

**PLANNING AND ZONING COMMITTEE
MEETING MINUTES
January 25, 2006**

The Planning and Zoning Committee of the DeKalb County Board met on January 25, 2006 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 Jeff Futrell, Corey Wiborg, Vince Volpe, Geri Volpe, John Philipchuck, Greg Millburg, County Board member Jeff Whelan and County Engineer Bill Lorence.

Pat Vary, Committee Vice-Chair, called the meeting to order. Ms. Vary noted that all members were present except Roger Steimel.

APPROVAL OF MINUTES

Mr. Faivre moved to approve the minutes of the November 30, 2005 meeting of the Planning and Zoning Committee, seconded by Mr. Slack, and the motion carried unanimously.

APPROVAL OF AGENDA

Mrs. Dubin moved to approve the agenda, seconded by Mr. Lyle, and the motion carried unanimously.

SPECIAL USE PERMIT AMENDMENT -- Request of Northside Baptist Church for approval of an amendment to a Special Use Permit for a church at 17347 Pratt Road in Sandwich Township, to allow a temporary building to remain in use on the site, Petition SA-05-18

Mr. Miller explained that on June 20, 2001, the County Board passed Ordinance 01-12, which approved a Special Use Permit for Northside Baptist Church. The Special Use Permit approved the existing church and two accessory buildings, one to be permanent and the other being a portable frame trailer, as well as an expansion of the Church parking lot. The mobile building was to be eventually replaced by the permanent building, and is presently used for Church classes. Since the Permit was approved, the Church has met a number of the conditions of approval contained in the Ordinance, particularly those associated with the mobile building. However, condition #8 of Ordinance 01-12 requires that the mobile building be temporary and removed from the property by December 31, 2005 unless an extension is granted by the County Board following a public hearing for an amendment to the Special Use Permit. On December 15, 2005, Hearing Officer Ron Klein heard the petitioners request to amend the Special Use Permit to allow the mobile trailer to remain on site and in use for another five years, or until such time the permanent structure is built, whichever is sooner. Mr. Miller went on to state that Hearing Officer Klein has recommended approval of the request, with the condition that the temporary building be allowed to remain in use for only five years, to be removed thereafter with no further extension.

Mrs. Dubin requested further details regarding the letters of opposition from the City and Township Trustees. Mr. Slack summarized the letters of opposition.

Mrs. Allen asked whether or not the temporary building would be in the way of the proposed permanent structure. Mr. Futrell, representative from the Church, explained that the permanent structure will be in a different location, and stated that the Church had appointed a building committee to begin making forward progress to collect the monies needed to build the permanent structure. He also stated that the Church had not already started the permanent building because it has spent over \$50,000 on other improvements to the site, including parking and landscaping. Mr. Futrell concluded by stating that the Church has taken a realistic approach to the proposed expansion. It has scaled back the original plans for the building and the Church believes it can raise the funds to begin construction in three years.

Mr. Faivre asked Mr. Miller if any complaints had been received over the last five years regarding the temporary classroom, and Mr. Miller responded that no complaints had been received. However, Mr. Miller also stated that in the beginning of the original Special Use process, there were some complaints regarding the building's placement in proximity to the neighboring cemetery.

Mrs. Dubin asked what would the Church do if the temporary structure was removed, and Mr. Futrell responded by stating that the Church does not have enough space to provide classroom space, and so some of the services it offers the community would have to discontinue.

Roger Steimel joined the meeting at this time, and Ms. Vary yielded to him as Chairman.

Mr. Slack inquired what has been the holdup regarding the permanent structure? Mr. Futrell stated that he is confident that the Church will be able to overcome the financial obstacles because its membership includes carpenters, plumbers, and craftsmen. Mr. Slack responded by stating that it doesn't sound like the money has been secured and if extensions keep getting awarded then people would not be likely to come forth with their financial commitment. Mr. Slack expressed concerns about setting a precedence by allowing the Church to continue conducting classes in a temporary building for ten years.

Following further discussion, Ms. Vary moved to approve the Special Use Amendment to allow the temporary building to remain on site and in use for a period not to exceed four years, with no further extensions to be granted, seconded by Mrs. Dubin

Discussion on the motion indicated some members were inclined to allow the five years recommended by the Hearing Officer, while others were inclined to allow the temporary building to remain on site for only three years, or not at all. Mr. Faivre noted that no complaints about the temporary building have been received by the County, the Township or the City.

Mr. Faivre moved to amend the motion to allow the temporary building to remain on site and in use by the Church for a period of five years, with no further extensions to be granted, seconded by Mr. Lyle. The motion failed on a vote of three "yes" and four "no," with Committee members Allen, Vary,

Dubin and Slack voting "no."

Ms. Vary repeated that she felt four more years should be sufficient time for the Church to raise the necessary funds for and construct the permanent accessory building.

Following further discussion, the original motion passed on a vote of five "yes" and two "no", with Committee members Allen and Lyle voting "no."

SPECIAL USE PERMIT EXTENSION -- Request of Aurora Sportsmen's Club for an extension of the time to commence substantial construction of an approved Special Use Permit for a gun club and RV camp, located on Rueff Road in Clinton Township

Mr. Miller explained that the County Board passed Ordinance 2005-7 on March 16, 2005, which granted a Special Use Permit to the Aurora Sportsmen's Club on property located on Rueff Road in Clinton Township. Section 9.02.B.8. of the County Zoning Ordinance requires that substantial construction shall commence within one year of the effective date of the permit, after which time the Permit shall terminate. However, the regulation allows that the time period may be extended through appeal to and approval by the Committee. The Aurora Sportsmen's Club has requested an extension of the deadline to begin substantial construction on the gun club and RV camp.

Vincent Volpe, Director of the Aurora Sportsmen's Club, addressed the Committee by stating that the work on the project has been slowed over the winter months due to weather constraints, working within engineering guidelines timeframes and road weight limit restrictions.

Mr. Steimel asked Mr. Miller what was the opinion of staff, and Mr. Miller stated that the recommendation from staff is to recommend approval for a one-year extension.

Mrs. Allen moved to approve a one-year extension for the Aurora Sportmen's Club Special Use Permit, seconded by Mr. Lyle, and the motion carried unanimously.

SITE DEVELOPMENT PERMIT VARIANCE -- Request of Aurora Sportsmen's Club for a Variation from a release-rate requirement of Chapter 30 of the DeKalb County Code for property located on Rueff Road in Clinton Township, Petition SD-05-01v.

Mr. Miller stated that this Variance request is a new one for the Committee because the Committee has not been asked to grant a Site Development Variance in the past. The Site Development Permit regulations are the rules that regulate retention ponds, detention ponds, grading and release rates for construction projects in unincorporated DeKalb County. The Variation request is to allow for a higher release rate (.59 cubic feet squared per acre) than the maximum 0.2 cfs allowed by the Site Development Permit regulations.

Mr. Volpe stated that because part of the 753 acres lies within the 1.5 mile radius of Waterman the Sportsmen's Club has to meet a release rate of 0.2 cubic feet squared per acre. In order for the

Sportsmen's Club to comply with such a rate, 50 acres of detention ponds would have to be constructed on site to comply with the regulations instead of the 15 acres of proposed ponds. Mr. Volpe continued by stating that the part of the acreage that will become developed will have no problems meeting the minimum standards.

County Engineer Bill Lorence assured the Committee that the intent of the regulations is to allow for pass through and the second item of the regulations doesn't take into account that the Village is upstream. Mr. Lorence went on to state the Aurora Sportsmen's Club will not only detain more water runoff with the improvements but will also improve the natural conditions of the 700 acre area as well.

Ms. Vary moved to approve the Variance to allow a release rate of 0.59 cubic feet squared per acre for the Aurora Sportmen's Club project, seconded by Mr. Faivre, and the motion carried unanimously.

ZONING TEXT AMENDMENT -- Request of DeKalb County for an amendment to the text of the Zoning Ordinance related to the regulations for use of illegal nonconforming lots, Petition DC-05-17

Mr. Miller stated that the proposed Amendment relates to regulations that apply to lots that have been rendered nonconforming with respect to zoning district regulations as a result of action by the property owner(s). The proposal is to reiterate the date beyond which such lots are rendered illegal, nonconforming, which has always been September of 1991.

Ms. Vary asked if this new language was an updated interpretation of the County Code? Mr. Miller explained that the September, 1991 date has for many years been the date beyond which a lot divided without regard and not in compliance with the zoning district regulations is considered illegal, nonconforming.

Mr. Faivre stated that staff in previous discussions on this amendment has asserted that, without the change, a person could allow 160 homes on 160 acres, and he does not believe that is the case because the County requires 40 acres for a house. Mr. Miller responded by saying that without the proposed amendment, one could build a house on 40 acres, then sell 39 acres to someone who could buy an adjacent one acre. Another house could then be built, and so on. Mr. Miller explained that without some penalty for not abiding by the County zoning district standards, the 40-acre rule has no teeth. The proposed amendment is intended to assure that those who choose not to abide by the County regulations are not given an unfair advantage over those that do abide. Mr. Miller also noted that this type of regulation, which restricts new uses or expansion to uses and structures on illegal, nonconforming lots is common practice in zoning.

Following further discussion, Ms. Vary moved to approve the Zoning Text Amendment, seconded by Mr. Lyle, and the motion carried on a vote of six "yes" and one "no", with Committee member Faivre voting no.

LAWSUIT CONCLUSION -- Decision of Appellate Court on Nelson Case

Mr. Miller briefed the Committee on the recent decision by the Second Appellate Court regarding a lawsuit brought by Janice Nelson against the County for the County's action of denying approval of a proposed planned development on a 30-acre tract in Pierce Township. The Appellate Court affirmed the decision of the Circuit Court, which found in favor of the County. Mr. Miller applauded the Committee and County Board for all their efforts regarding their adherence to the Comprehensive Plan. Mr. Miller stated that the County Board's commitment to the plan serves the citizens of the County well and by having the weight of an Appellate Court's decision behind the Comprehensive Plan will only continue to strengthen the validity of the Comprehensive Plan and the regulations adopted to implement it. Mr. Miller concluded by thanking the Committee Members for their efforts in interpreting and enforcing the County's Comprehensive Plan and Zoning Ordinance.

YEAR-END REPORT -- Summary of Planning, Zoning and Building Department activities in Fiscal Year 2005

Roger Steimel pointed out that a summary of Planning and Zoning Department activities and year-end statistics were included within the Committee's packets. Mr. Miller offered to answer any questions or concerns regarding the report.

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

Respectfully submitted,

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

DMH:dmh

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