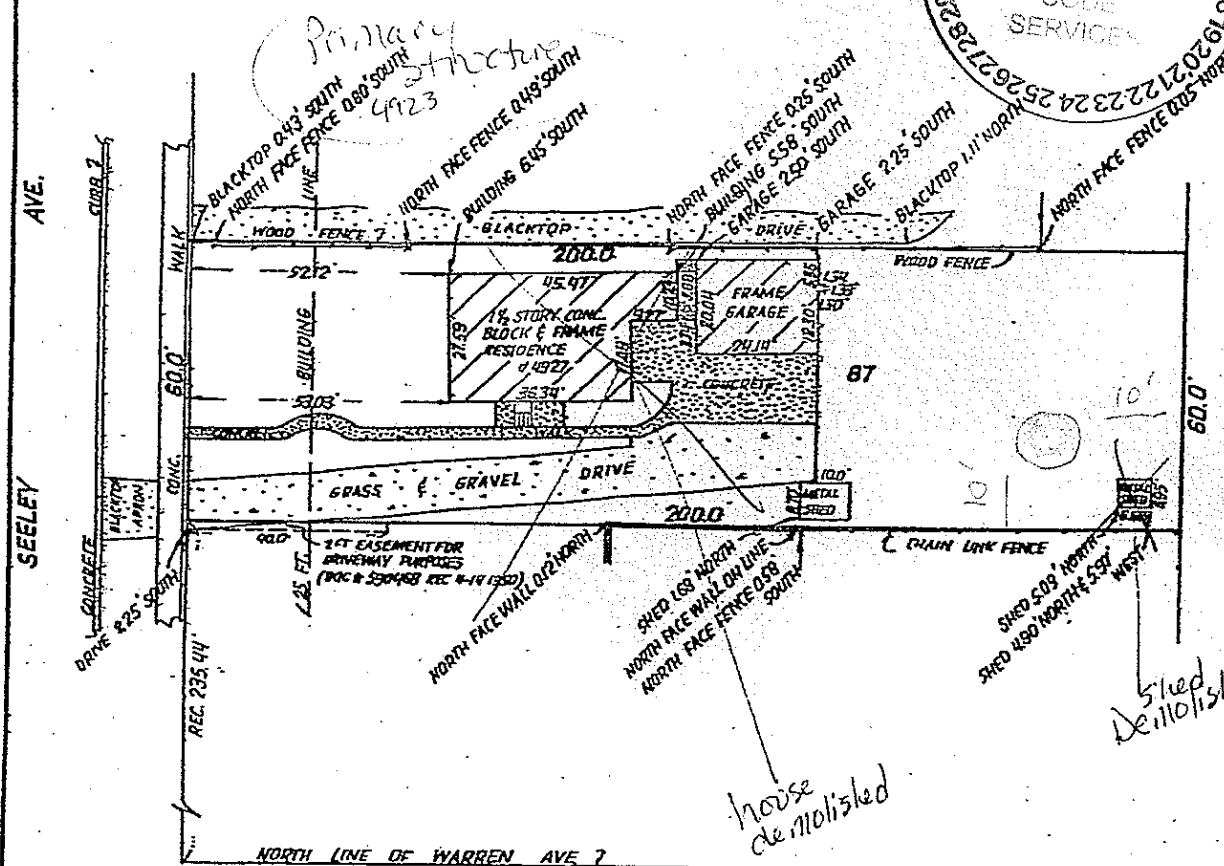
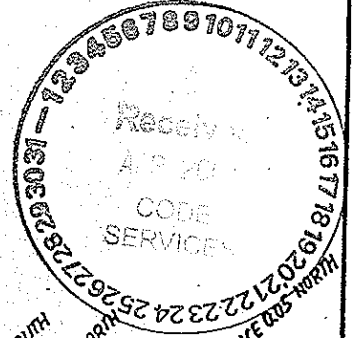
ORDER NO.
04-1305

PLAT OF SURVEY

of

Scale - 1 inch = 20 feet

LOT 87 IN BRANIGAR BROTHERS' WOODED HOMESITES, IN THE NORTH HALF OF SECTION 7, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.



NOTE:
The legal description noted on this plat is a copy of the order and for accuracy MUST be compared with the Deed. For building restrictions refer to your Abstract, Deed or Contract.

Compare distances between points before building and report any discrepancy to this office immediately.
Distances shown hereon are not to be assumed or scaled.

Field work completion date: 06-17-04

ORDERED BY:
JENNER & BLACK

State of Illinois
County of Cook

JENS K. DOE PROFESSIONAL LAND SURVEYORS, P.C. does hereby certify that a survey has been made under its direction, by an Illinois Professional Land Surveyor of the property described herein and that the person drawn is a correct representation of said survey.

Chicago, Illinois Deed this 18th day of JUNE

JENS K. DOE PROFESSIONAL LAND SURVEYORS, P.C.

Dominick M. Blenkins
DOMINICK M. BLENKINS
PROFESSIONAL LAND SURVEYOR
STATE OF ILLINOIS
MY LICENSE EXPIRES 11-30-2009, ILLINOIS

PROPERTY CORNERS HAVE BEEN ESTABLISHED TO COMPLETE THE PLAT OF SURVEY SHOWN HEREON. BUT HAVE NOT BEEN STAKED OR PLACED PER THE ORDER BY WHICH IT WAS PLACED BY THE CLIENT.

Landscaped yard only. No structures present.

House demolished

Shed demolished

DRAFT

VILLAGE OF DOWNERS GROVE
PLAN COMMISSION MEETING, JANUARY 7, 2008, 7:00 P.M.

Chairman Jirik called the January 7, 2008 meeting of the Plan Commission to order at 7:00 p.m. and asked for a roll call:

PRESENT: Chairman Jirik, Mr. Beggs, Mr. Cozzo, Mrs. Hamernik, Mr. Matejczyk, Mr. Quirk, Mrs. Rabatah, Mr. Waechtler, Mr. Webster

STAFF PRESENT: Mr. Jeff O'Brien, Senior Planner

VISITORS: Marshall Schmitt, 4923 Seeley Avenue, Downers Grove

Chairman Jirik led the audience in the reciting of the Pledge of Allegiance.

Minutes of the December 3, 2007 - Minutes of the December 3, 2007 Plan Commission meeting were approved on motion by Mr. Matejczyk, seconded by Mr. Webster. Motion carried by voice vote of 9-0.

Chairman Jirik proceeded to explain the protocol for the meeting.

FILE NO. PC-04-08 A petition seeking Special Use Approval to construct an accessory structure on a lot prior to the construction of a principal structure; property located on the East side of Seeley Avenue, approximately 235 feet North of Warren Avenue, commonly known as 4923 Seeley Avenue, Downers Grove, IL (PIN 09-07-209-010,-011); James F. Russ, Jr., Petitioner; Marshall Schmitt & Linda Matheson, Owners

Mr. Jeff O'Brien, Senior Planner recalled for the commissioners that there was a petition before them in October of 2007 to amend the zoning ordinance to allow for construction of an accessory structure prior to construction of a principal structure. At that time, the petition was forwarded to the Village Council, and the Village Council agreed with many of the concepts discussed by the Plan Commission. However, the Council had concerns about allowing these structure by-right and directed staff to draft the language as a Special Use. Mr. O'Brien referenced ordinance language, which was inadvertently left out of the commissioners' packets and proceeded to read the text. He stated the Council approved the text amendment in December 2007.

The petition before the commissioners was for 4923 and 4927 Seeley Avenue, both 60-foot lots under common ownership. The petitioner owned both lots – 4923 Seeley was improved with a house and garage and 4927 Seeley was vacant. The petitioner was proposing to build a gazebo on the vacant lot at 4927 Seeley. Mr. O'Brien stated the request met the three qualifications for the Special Use. The location of the gazebo on the 4927 Seeley lot will be 10 feet from the south and east property lines and meets the zoning regulations. Elevations of the gazebo were shown. No public comment was received on the petition prior to this hearing.

The Special Use will go with both lots. Staff recommended approval of the request since it met the standards in Section 28.1902 of the Zoning Ordinance subject to staff's conditions in its report.

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Commissioner questions followed.

As to a time limitation on the second structure, Mr. O'Brien stated the structure could remain indefinitely, but the petition was being set up so that if the petitioner transferred both properties to a single owner, the gazebo could remain. However, if the two lots were separately transferred to different owners, the gazebo would have to come down prior to the sale of the southern lot. Regarding ordinance language as to the termination of the Special Use and the fact that the Village Council "may" require termination of the Special Use upon the sale of the properties, Mr. O'Brien explained the term "may" was more for discretionary purposes. Turning to staff's recommendations and the amendment to the ordinance, Mr. O'Brien explained that when the Village Council approves the Special Use, they would make the determination of when the condition is to be included. It will also be recorded with the deed at the County Recorder's Office. Mr. Beggs voiced concern on how the proposed text amendment was worded. Mr. Waechtler concurred.

Mr. O'Brien reiterated the text amendment was already approved. The language in the zoning ordinance was vague because it was trying to capture many concepts versus one concept and be flexible to different circumstances. Staff was trying to address concerns raised at the Village Council meeting. Mr. O'Brien confirmed that if the Plan Commission approved the petition, the specific language would apply to this petition only. Mr. Matejczyk supported the petition.

Questions followed on the location of the gazebo and revising the word "demolition" to "removed" in staff's Recommendation No. 2.

Mr. Marshall Schmitt, 4923 Seeley Avenue, Downers Grove, petitioner, was sworn in.

Mr. Schmitt clarified his understanding of the word "may" in the text amendment, which he felt was an inherent ambiguity. He believed the Village Council could address the issue but agreed having flexibility was a positive. As to the Special Use being requested and the requirement that the Special Use be terminated when the two lots are no longer under common ownership, he disagreed with it initially, but he did not see it as a large issue. Mr. Schmitt stated he located the proposed gazebo as proposed in order to integrate it with the landscaping and so that the properties would look as one. Mr. Schmitt stated he did run two electrical lines near the structure and did not see noise as an issue.

Chairman Jirik opened up the meeting to public comment. None followed. Public Comment was closed.

WITH RESPECT TO FILE NO. PC-04-09, MR. BEGGS MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL FOR APPROVAL OF THE SPECIAL USE FOR CONSTRUCTION OF AN ACCESSORY STRUCTURE ON A LOT PRIOR TO THE CONSTRUCTION OF A PRINCIPAL STRUCTURE SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. THE PROPOSED GAZEBO SHALL SUBSTANTIALLY CONFORM TO THE PLANS AND SPECIFICATIONS PREPARED BY GAZEBO JUNCTION, INC. AND PLAT OF SURVEY PREPARED BY JENS K. DOE DATED JUNE 17, 2004 ATTACHED TO THIS REPORT EXCEPT AS SUCH PLANS MAY BE CHANGED TO CONFORM TO VILLAGE CODES, ORDINANCES, AND POLICIES.**

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- 2. A RESTRICTION SHALL BE RECORDED AGAINST THE PROPERTIES WITH THE DUPAGE COUNTY RECORDER OF DEEDS THAT REQUIRES REMOVAL OF THE GAZEBO PRIOR TO THE SALE OF THE PROPERTIES IF THEY ARE NOT TRANSFERRED SIMULTANEOUSLY TO A SINGLE ENTITY.**

THE MOTION WAS SECONDED BY MR. MATEJCZYK.

ROLL CALL:

AYE: MR. BEGGS, MR. MATEJCZYK, MR. COZZO, MRS. HAMERNIK, MR. QUIRK, MRS. RABATAH, MR. WAECHTLER, MR. WEBSTER, CHAIRMAN JIRIK

NAY: NONE

MOTION CARRIED. VOTE: 9-0

Mr. O'Brien announced the next Plan Commission meeting is scheduled for February 4, 2008 and three proposals will be considered -- two communications towers and a townhouse proposal. The commissioners were asked on how they would like the agenda prepared; i.e., hear all three proposals on February 4th or split up the agenda. After discussion, the commissioners agreed that staff hold all three petitions on February 4, 2008. However, Chairman Jirik asked that Mr. O'Brien contact him if there appeared to be controversy arising.

Chairman Jirik raised discussion about the Commission holding a meeting with the Mayor and Village Council during the first quarter and stated he would work with staff on the meeting's agenda. He would forward a rough draft agenda to Mr. O'Brien, and Mr. O'Brien would then forward it to the Commissioners for feedback. A suggestion was made that the Chairman provide tentative dates for the meeting. Mr. O'Brien would speak to the Manager's Office for dates.

Chairman Jirik asked if the Commissioners would like an annual update of the village's Zoning Map, Future Land Use Map, and a copy of the Zoning Ordinance. Mr. O'Brien stated staff would provide those updates in March and provide an annual summary of previous recommendations made by this Commission.

Mr. Waechtler stated he would like to see franchise representatives attend meetings in order to answer certain questions. Chairman Jirik agreed but also reminded Mr. Waechtler that the petitioner had an obligation to fulfill by answering questions posed by the Commission, and on the basis that the petitioner was not present to answer those questions, and then the Commission could deny or continue to a date certain. He believed more discussion should take place on this matter.

A question was raised regarding last month's vote on a combined rezoning and annexation. Mr. O'Brien stated that unless they are separate recommendations, then it is recommended to make a singular recommendation on a project. However, if the Commission felt uncomfortable about staff's recommendation, the Commission could make a different motion.

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**MRS. HAMERNIK MOVED TO ADJOURN THE MEETING. MRS. RABATAH
SECONDED THE MOTION. THE MEETING WAS ADJOURNED AT 7:55 P.M.**

/s/ Celeste K. Weilandt
Celeste K. Weilandt
(As transcribed by MP-3 audio)