

**PLANNING AND ZONING COMMITTEE
MEETING MINUTES
October 22, 2008**

The Planning and Zoning Committee of the DeKalb County Board met on October 22, 2008 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, Eileen Dubin, Michael Haines, Pat Vary and staff members Paul Miller and Rebecca Von Drasek. Also in attendance were Eric Kuntz, James Kuntz, Kimberly Bobka, and Aaron Ruder.

Mr. Steimel, Planning and Zoning Committee Chairman, called the meeting to order, and noted Committee members Vince Faivre and Anita Turner were absent.

APPROVAL OF MINUTES

Ms. Dubin moved to approve the minutes of the September 24, 2008 meeting of the Planning and Zoning Committee, seconded by Ms. Vary, and the motion carried unanimously.

APPROVAL OF AGENDA

Ms. Allen moved to approve the agenda, seconded by Mr. Haines, and the motion carried unanimously.

SPECIAL USE PERMIT

Mr. Miller briefed the Committee on the application for a Special Use Permit by Kimberly Bobka to allow a commercial kennel and dog training business on property located at 15408 Plank Road in Sycamore Township. The 1.2-acre parcel is located on the east side of Plank Road, approximately 1,220 feet south of the intersection with Moose Range Road. Mr. Miller informed the Committee that the required public hearing was conducted on September 18, 2008 by DeKalb County Hearing Officer Ron Klein. The petitioner provided testimony and exhibits in support of the requested Special Use, including that the business would not board more than five dogs belonging to customers, and that dog training generally takes place off site. A petition of support for the request was provided, signed by the four single-family residential neighbors along the east side of Plank Road. The business does not employ any persons other than the petitioner. Staff noted that the business began operation in advance of acquiring the Special Use Permit. He informed the Committee that the Health Department had no objections to the proposed use. He also noted that the Hearing Officer had submitted his findings, and recommended approval of the Special Use Permit. Mr. Miller concluded that, if the County Board approves the Permit, it should be conditioned on the business complying with the specifics set forth in the petitioner's application.

Ms. Vary expressed concern that when the property owner purchased the property she was falsely informed that the business could operate on the property. Mr. Miller responded that there may have been a misunderstanding, as five domestic animals are permitted but that taking in the animals for remuneration requires a Special Use Permit. Ms. Vary then asked if there was a way

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in which local realtors and attorneys could be better informed of the regulations. Mr. Miller did not believe this was feasible given the number of individuals involved in such an informational campaign and the numerous regulations that may need to be considered.

Mr. Steimel asked how the operations had been taking place since 2000 without the issue being reviewed by staff. He noted that quite a few of the recent Special Use applications originated as violation inquiries. Mr. Miller reminded the Committee that staff rarely initiates these inquiries unless a complaint is made, at which point staff is obligated to enforce the County's regulations.

Ms. Allen asked what was the complaint that initiated the violation inquiry. Staff explained that the complaint was generated because of the sign in front of the house, not due to dog barking or other nuisances.

Ms. Vary moved to recommend approval with the condition that the Special Use be operated as outlined within the application, seconded by Ms. Allen, and the motion carried unanimously.

Mr. Steimel noted the County Board would vote on the Ordinance at its November 19, 2008 meeting at 7:30 pm in the Gathertorium of the Legislative Center.

NONCONFORMITY VARIATION

Mr. Miller introduced the application by James and Eric Kuntz for a Variation for the property located at 10765 Watson Road in Clinton Township. He noted that the request is to waive the restriction of Section 8.04.C.2.a. of the DeKalb County Zoning Ordinance that allows a nonconforming residential building which is damaged to any extent to be replaced provided an application for a Building Permit is made within 180 days of the date of damage. The 1.5-acre subject property is located on the north side of Watson Road, approximately 3,100 feet east of State Rte. 23, and is zoned A-1, Agricultural District. The petitioners proposed to construct a new house on the subject property to replace a previous residence that was destroyed by fire in October of 2007. Mr. Miller explained that because the property is only 1.5 acres in size, its use as a residential property is nonconforming with respect to the regulations of the A-1, Agricultural District, which requires 40 acres for a farm residence. Section 8.04.C.2.a. allows that a nonconforming residential building, where the nonconformity was created by government action, which is damaged to any extent may be replaced provided an application for a Building Permit is made within 180 days of the date of damage. That six-month period expired in April of 2008. Section 8.11 of the Zoning Ordinance allows that Variations from the provisions of Article 8 may be granted by the County Board following a public hearing before the Hearing Officer. Mr. Miller noted that the DeKalb County Hearing Officer Kevin Buick conducted a public hearing on September 25, 2008 regarding the petition. He also noted that the property had a house on it for many years. After the fire, the petitioners attempted to get plans drawn up for the replacement house, but they were delayed first by their insurance company and then by the need to adjust the plans for the house due to a high water table on the property. Lastly Mr. Miller noted that the Hearing Officer had submitted his report and recommended approval of the requested Variation.

Mr. Steimel noted that six months following an disaster like a house fire seemed like too short of an amount of time to respond. He also noted that there had been at least two other petitioners with the same problem meeting the six-month time restriction.

Mr. Haines asked if approval could also have a stipulation that the Building Permit application be made in the next six months. Mr. Eric Kuntz responded that due to the requirement to spend the insurance money within a year from the date of damage, he had to purchase a replacement home, which will now need to be sold in order to rebuild the home at the Watson Road property. He also stated that they would not leave the property in an abandoned condition.

Mr. Haines explained to the Kuntzs that he was sympathetic to their plight and all of their recent hardships, but he emphasized that left open ended for an indefinite amount of was too lenient given the rarity of allowing new residences to be constructed on properties under 40 acres in size. Mr. Steimel suggested one year from the date of the Variation approval by the County Board. Mr. Eric Kuntz asked that considering market conditions he would like the County to grant him two years in which to make the application for building the replacement home.

The Committee briefly discussed that reasons for a time limit on seeking the Building Permit application. Mr. Steimel mentioned that the Committee may need to review the 180 day requirement. Mr. Haines suggested that the difficulty he was having with this and similar issues was when the market appeared to be driving the regulations rather than the regulations being accepted as the rules governing the process.

Ms. Vary moved to recommend approval of the Variation with the condition that the Building Permit application be made within two (2) years of the County Board's approval, seconded by Ms. Allen, and the motion passed unanimously.

Mr. Steimel noted the County Board would vote on the Ordinance at its November 19, 2008 meeting at 7:30 pm in the Gathertorium of the Legislative Center.

Mr. Steimel revisited his concern that 180 days from the date of damage was too short. Mr. Haines also mentioned his concern that the market not dictate how regulations are applied. Mr. Miller noted that this issue was a difficult balance between fairness and compassion. He added that the issue of whether or not the six-month restriction should be extended to nine or 12 months could be taken up by the County as part of the revisions to the Zoning Ordinance that will accompany an update to the Unified Comprehensive Plan in 2009.

ZONING TEXT AMENDMENT

Mr. Miller briefed the Committee on the Text Amendment to revise the Sign Regulations within the Zoning Ordinance to allow for signs promoting municipal activities and events to advertise within unincorporated areas. He informed the Committee that the required public hearing for this Zoning Text Amendment was conducted by Hearing Officer Ron Klein on October 2, 2008.

Staff presented the petition and testified as to the rationale for adopting the proposed amendment at the public hearing, including that there is currently no provision for the placement in unincorporated DeKalb County of signs advertising social and amusement events and activities that will take place within a municipality. Mr. Miller noted that the County had received requests for approval of such signs and the proposed Amendment would accommodate the need while imposing reasonable restrictions.

Mr. Steimel noted that this issue was discussed at the August 27, 2008 Committee meeting.

Ms. Vary asked why the signs would be allowed for nine (9) months intervals. Mr. Miller responded that this was in keeping with the original intent of the temporary sign regulations for seasonal uses within the agricultural district. He then pointed out that organizers for community events are generally interested in getting their \$100 deposit back, which is only returned once the signs are removed. Additionally, he noted that on the Sign Permit applications, the dates for the sign installation and removal are requested so staff will note if a sign request is for an usually long amount of time. Lastly, he pointed out that the issue could be readdressed if signs become a nuisance in the future.

Ms. Vary asked if all off-premise signs were assumed to be commercial. Mr. Miller responded that the noncommercial signs are allowed with the permission of the property owner, as a First Amendment right. Temporary off-premise signs generally advertise a seasonal event or service. He then relayed that the County was recently approached by an NIU student who would like to display a sculpture at Fairview and Peace Road. This too would be a freedom-of-speech issue.

Mr. Haines moved to recommend approval of the Text Amendment, seconded by Ms. Allen, and the motion carried unanimously.

ZONING TEXT AMENDMENT

Mr. Miller introduced the proposed Amendment related to accessory buildings and structures, and explained that the required public hearing for the Zoning Text Amendment was conducted by Hearing Officer Ron Klein on October 2, 2008. Staff presented the petition and testified as to the rationale for adopting the proposed amendment at the public hearing, noting that there was some confusion in the existing Zoning Ordinance between regulation of accessory buildings and of accessory structures. Mr. Miller highlighted that the amendments were intended to make it clear that typical accessory structures, including flag poles, decorative and landscaping structures, and lawn furniture, are permitted in front yards, but accessory buildings are to be in the rear yard. He also noted that at the request of the County Engineer, the Accessory Structure regulations would also be amended to specify that the supports for mailboxes should be of the “break-away” type as a public safety measure.

Mr. Steimel noted that this issue had also been discussed at the August 27, 2008 Committee meeting.

Ms. Vary noted that there had been a slight change removing the information about the 25 square inches or less. Mr. Miller noted that the new language calls for a 4" x 4" post or its equivalent. The standard of 25 square inches is an example of such equivalency, and so is not needed in the regulation.

Ms. Dubin moved to recommend approval of the text amendment, seconded by Mr. Haines, and the motion carried unanimously.

NOVEMBER-DECEMBER MEETING DATES

The Committee then briefly discussed the next two months scheduled meetings, noting that they both landed on evenings prior to holidays. The Committee decided to cancel the regularly scheduled November and December meetings and instead meet on Monday, November 24, 2008 at 6:00 pm.

The next meeting of the Planning and Zoning Committee is scheduled for November 24, 2008 at 6:00pm in the Conference Room East.

ADJOURNMENT

Mr. Haines moved to adjourn, seconded by Ms. Dubin, and the motion carried unanimously.

Respectfully submitted,

Roger Steimel
Planning and Zoning Committee Chairman

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