

**PLANNING AND ZONING COMMITTEE  
MEETING MINUTES  
July 26, 2006**

The Planning and Zoning Committee of the DeKalb County Board met on July 26, 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, Howard Lyle and Steve Slack, and staff members Paul Miller and Derek Hiland. Audience members included Lynn Schmitz, Frank Beierlotzer, Richard Schmack, Tammie Ring, Judy Baumgartner and County Board Member Jeff Whelan.

Mr. Steimel, Planning and Zoning Committee Chairman, called the meeting to order, and noted that all members from the Committee were present except for Eileen Dubin.

**APPROVAL OF AGENDA**

Mr. Steimel noted that Faith World Outreach Church had withdrawn its application for a Special Use Permit, and would be dropped from the agenda.

*Mr. Slack moved to approve the amended agenda, seconded by Mr. Lyle, and the motion carried unanimously.*

**APPROVAL OF MINUTES**

*Ms. Vary moved to approve the minutes of the June 28, 2006 meeting of the Planning and Zoning Committee, seconded by Mr. Lyle, and the motion carried unanimously.*

**INTERIM SPECIAL USE PERMIT** -- Request of Larry and Diane Vodden for approval of a mobile home for a dependent relative, to be located behind the house at 4063 Governor Beveridge Highway in Somonauk Township, Petition SO-06-09

Mr. Miller explained that there is a category of Special Use in the A-1, Agricultural District that creates the possibility of home owners placing a mobile home behind the principle building as a dwelling for physically or financially dependent relatives. The Special Use is considered interim because it is understood that the mobile home will be removed once the relative no longer occupies it. The Voddens have filed such a petition for an Interim Special Use Permit to allow a mobile home to be placed on the property at 4063 Governor Beveridge Highway as housing for a dependent relative. The five-acre subject property is located on the west side of Governor Beveridge Highway, approximately 2,150 feet south of Orchard Road, in Somonauk Township, and is zoned A-1, Agricultural District. Mr. Miller stated that the required public hearing was conducted on June 29, 2006 by DeKalb County Hearing Officer Ron Klein. The petitioners explained that the mobile home would be for a physically dependent parent. It would be located behind the existing house, and largely screened from public view by existing trees on the property. The petitioners agreed to install a new septic system for the mobile home. Mr. Miller continued by stating that no members of the public spoke in favor of or in opposition to the request. The Hearing Officer forwarded his report of findings and recommended approval of the request. The petitioners indicated they understand that,

if approved, they will have to annually certify to the Planning, Zoning and Building Department that the mobile home is still occupied by their parent, and at such time as the parent no longer occupies the mobile home, it must be removed from the property.

Mrs. Allen asked why a new septic system would be required for a mobile home. Mr. Miller responded by stating that the current residence does not have a sufficient septic system for both homes, and the Health Department therefore requires a separate system.

Ms. Vary stated that she was in favor of granting this Interim Special Use request because this particular situation is an ideal one for the Voddens. Mr. and Mrs. Vodden has enough land and the mother already has a mobile home to place on the property.

Mr. Faivre stated that he is going to vote for the Interim Special Use because he agreed with the points Ms. Vary stated.

*Mr. Faivre moved to approve the Interim Special Use Permit, seconded by Mr. Lyle, and the motion carried unanimously.*

**ZONING TEXT AMENDMENT**-- Discussion of possible amendment to the Use Variation provisions of the Zoning Ordinance

Mr. Miller stated that the Planning and Zoning Committee, at its June 28, 2006 meeting, directed staff to draft a possible amendment to the text of the Use Variation regulations set forth in Section 10.02 of the Zoning Ordinance. Specifically, the Committee indicated a desire to see the criteria for granting Use Variation requests be modified to allow consideration of petitioners who acquired their properties prior to 1976. Accordingly, staff has drafted the following, in which new language is underlined:

**10.02 Use Variations:**

- A. The authority to approve or deny a request for a use variance shall be solely that of the County Board.
- B. Use Variations are only authorized to permit the construction of one single family detached dwelling on any lot less than forty (40) acres in size, which was legally recorded and existing prior to October 20, 1976 and the legal description of which has not been altered since that date by the addition or subtraction of land, had agricultural district zoning prior to September 18, 1991, and where no dwelling unit existed thereon on said date.
- C. The Hearing Officer shall hold a public hearing to hear an application for a use variation, as permitted above, and within a reasonable time after the close of such public hearing, the Hearing Officer shall make a written finding of fact and recommendation and shall submit the same to the Planning and Regulation Committee of the DeKalb County Board. In addition to considering the standards set forth in Section 10.1.1.C above in making such

written findings of fact and recommendation, the Hearing Officer shall consider the following findings of fact:

1. The petitioner must have purchased the property prior to December 31, 1993, or acquired the property prior to October 20, 1976;
2. The petitioner must demonstrate that the property was buildable under the applicable zoning regulations at the time it was purchased.

The Hearing Officer shall also consider such factors as:

3. If the property was purchased after October of 1976, did the petitioner pay a premium price for the property because it was buildable (for example, substantially more than agricultural land was selling for at that time)? and
  4. Whether the property is viable for agriculture or any other reasonable use.
- D. After considering the application and findings and recommendation of the Hearing Officer, the Planning and Zoning Committee shall forward the same to the County Board, who thereafter shall grant or deny any proposed variation, or refer it back to the Hearing Officer for further consideration. A Use Variation request receiving an unfavorable recommendation from the Hearing Officer shall not be passed except by the favorable vote of three-fourths (3/4) of all the members of the County Board.

Mr. Miller stated the language was drafted in consultation with attorney Richard Schmack, and is intended to address the issue raised by the recent Baumgartner application. He stated that the proposed amendment would allow not only consideration for building a house on parcels that were purchased and for which a premium price was paid, but parcels that had been acquired long ago. Mr. Miller said that it is unclear how many additional vacant lots could potentially become buildable under this amendment, but that it was intended to address the issue as expressed by the Planning and Zoning Committee.

Mr. Faivre stated that it appears that the 40-acre rule would be diminished by the new language, thereby weakening its effect in controlling the number of houses in the rural portions of the County. Mr. Miller agreed, noting that every exception to the 40-acre rule lessens its effectiveness. He reminded the Committee that staff had raised the possibility of eliminating the Use Variation provisions, and had noted that adding this criteria would increase the numbers of applications for Use Variations.

Ms. Vary asked whether or not, under the proposed language, one could be a subsequent owner of a parcel that was acquired prior to October 20, 1976 and seek a Use Variation? Mr. Miller stated that, as written, the petitioner for the Use Variation would have to be the one who acquired the land prior to 1976, not just a subsequent owner or second or third generation family member.

Ms. Vary continued by stating that she does not believe the County will be seeing a huge increase of

these types of applications even with the new language adopted. Mr. Miller stated that is the big question. Not only is how many more lots will qualify for Use Variations unknown, he pointed out that there will be an unknown number of applicants who do not meet the strict letter of this amendment who will seek to get approval based on a unique interpretation of the new criteria.

Mr. Schmack added that the amendment does not repeal any other criteria in place, the amendment only allows for unique situations like the Baumgartners.

Mr. Faivre reiterated his position on the issue and stated that he has nothing against the Baumgartners, however he cannot support language that will weaken the 40-acre rule.

*Mr. Slack moved to direct staff to proceed with the Text Amendment for the Use Variation criteria, seconded by Mr. Lyle, and the motion carried with five "yes" (Allen, Lyle, Stack, Steimel and Vary) and one "no" vote (Faivre).*

**STORMWATER MANAGEMENT PLAN & ORDINANCE** -- Status report on the work of the Stormwater Management Planning Committee in drafting a County-wide stormwater management plan and ordinance

Mr. Miller explained that the DeKalb County Board passed a resolution on May 17, 2006 creating the Stormwater Management Planning Committee. The Committee, comprised of staff members and engineers representing the County and the municipalities within the County, is charged with drafting a County-wide Stormwater Management Plan and Stormwater Management Ordinance. The Plan and Ordinance are needed in order for DeKalb County to be able to require stormwater management as part of development plans. They also represent an important first step in a more comprehensive approach toward stormwater management, flood control, and wetland and floodplain conservation.

Mr. Miller continued by stating that the Stormwater Management Planning Committee has met twice since its formation, on June 2 and July 11, 2006. The Stormwater Committee has agreed to an approach that emphasizes keeping the initial Stormwater Management Plan as simple as possible, focusing on the need to require stormwater management plans for new construction. The draft plan will emphasize future steps that are more comprehensive, including establishing watershed boundaries within the County, adopting new stormwater management regulations and practices that manage stormwater on a watershed basis, and eventually identifying, planning and financing important public improvements related to stormwater and flooding. These subsequent steps will occur as funding becomes available. In order to implement the first phase of the Plan, the Committee will be recommending the adoption of Stormwater Management Regulations. These regulations are largely the same as those currently in force in DeKalb County, but they must be brought into accordance with the State law that authorizes the creation of a Countywide Stormwater Management Plan. On completion of the Plan and Stormwater Management Ordinance, the Stormwater Management Committee will hold a required public hearing, and then forward the Plan and Ordinance to the County Board for consideration and approval. This item will probably come to the Board through the Planning and Zoning Committee.

Mr. Miller concluded by stating that the efforts of the Committee are to legitimize what the County

has already adopted with the Stormwater Management Regulations, and that communities within the County may apply for exemption status from the proposed ordinance should their regulations be equal to or stricter than those regulations proposed.

Mr. Steimel asked whether these proposals need to be approved by the State Offices in Springfield? Mr. Miller stated that the Department of Natural Resources, Division of Water Resources, needs to review and comment on the Plan prior to its adoption by the County Board. In fact, DeKalb County is the first county to have contacted the Department of Natural Resources regarding the proposed ordinance and regulations that were authorized in 2005 for a group of counties.

Mr. Steimel stated that he felt it's very important for the County to take these steps and create the County-wide Stormwater Management Regulations.

Ms. Vary stated that she felt it was important that the Stormwater Management Plan read that it is critical that the subsequent steps be taken. The Plan should make it clear that the engineers and staff who drafted the document feel that it is essential that the County move on to delineate watershed boundaries, adopt rules to manage stormwater on a watershed basis, identify needed public stormwater management projects, and design and fund those projects.

*(As this was informational in nature, no formal action was taken on this matter)*

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

**Respectfully submitted,**

**Roger Steimel**  
**Planning and Zoning Committee Chairman**

DH:dh

P:\Zoning\P&ZCommittee\Minutes\2006 Minutes\P&ZJuly06.wpd