

**PLANNING AND ZONING COMMITTEE
MEETING MINUTES
June 24, 2009**

The Planning and Zoning Committee of the DeKalb County Board met on June 24, 2009 at 7:00 p.m. in the Conference Room East located in the DeKalb County Administration Building. In attendance were Committee Members Ken Andersen, Ruth Anne Tobias, John Hulseberg, Marlene Allen, Pat Vary, Michael Haines, Larry Anderson, and Stephen Walt, and staff members Paul Miller and Rebecca Von Drasek. Also in attendance were Carolyn McQuillan, Peter Smith, Mel Hass, Mr. Lowery and Mr. Rosene.

Mr. Andersen, Planning and Zoning Committee Chair, called the meeting to order, and noted that all members were present.

APPROVAL OF AGENDA

Ms. Tobias asked that an additional discussion item be added to the agenda regarding the proposed expansion of the DeKalb County Landfill.

Mr. Anderson moved to approve the agenda as amended, seconded by Ms. Vary, and the motion carried unanimously.

APPROVAL OF MINUTES

Ms. Vary moved to approve the minutes of the May 27, 2009 meeting of the Planning and Zoning Committee, seconded by Mr. Walt, and the motion carried unanimously.

SPECIAL USE PERMIT

Mr. Miller explained that Carolyn McQuillan, owner of Basketcases Unlimited, filed a petition for a Special Use Permit to allow the operation of a basket weaving school and a country store on property located at 26271 Malta Road in South Grove Township. He noted that because the use has been in place on the property for nine years, it was illegal, nonconforming, and that a Special Use Permit was needed to allow it to continue to operate. Mr. Miller mentioned that the use was considered large-scale agritainment because it exceed 600 sq. ft. of gross floor area. The required public hearing was conducted on June 4, 2009 by DeKalb County Hearing Officer Ron Klein, at which the petitioners provided testimony and exhibits in support of the requested Special Use. Mr. Miller iterated that minor improvements to the site would be made to meet County requirements and that Building Permits for the structures that are devoted to the use must be sought retroactively. He informed the Committee that the Hearing Officer had submitted his findings, and recommended approval of the Special Use Permit with conditions.

Mr. Haines stated that he felt the hours of operation recommended by the Hearing Officer were too specific. Mr. Miller asserted that these hours are a protection for both the proprietor and the neighbors, as they avoid confusion about when the use can take place. He pointed out that the Committee could adjust the hours of operation if it saw fit, but suggested that some restriction

was appropriate. He also noted that there was some flexibility in terms of the actual hours of operation of the business, provided that the deviation did not generate a complaint from neighbors.

Mr. Anderson declared that he had attended school with Mrs. McQuillan and would recuse himself if the Committee asked him to do so. He added that he felt he could be impartial.

Mr. Miller emphasized that the Hearing Officer's provisions were discussed during the public hearing with the petitioner.

Peter Smith, attorney for the petitioner, pointed out to the Committee that some of the hours written into the findings differed from the petitioner's agreement.

Mr. Haines suggested that the Committee remove the hours and wait until there is a problem. He noted that he felt like limiting the hours was micro-managing. Mr. Miller countered that these types of reasonable conditions are typically placed on Special Use Permits.

Mr. Andersen asked whether the Special Use would be associated with the operator or the property. Mr. Miller answered that the Special Use goes with the land. Mr. Andersen asked if the business owner could then sell the business, and staff indicated that she could and that future owners would be held to the approved Special Use Permit.

Mr. Andersen noted that waivers regarding the parking area were necessary, noting that during a recent visit to the site he felt that paving would detract from the site's aesthetics. Mr. Miller noted that the waivers for these types of operations were generally granted in the A-1 District. He added the regulations were necessary in some instances and provided the Committee with the John Deere dealership example. Mr. Miller noted that parking for customers was paved but that farm equipment could be stored on gravel.

Ms. Vary noted that the site plan and narrative list a different number of parking spaces and that the driveways in the aerial did not match the site plan. Mr. Miller noted that the number of parking spaces is determined by regulation and would be determined for the petitioner following approval of the use.

Mr. Haines asserted that he preferred no restriction on hours.

Ms. Vary responded that she thought that specifying hours of operation would protect the neighbors. She suggested hours of 9:00 a.m. to 10:00 p.m.

Mr. Andersen clarified that the 9:00 am to 10:00 pm restriction would be seven days a week. Ms. Vary agreed, noting that this would allow more hours than the Hearing Officer had placed but still offer some limit for the neighbors.

Mr. Andersen noted for the Committee that the site was surrounded by trees and not in close proximity to any other residences.

Mr. Haines moved to approve the requested Special Use Permit, with the conditions by the Hearing Officer but no restriction on hours of operation, seconded by Mr. Walt. The motion failed on a vote of two "yes" and six "no."

Ms. Vary moved to approve the Special Use Permit, with the conditions by the Hearing Officer except that hours of operations be restricted to between 9:00 a.m. and 10:00 p.m., seconded by Ms. Tobias. The motion carried with a vote of six "yes" and two "no."

SPECIAL USE PERMIT AMENDMENT

Mr. Miller briefed the Committee on the application by the Ohio Grove Cemetery Association for a Special Use Permit to allow an expansion of the existing cemetery located on the north side of Barber Greene Road, approximately 1,100 feet west of Airport Road, in Cortland Township. He noted that the property is zoned A-1, Agricultural, with a Special Use Permit to allow for the operation of a cemetery, and explained that the proposal would add two acres of land to the east side of the cemetery. The required public hearing was conducted on June 11, 2009 by DeKalb County Hearing Officer Ron Klein, at which the petitioner provided evidence, testimony and exhibits for the proposed cemetery expansion. Mr. Miller explained that the cemetery has a Special Use Permit that was applied retroactively since the cemetery pre-dates zoning in the County. He emphasized that the requested Special Use Permit would be for not only the two-acre expansion area located on the east side, but also for the existing cemetery. The Hearing Officer submitted his findings and recommended approval of the Special Use Permit. Mr. Miller reminded the Committee that any approval of the Special Use Permit should be conditioned upon the project being constructed in substantial conformance with the plans and documents submitted by the petitioner as part of the application.

Ms. Vary noted that the Soil and Water Conservation District's report mentioned hydric soils in the northeast corner of the additional two acre piece. Mr. Miller noted that a condition of approval can require that the petitioner apply for and receive a Site Development Permit prior to using that portion of the site for burials plots.

Mr. Andersen noted that he visited the site following a heavy rain and had not observed wet conditions or standing water.

Following further discussion, *Mr. Walt moved to recommend approval of the Amendment to a Special Use Permit, with the condition that the Special Use be operated as outlined within the application and that the property owner seek a Site Development Permit prior to utilizing the northeast area of the property for burials, seconded by Ms. Anderson, and the motion carried unanimously.*

SPECIAL USE PERMIT AMENDMENT

Mr. Miller stated that Kimberly Bobka, the property owner, has filed a petition for an Amendment to a Special Use Permit that allows a commercial kennel and dog training business on property located at 15408 Plank Road in Sycamore Township. He explained that the Special Use Permit for the kennel and dog training business was granted by Ordinance 2008-17 on

November 19, 2008, and noted that the petitioner is now proposing to expand the business by construction of a new accessory building that would contain the kennels and training facility. The required public hearing was held on June 11, 2009 by DeKalb County Hearing Officer Ron Klein, at which the petitioners provided testimony and exhibits in support of the requested Special Use, including that the business still would not board more than five dogs belonging to customers, and that dog training would continue to generally take place off site. Mr. Miller informed the Committee that a petition of support for the request was provided, signed by the four single-family residential neighbors along the east side of Plank Road. He noted that the application indicated that the business does not employ any persons other than the petitioner. The Hearing Officer submitted his findings and recommended approval of the Amendment to a Special Use Permit. Mr. Miller explained that if the County Board approves the Amendment, the conditions contained in Ordinance 2008-17 would still apply to the use, unless modified by the new ordinance.

Mr. Haines disclosed to the Committee that he had boarded his dog with the petitioner and would recuse himself if the Committee asked him to do so. He added that he felt he could be impartial.

Ms. Vary asked staff about the mention in the application of the side yard issue. Mr. Miller responded that the building would encroach into the side yard and that by the strict letter of the regulation the building is supposed to be completely behind the residence. Staff also explained that this type of variation was granted at the staff level as it is an administrative waiver.

Ms. Tobias observed that the building was quite large. Mr. Miller responded that the Hearing Officer made a similar observation during the public hearing but determined other neighbors had similar structures. He informed the Committee that the building would be checked for lot coverage, height, and other restrictions at the Building Permit application stage.

Mr. Andersen noted for the Committee that he had visited the site and that it had many trees which obscure the view from the street.

Ms. Vary asked what if any conditions were proposed? Mr. Miller responded that the only conditions were that the applicant meet the conditions of the previous Ordinance, and that the Special Use be operated in compliance with the submitted materials.

Ms. Vary moved to recommend approval of the Amendment to a Special Use Permit, with the condition that the Special Use be operated as outlined within the application and in compliance with previous approved conditions, seconded by Ms. Allen, and the motion carried unanimously.

DISCUSSION ITEM - Wind Farm Moratorium

Mr. Miller informed the Committee that the DeKalb County Board passed Ordinance 2003-07 in February of 2003, following its approval of a commercial wind farm. He explained that the Ordinance established a three-year moratorium on expansions to existing or approval of new commercial wind energy centers in the County. He noted the intent was to allow the County time to evaluate the real impacts of an existing and operating wind farm on surrounding properties and the County as a whole. The wind farm approved in 2003 was not subsequently

built, however, and the moratorium expired in February of 2006. Mr. Miller noted that the possibility of another moratorium on the expansion or approval of commercial wind farms in DeKalb County has been raised following County Board approval of the 119-turbine FPL Wind Farm.

Mr. Walt asked how three years had been determined as the appropriate time. Mr. Miller responded that the amount of time had been decided in 2003 and was related to the timing of property assessments appearing on property tax bills. Mr. Miller also noted that, as proposed, the project would need to be constructed prior to the start of the moratorium.

Ms. Tobias asked who would perform the evaluation. Mr. Miller replied that gauging the actual operations would require input from a variety of sources.

Mr. Hass, Mr. Lowery, and Mr. Rosene (members of the public) were present and expressed to the Committee their preference for a moratorium for at least three years if not longer. Mr. Hass expressed concern about noise pollution regarding the differences of between a linear pattern wind farm versus the random pattern found elsewhere. He suggested that the County purchase acoustic equipment to aid in the investigation of noise complaints.

Mr. Walt responded that the County was not in the wind farm business and would not purchase equipment, however, he noted that in the future the County may wish to hire experts to perform a sound analysis.

Mr. Hass also asked that the County Board to consider exempting the four townships (Milan, Shabbona, Afton, and Clinton) involved in the current project from any future wind development. He concluded by asking that a committee be created to perform the evaluation of the project, made up of individuals from a variety of backgrounds as well as neighboring property owners. He suggested that such an ad hoc committee could review the wind farm project over the entire three year period.

Mr. Anderson pointed out that he would be watching the project like a hawk and questioned the need for an additional committee.

Mr. Hass noted that an impartial committee would offset neighbor fears of bias on the part of County representatives.

Mr. Miller agreed that the draft ordinance does not codify the method by which the project would be assessed and could be amended to indicate the Committee's preference.

Mr. Hulseberg suggested his preference for a five-year moratorium.

Ms. Vary agreed that the assessment was important and should not start at the end of the three years but should begin immediately. She also emphasized that the evaluation should include both experts and neighbors. Ms. Vary noted that the moratorium could always be extended at a later date.

Mr. Miller also noted staff's reservations regarding a moratorium which would restricts a landowner from development of their property for such a long period of time.

Mr. Hass relayed information regarding the project in Story County, Iowa which was not supposed to expand. He claimed that there is now talk of adding turbines.

Mr. Andersen requested that the Committee reconsider the name "moratorium" and requested that it be referred to as a "temporary suspension". Mr. Miller offered to confer with the State's Attorney and would change the term provided there were no legal reasons to utilize the term "moratorium".

Mr. Miller suggested that, while doing a formal assessment of the various potential impacts of the FPL Wind Farm near the end of any moratorium is a good idea, the County does not have to bind itself to a particular form of assessment. By not saying that there shall be a committee or that staff shall do it or even that a consultant shall be hired, the County retains the option to do any of these, all of these, or something else.

Following further discussion, *Ms. Vary moved to forward an ordinance placing a temporary suspension on future wind farm projects for a period of three years, with a condition that the County evaluate and report on the real impacts of the FPL Wind Farm project, seconded by Mr. Anderson.*

Mr. Hulseberg moved to amend the motion from three years to five years, with reporting to be done at three and five years for comparison, seconded by Mr. Haines. The motion failed on a vote of "yes" and four "no".

The original motion passed on a vote of seven "yes" and one "no".

Mr. Haines noted that the evaluation could be similar to the ongoing groundwater discussions.

DISCUSSION ITEM - Landfill

Ms. Tobias mentioned to the Committee that the upcoming public hearing regarding the proposed landfill expansion required a committee of County Board members to oversee the public hearing process. She asked the Committee for volunteers and informed them that the public meetings would be held sometime in February.

Mr. Miller explained that the ad hoc committee for the landfill was required by state law for oversight of the siting process.

Mr. Hulsberg asked when the ad hoc committee would meet? Ms. Tobias responded that many of the meetings may be held during the day.

Ms. Tobias asked that everyone on the Committee consider signing up.

The Planning and Zoning Committee is next scheduled to meet July 22, 2009 at 7:00pm in the Conference Room East.

ADJOURNMENT

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

Respectfully submitted,

**Kenneth Andersen
Planning and Zoning Committee Chairman**

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