

**PLANNING AND ZONING COMMITTEE  
MEETING MINUTES  
January 24, 2007**

The Planning and Zoning Committee of the DeKalb County Board met on January 24, 2007 at 7:00 p.m. in the East Conference Room located in the DeKalb County Administrative Building. In attendance were Committee Members Roger Steimel, Marlene Allen, Eileen Dubin, Vince Faivre, Michael Haines, Anita Turner, and Pat Vary, and staff members Paul Miller and Derek Hiland. Audience members included County Board Member Ken Anderson, Greg Millburg, Alejandro and Anne Benavides, James and Raquel Whitney, Judith Baumgetener, Tammie Ring, Richard Schmack and Dave Horras.

Mr. Steimel, Planning and Zoning Committee Chairman, called the meeting to order, and noted that all members from the Committee were present. He welcomed new Committee members Michael Haines and Anita Turner.

**APPROVAL OF AGENDA**

*Mrs. Turner moved to approve the agenda, seconded by Ms. Vary, and the motion carried unanimously.*

**APPROVAL OF MINUTES**

*Mr. Faivre moved to approve the amended minutes of the November 29, 2006 meeting of the Planning and Zoning Committee, seconded by Mrs. Allen, and the motion carried unanimously.*

**SPECIAL USE PERMIT** -- Request of Alejandro and Anne Benavides for approval of a horse boarding business, including riding lessons, on property located at 17325 Jericho Road in Squaw Grove Township, Petition SQ-06-22

Mr. Miller stated that Alejandro and Anne G. Benavides filed a petition for approval of a Special Use Permit in accordance with Section 9.02.B.2 of the DeKalb County Zoning Ordinance to allow the operation of a public stable, including horse-riding lessons, on property located at 17325 Jericho Road. The 7.6-acre subject property is located on the north side of Jericho Road, approximately 2,600 feet east of East Sandwich Road, in Squaw Grove Township. The parcel is zoned A-1, Agricultural District. The DeKalb County Hearing Officer conducted the public hearing for the request on November 30, 2006, at which the petitioners presented evidence and testimony in support of the request for the Special Use and indicated that the business might accommodate a maximum of 15 horses being boarded. The petitioners also indicated that there is adequate room for parking of cars and horse trailers, and that riding lessons would be limited to one or two students at a time. One member of the public spoke in favor of the request, and none spoke in opposition. Mr. Miller concluded that the Hearing Officer has forwarded his Report and Recommendation, and recommends approval of the Special Use Permit.

Ms. Vary inquired whether or not the public bathroom should be addressed in the criteria for approval, to which Mr. Miller stated that the Building and Health Code requirements must be met if

the use is approved, and therefore a specific condition is not needed.

*Mr. Haines moved that the Special Use request be approved with the recommended conditions, seconded by Mrs. Dubin, and the motion carried unanimously.*

**ZONING TEXT AMENDMENT & SPECIAL USE PERMIT**-- Request of Racquel Whitney for approval of a change to the A-1 District regulations to include home daycare as a Special Use, and for approval of a Special Use Permit for home daycare on property located at 1818 Brickville Road in Sycamore Township, Petition SY-06-23

Mr. Miller stated that Racquel L. Whitney, part owner of 1818 Brickville Road, filed a request for a Zoning Text Amendment to establish, "day care home" as a Special Use in the A-1, Agricultural District. The petitioner has also petitioned for a Special Use Permit for the property located at 1818 Brickville Road in Sycamore Township, in reliance on the proposed Text Amendment. The single-family residential property is located at the northeast corner of the intersection of Brickville and Peace Roads, and is zoned A-1, Agricultural District. The Hearing Officer, Ron Klein, conducted a public hearing on the proposed Text Amendment and Special Use Permit on December 7, 2006, at which the petitioner explained the rationale and justification for the proposed Amendment to include "day care home" in the list of possible Special Uses in the A-1 District, indicating the need for day care services for parents commuting to places or work. It was suggested that adding the use would also present a business opportunity for stay-at-home moms. One person spoke in favor of the proposed Text Amendment, and none in opposition thereto. Mr. Miller clarified that making "day care home" a Special Use would mean the County Board would decide on a case-by-case basis whether or not each proposed use was appropriate in each proposed location, but also noted that the use is not in the A-1 District currently because such businesses are expected to be in places of higher residential concentration.

At the hearing the petitioner also gave testimony in favor of approving such a Special Use on the property at 1818 Brickville Road, noting that the property has two drive entrances to facilitate drop-off and pick-up of children, as well as a fenced in rear yard. The petitioner indicated that the day care business is regulated by the State and limited to not more than eight children, and that she is a licensed operator. Two members of the public asked questions and one spoke in opposition to the proposed use.

Mr. Miller concluded by stating that the Hearing Officer has submitted his Findings of Fact and Recommendations and recommends approval of both the Zoning Text Amendment and the Special Use Permit, with conditions. He noted that if the Zoning Text Amendment is not approved, the Special Use Permit cannot be approved. If the Committee is inclined to recommend approval of both, staff recommends the conditions suggested by the Hearing Officer, including: 1). There shall be no more than eight children at any given time; 2). The Petitioner shall have no employees working on the property; 3). The hours of operation shall be limited from 6:00 a.m.- 6:00 p.m. Monday through Friday; 4). The character of the property shall remain residential; and 5). The

Special Use Permit shall terminate at such time as the Petitioner no longer resides on the property or is no longer licensed for a day care center.

Mr. Haines stated that he did not see any reasons why day care homes should not be included as a Special Use in the A-1 Agricultural District.

Mrs. Dubin agreed and stated that the petitioner clearly illustrated the need for day care homes in unincorporated DeKalb County.

Mr. Faivre asked whether or not the Clean Air Act has any provisions regulating where day care homes and centers could and should be located. His query related to possible conflicts between day care homes and animal confinement or other agricultural activities that might generate odors. Mr. Miller pointed out that the Special Use designation still allows the County Board to review each petition on a case by case basis so that those possible conflicts could be evaluated. He also noted that "day care homes" are smaller in scale than "day care centers".

*Following no further discussion, Ms. Vary moved to amend the list of Special Uses in the Agricultural District by allowing day care homes to be listed alphabetically, seconded by Mrs. Turner, and the motion carried unanimously.*

Subsequently,

*Mrs. Allen moved to approve the request for a Special Use Permit for a day care home at 1818 Brickville Road with the recommended conditions, seconded by Ms. Vary, and the motion carried unanimously.*

**USE VARIATION** -- Request of Leonard and Judith Baumgartner for approval to build a house on a one-acre parcel located on the west side of East County Line Road in Cortland Township, Petition CO-06-24

Mr. Miller stated that Leonard and Judith Baumgartner, the property owners, have filed a petition for a Use Variation for a vacant one-acre parcel located on the west side of East County Line Road, approximately 2,000 feet south of Barber Greene Road, in Cortland Township. The petition is to allow the construction of one single-family detached dwelling on an agriculturally-zoned parcel of less than 40 acres in size. The subject property is zoned A-1, Agricultural District. A public hearing on the requested Use Variation was held by Hearing Officer Kevin Buick on January 4, 2007. The petitioners indicated that the vacant one-acre parcel had originally been a buildable lot when acquired, and that Mr. Baumgartner's mother had given the lot plus one other to the petitioners as compensation for their 10 years of labor on her farm. The petitioners built their house on one lot, and would like to give the other to their daughter and son-in-law as a buildable lot. Mr. Miller clarified that this is the first request for a Use Variation since the County Board amended the criteria to allow that a petitioner need not demonstrate that a premium price was paid for the lot. He

asserted that this financial consideration has in the past been the primary consideration of particular hardship on Use Variation requests. This change places an emphasis on the need to show a particular hardship that is not financial. At the hearing the petitioners responded that allowing a house on this property has been their intention from the time it was acquired, and that prior to the County changing the regulations in 1993, the property had substantial value as a residential lot. No members of the public spoke in favor of and none in opposition to the request. Mr. Miller concluded by stating that the Hearing Officer has submitted his Findings and Recommendation, in which he recommends approval of the Use Variation.

Ms. Vary stated that she wondered if this parcel could be utilized for any other uses because the Baumgartener Family owns the surrounding 168 acres. Ms. Vary questioned why an additional 39 acres could not be added to have a forty acre buildable lot. The petitioners responded that the surrounding land although owned in part by the family is in a trust held by other family members as well, and the other family members are not interested in gifting or selling 39 acres. Ms. Vary concluded by stating that she agreed with Mr. Faivre's stance that approving this Variation will have negative impacts on the 40 acre rule.

Mr. Steimel stated that he is going to support the Use Variation.

Mrs. Dubin asked Mr. Miller if the Use Variation were granted to the Baumgarteners, could they then turn around and sell the one acre lot to anybody as a buildable lot? Mr. Miller responded in the affirmative, and added that property owners come and go. Land use decisions that are made in consideration of the applicants rather than the merits of the application and the land use(s) can create problems for the County.

Mr. Haines wondered what would happen if in fact this new criteria for Use Variations turned out to have negative impacts on the 40 acre rule. Mr. Miller stated that the County Board can always go back and change it. However, Mr. Miller did point out that the Board has to be careful not to be arbitrary and capricious and give the appearance of changing the rules to satisfy or deny individual persons.

*Following no further discussion, Mrs. Allen moved to approve the Use Variation, seconded by Mrs. Dubin. A roll-call vote was called. Mrs. Allen, Mrs. Dubin, Mr. Haines and Mr. Steimel voted to approve the motion; Mr. Faivre, Mrs. Turner and Ms. Vary voted to deny the motion. The Motion carried with four "yes" and three "no."*

**SPECIAL USE PERMIT** -- Request of Conserve FS for approval of an expansion of a Special Use for agribusiness for property located at the west end of Adams Street in Clinton Township, Petition CL-07-02

Mr. Miller stated that Conserve FS, Inc. filed an application for an Amendment to a Special Use Permit in order to allow construction of additional storage space and continued operation of a seed

business located at 450 West Adams Street in Clinton Township. The subject property consists of three lots totaling approximately five acres, located on the west end of Adams Street adjacent to the corporate limits of the Village of Waterman. The property is zoned A-1, Agricultural District with a Special Use designation for the agribusiness. The Hearing Officer, Kevin Buick, conducted a public hearing on the request on January 11, 2007, at which staff explained that the agribusiness has been on the property for many years and that the current Special Use designation was applied retroactively. This meant that there is no specific County Board ordinance for the use. Because the proposed new building will exceed 10% of the combined area of existing buildings on the property, an Amendment to the Special Use Permit is needed. The petitioner presented evidence and testimony in support of the request to expand the Special Use, explaining that the additional storage area is needed for seed. Discussions occurred at the hearing regarding the impacts of the use on surrounding properties, particularly the residential property to the south. Staff noted that, if approved, the petitioner would need to comply with applicable parking and stormwater management regulations as part of the Building Permit process. No members of the public spoke in favor of or in opposition to the request. Mr. Miller concluded by stating that the Hearing Officer has forwarded his Report and Recommendation, and recommends approval of the Amendment to the Special Use Permit with conditions.

Ms. Vary asked whether or not Conserve FS had made contact with the neighboring property to the south. Mr. Horras with Conserve FS stated that the homeowner had been contacted and both parties agreed that some sort of landscaping would be installed between the two properties.

Hearing no further discussion, *Ms. Vary moved to approve the Special Use Permit with conditions, seconded by Mr. Faivre, and the motion carried unanimously.*

**ZONING TEXT AMENDMENT** -- Request of DeKalb County for approval of amendments to the Sign Regulations of the Zoning Ordinance, Petition DC-07-01

Mr. Miller stated that the Planning, Zoning and Building Department staff, on behalf of the Planning and Zoning Committee of the DeKalb County Board, filed a petition for Amendments to Article 7, Sign Regulations, of the DeKalb County Zoning Ordinance. The proposed Amendments are intended to add regulations related to temporary signs, both on- and off-site, and "coming soon"-type signs for approved projects. The Zoning Text Amendments have been filed in accordance with the requirements of Section 10.04.C of the Zoning Ordinance. The required public hearing for this Zoning Text Amendment was conducted by Hearing Officer Kevin Buick on January 11, 2007, at which staff presented the petition and testified as to the rationale for adopting the three proposed amendments. One proposed Amendment would accommodate multiple on-site signs for seasonal, permitted and special uses in the agricultural district. The second proposed Amendment would allow "coming soon"-type signs for approved projects in the various zoning districts. The third amendment would allow temporary off-site signs for seasonal permitted and special uses in the agricultural district. One member of the public asked questions regarding the changes, and none spoke in favor of or in opposition to the request. Mr. Miller concluded by stating that the Hearing

Officer has filed his report and findings, and recommends approval of the Text Amendments.

Mr. Haines asked for clarification from staff regarding the recommendation that the County Board not approve the third amendment. Mr. Miller stated that as the current sign regulations do not permit any off-premises signage, and explained that approving certain off-premise signage could open the door for other signage not deemed desirable by the County. Mr. Miller cautioned the Committee that someone could argue that the County is becoming arbitrary and capricious regarding the Zoning Ordinance and now the proposed amendment is more subjective because this provision would allow for identification purposes only not for advertisement and the difference between the two can become hard to distinguish at times.

Ms. Vary stated that she agreed with staff but is willing to try out these new amendments of the Sign Ordinance to see how well they work.

*Following further discussion, Mr. Faivre moved to approve the Amendments to Article 7, Sign Regulations of the DeKalb County Zoning Ordinance, seconded by Mrs. Allen, and the motion carried unanimously.*

**KISHWAUKEE VALLEY WATER AUTHORITY** -- Discussion of proposed Kishwaukee Valley Water Authority

Mr. Miller gave a brief introduction regarding a petition that has been filed with the Circuit Clerk to include on the April ballot a proposal to establish the Kishwaukee Valley Water Authority (KVWA). The proposed Authority would be a new taxing body, and would have geographical boundaries that include parts of McHenry, Boone and DeKalb Counties. Within those boundaries, the Authority would have powers related to proposed new uses of underground water resources. In particular, the Authority would have the power to grant or deny permits for new high-use wells, such as those constructed by municipalities and certain industrial/manufacturing uses. The KVWA would have a wide range of other authorities related to conservation and oversight of ground water, including but not limited to creation of reservoirs, zoning of land, development approval, and policing and condemnation powers. Mr. Miller continued by stating that the KVWA boundaries would include all of DeKalb County, except the current municipal limits of the Cities of DeKalb and Sycamore. These boundaries are, however, apparently subject to change, either by the petitioners behind the proposal or by the Circuit Court. If approved, the Authority would exempt agricultural uses and individual single-family residential wells, but include other users of groundwater, in particular the other municipalities within the County. The exclusion of DeKalb and Sycamore would apply only to the current boundaries; territory annexed by either city in the future would be under the jurisdiction of the KVWA. This would mean that cities would have to receive the approval of the Authority before new municipal wells within its boundaries could be dug. Mr. Miller concluded by stating that given the potential impact the proposed water authority would have on growth and development plans and jurisdiction by the County and the municipalities within it, it is appropriate that the County Board consider taking a formal position on the proposal. The Planning and Zoning

Committee is requested to consider the issue and forward a recommendation on the Kishwaukee Valley Water Authority for consideration by the full County Board.

Ms. Vary stated that she favors a regional approach to ground water regulation, however, the three people that would comprise the KVWA Board would have more power than any municipality. Ms. Vary stated that she has more questions than answers regarding the KVWA.

Mrs. Turner stated that she agreed with Ms. Vary regarding the power of the three-person board, especially given that the majority of the registered voters in DeKalb County will not be voting on this governing body as it stands.

Mr. Anderson stated that eleven agencies met for a regional planning discussion on water authorities. This Ground Water Resource Taskforce was a Governor's Initiative and that County Board Chair Ruth Anne Tobias represented DeKalb County and will have more information by the time the Planning and Zoning Committee meets again in February.

Mr. Faivre stated that doing nothing is not the answer and if the KVWA is not the answer then what would be?

After further discussions, Mr. Steimel stated that the Committee needs to see what the Judge decides at the hearing on January 30, 2007, as more information would be helpful. Mr. Steimel stated that perhaps at the February meeting the Committee can have some hydrological experts and those involved with the KVWA make a presentation to the Committee or if Mrs. Tobias was available she could present her findings.

*As this topic was informational in nature, the Committee took no formal action other than to continue the item to the February 28, 2007 meeting.*

**YEAR-END REPORT** -- Review of FY 06 Year-End Report on activities of the Planning, Zoning and Building Department

Mr. 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. Discussion was held briefly regarding the number of building permits and value of construction in FY 06.

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

**Respectfully submitted,**

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

DMH:dh