

**PLANNING AND ZONING COMMITTEE  
MEETING MINUTES  
October 26, 2005**

The Planning and Zoning Committee of the DeKalb County Board met on October 26, 2005 at 7:00 p.m. in the Conference Room East located in the DeKalb County Administration Building. In attendance were Committee Members Roger Steimel, Marlene Allen, Patricia Vary, Vince Faivre, Eileen Dubin, Howard Lyle and Steve Slack, and staff members Paul Miller and Derek Hiland. Audience members included Greg Millburg, Jack Bennett, and County Board member Jeff Whelan.

Mr. Steimel, Committee Chairman, called the meeting to order. He noted that all Committee members were present.

**APPROVAL OF MINUTES**

*Ms. Vary moved to approve the minutes of the September 28, 2005 meeting of the Planning and Zoning Committee with one correction, seconded by Mrs. Allen, and the motion carried unanimously.*

**APPROVAL OF AGENDA**

*Mr. Lyle moved to approve the agenda, amended to add item 5.a. regarding Our Savior's Lutheran Church in Sandwich and item 5.b. regarding a possible Zoning Text Amendment. The motion was seconded by Mrs. Allen and carried unanimously.*

**SPECIAL USE PERMIT** -- Request of Sandwich Township for approval of an 11.5-acre addition to the Oak Ridge Union Cemetery, located on the south side of Suydam Road in Somonauk Township, Petition SO-05-15

Mr. Miller explained that Sandwich Township, representing Oak Ridge Union Cemetery, has filed a petition for a Special Use Permit to allow the expansion of Oak Ridge Union Cemetery onto an 11.5-acre property located west of the existing cemetery. The existing cemetery is on the south side of Suydam Road, approximately 2,400 feet east of Somonauk Road, in Somonauk Township. The property is zoned A-1, Agricultural District. The 23.14-acre cemetery has been in existence since the 1800s and when the County's Zoning Ordinance was passed the cemetery, as it exists today, was granted a Special Use designation retroactively. However, in order to bring the entire cemetery into conformance and accommodate the proposed 11.5-acre expansion, a Special Use Permit must be granted to encompass the entire 34.64 acres for the Oak Ridge Union Cemetery.

Ms. Vary asked whether or not a drain tile survey has been conducted, per the recommendation of the DeKalb County Soil and Water Conservation District. Mr. Miller stated that he was not aware of any such study, but that such could be required as a condition of approval. Mr. Vary continued by asking whether or not there is floodplain on a portion of the 11.5 acres. Mr. Miller referred to the Site Plan provided by the petitioner that illustrated the proposed improvements, and stated that it would be in the best interest of the Cemetery to assure grave sites are not situated in a floodplain. Ms. Vary also inquired as to whether the Cemetery would be allowed to have a sign without having

to go through the review and approval process again. Mr. Miller confirmed that the Sign Regulations of the Zoning Ordinance allow a sign, but that it was a good idea to go ahead and state such in an ordinance approving the Special Use Permit so there is no confusion. Finally, Ms. Vary noted that the petitioner had indicated that the 11.5 acres would remain in agricultural use until it is developed, and suggested that would be a good condition to include.

Mr. Miller re-iterated the conditions of approval that had been discussed, which included:

1. It is hereby acknowledged that use of the 11.5-acre addition to the Cemetery may not take place for a number of years. Principle use of the property shall remain agricultural until it is developed for cemetery use;
2. Prior to use of the 11.5-acre addition by the Cemetery, a drain tile survey shall be conducted, and necessary measures related to drainage shall be taken, to assure use of the property does not negatively affect drainage in the general area; and
3. A sign shall be permitted for the Oak Ridge Union Cemetery, subject to issuance of a Sign Permit by the County following application by the Cemetery for a sign that complies with applicable regulations set forth in Article 7 of the DeKalb County Zoning Ordinance.

*Following further discussion, Ms. Vary moved to approve the Special Use with conditions, seconded by Mrs. Allen, and the motion carried unanimously.*

**Intergovernmental Agreement** -- Approval of an intergovernmental agreement between the City of Sandwich and DeKalb County regarding transfer of zoning and building regulation authority from the County to the City for Our Savior's Lutheran Church at Pratt and West Sandwich Road.

Mr. Miller explained since the Our Savior' Lutheran Church project was approved in 2003, the church has been under construction. Completion has been held up in recent months because of the church not meeting the requirement of the County Building Code that the building include sprinklers for fire protection purposes. The sprinkler system requires an adequate water supply, and the Church intends to connect to a City of Sandwich water main when one is extended close enough to the subject property. However, that water main extension has not occurred, and it is uncertain when it will. Without the sprinkler system, the Planning, Zoning and Building Department cannot issue an Occupancy Permit for the building.

Mr. Miller explained that staff has explored alternative solutions with Church representatives. One such solution would be to seek a Variation from the sprinkler requirement. However, staff has indicated that, while a Variation could be requested, staff would strongly oppose its approval because the sprinkler requirement is an issue of public safety and welfare. Another alternative would be for the Church to install a water tank with sufficient volume to meet the requirement, but the Church has indicated that solution is cost

prohibitive.

In order to resolve this impasse, staff suggested that the Church review the building code requirements and administration of the City of Sandwich to see if the City has a different standard for fire protection or, if it does not, whether it would be more willing to waive the requirement. In either case, the Church could negotiate an Annexation Agreement with Sandwich. Although the subject property is not contiguous with the City limits and cannot be annexed, the County and the City could then enter into an intergovernmental agreement whereby the County transfers zoning and building authority to the City. This item if approved by the Committee could send a recommendation to the full County Board Meeting in November.

Mr. Miller stated that the City of Sandwich approved an annexation agreement for the Church on Monday, October 24, 2005, and has indicated that it will grant a variation from its building code requirement that the church include sprinklers. This decision is based in part on the Sandwich Fire Protection District's determination that response times to Church property would be sufficient to provide adequate protection.

Committee members discussed the process by which the County may transfer authority with the municipalities via the intergovernmental agreement act of the State statutes. Mr. Miller explained that what is being proposed as a solution for Our Savior's Lutheran Church is the kind of cooperation and respect between units of local government that the County has been trying to foster over the years. He also stated that, while some might question the decision of the City to allow the church to be occupied without sprinklers, it is a matter of respecting the autonomy of the City to make those decisions.

Following further discussion, the Committee agreed that the intergovernmental agreement was appropriate. Ms. Vary inquired whether the State's Attorney had reviewed the agreement. Mr. Miller stated that he would before action by the County Board at its November 16, 2005 meeting.

*Mr. Faivre moved to approve the draft intergovernmental agreement and authorize the County Board Chairman to sign on behalf of the County Board, seconded by Mr. Lyle, and the motion carried 6 - 0, with Mrs. Allen abstaining.*

**Zoning Text Amendment** – Possible Zoning Text Amendment regarding legal non-conforming lots.

Mr. Miller explained that within the Ordinance there exists a problem that was found by staff with regard to regulations for illegal nonconforming lots. The difficulty that the current language of Section 8.05.D of the Zoning Ordinance states that only nonconforming lots that were created after the effective date of the current Zoning Ordinance, April 20, 2005, are illegal, nonconforming. However, the County has for many years taken the position that the cutoff for legal vs. illegal

nonconforming lots is September of 1991, the effective date of the 1991 Zoning Ordinance. The language of Section 8.05.D was simply carried over from the last Zoning Ordinance, and should be revised to reference the September 1991 date. Mr. Miller stated that a further amendment is appropriate to make it clear that additions to existing buildings on illegal nonconforming lots are not permitted. Right now, the regulation says only that new buildings are not permitted.

Mr. Faivre expressed that he is generally not in favor of this provision and the intent of the regulation. He asked why the County should care if a lot of eight or ten acres with a house on it sells off an acre or two? Mr. Miller replied that without this provision, the 40-acre rule has no teeth at all. What would stop someone from building a new house on 40 acres, then selling off 39 acres, which could then be combined with one more acre and another house built? The effect would be two houses on 41 acres, which would destroy the intent to not allow more than one house per 40 acres. Mr. Miller added that staff was seeking authority from the Committee to seek the Amendment. The process would allow opportunities for County Board members, and any other interested persons, to weigh in not only on the amendment but the whole regulation.

Mr. Steimel stated he thought the concept was well thought out, and that this should be moved ahead.

*Following further discussion, Ms. Vary moved to authorize staff to seek the Zoning Text Amendment for the illegal nonconforming lot regulations, seconded by Mrs. Dubin, and the motion carried unanimously.*

### **Housekeeping – Rescheduling meetings over the Holiday Months.**

Mr. Miller noted that the regularly-schedule meeting of the Committee would fall on Thanksgiving Day Eve. Following discussion, the Committee members agreed to reschedule the meeting for November 30, 2005. The Committee also discussed moving the meeting in December, which would fall on December 28, 2005, but after further reviewing the calendar, the Committee decided to leave the December meeting date as scheduled.

### **Audience Input – Money for Farmland Preservation**

Jack Bennett requested that the Committee members focus on budgeting an equal amount of dollars in next year's budget for agricultural preservation as it does for economic development. Mr. Bennett reminded the Committee that former Board and Committee member Cliff Simonson made this request each year. He stated that the County has done nearly everything else it could to preserve farmland. He indicated that more is needed, and a purchase of development rights program such that exists in Kane County is the next best step.

Following discussion, Mr. Steimel thanked Mr. Bennett for his input and stated that the topic will surely be discussed at future meetings.

**ADJOURNMENT** - *Mr. Faivre moved to adjourn, seconded by Mr. Lyle, and the motion carried unanimously.*

**Respectfully submitted,**

**Roger Steimel, Chairman**  
**Planning and Regulations Committee Chairman**

DMH:dmh

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