

**Planning and Development Committee
Minutes
December 19, 2016**

Members Present:

Brad Maxwell, Chairman
Kristen Novacich
Nick Petrillo
Larry Trucano
David Michael
Philip Chapman
Ray Wesley

Members Absent:

Mick Madison

Others Present:

Matt Brandmeyer
Derek Jackson
Andi Yancey
Breana Lamb
Stephen Heflin
Natasha Stellhorn
Jerry Walters
David Mueller
Joe Holecek

Approval of Minutes:

Chairman Brad Maxwell called the meeting to order at 4:30 p.m. and conducted roll call.

Ray Wesley made a motion to approve the minutes from October 14, 2016. Seconded by David Michael. Voice vote. All ayes. Motion approved.

Planning Coordinator's Report:

Derek Jackson introduced the Zoning Board of Appeals' findings of fact and recommendations for the five (5) zoning hearings held on December 1, 2016 and presented two minor subdivision requests. Mr. Jackson fielded questions from the Committee pertaining to the zoning cases and subdivision requests. Derek Jackson also provided the Committee additional information on zoning case Z16-0063, the petition of KSEM, Inc. and informed the Committee that there were citizens present to speak to the Committee regarding the KSEM, Inc. hearing.

Citizens Wishing to Address the Committee:

Natasha Stellhorn of Swarm Lane addressed the Committee in regard to the KSEM special use permit request. Ms. Stellhorn stated that this hearing has been drawn out since August and that there are five (5) adjoining property owners who have signed a petition against the request. Ms. Stellhorn stated that she feels that the Ketchams are trying to operate a manufacturing facility within an Agriculture District. Ms. Stellhorn stated that she has concerns with the ambiguity of the request and the changes that have been made to the initial request. Ms. Stellhorn also stated concerns with potential environmental impacts, aesthetic changes, noise, additional traffic and lighting, stormwater drainage, and property values. Ms. Stellhorn stated that she has filed a petition regarding the request with the County Clerk requesting a three-fourths vote for County Board Approval.

Matt Brandmeyer provided clarification on the protest petition Ms. Stellhorn had referred to, explaining that if the resolution was to move forward to County Board in the affirmative, it would need approval from three-fourths of the County Board members in order to be adopted.

Jerry Walters, attorney on behalf of David Mueller, spoke in regard to hearing Z16-0079, the petition of Arbon Hairston and Denise Lutes, requesting a variance in order to construct a fence and gate that will vary between five (5) and eight (8) feet in height. Mr. Walters explained that Mr. Mueller is the adjoining property owner and that he has been granted a SUP in order to operate a horse stable from the property. Mr. Walters explained that the fence and gate Mr. Hairston and Ms. Lutes are proposing would impose on a permanent fifty-foot (50') easement of record granted in 1988. Mr. Walters stated that the easement was perpetual and, to his knowledge, a property right. Mr. Walters stated that he is making a limited appearance to contest the jurisdiction of the Zoning Board of Appeals to take away property rights from Mr. Mueller. Mr. Walters stated that it is one thing to have a variance for fence height and size, but that it's another matter entirely for a gate to block access to Mr. Mueller's property. Mr. Walters stated that Mr. Mueller's business generates vehicular traffic and a gate would create a hardship in accessing the property with a truck and 25-foot horse trailer, adding that he is not sure how that could be solved. Mr. Walters stated that his primary concern is Mr. Mueller's property rights, explaining that he does not feel that the Zoning Board has jurisdiction to take away Mr. Mueller's free right of access granted by the deed. Mr. Walters stated that the petitioners should have been aware of the access easement as it is public record and should have come up in the title search. Mr. Walters reiterated that he does not believe the Zoning Board can take away Mr. Mueller's unfettered access to his property – or his guests or anyone else that he wants to have there and that erecting a gate takes that right away. Mr. Walters stated that he believes that this constitutes a taking and that, as far as he knows, that requires a condemnation case. Mr. Walters stated that he has filed a petition on the matter and a temporary restraining order was entered by agreement. He stated that they postponed the hearing until February 28 and that the order also stated that the judge wanted to see how the Board ruled. Mr. Walters again stated that he does not believe the ZBA has the authority to take away Mr. Mueller's free access and that, considering Mr. Mueller drives a 30-foot truck followed by a 25-foot horse trailer, he needs every bit of that access to be able to pull in to the property. Mr. Walters stated that there is also a safety issue created by stalling vehicles in the road in order to get through the gate. Mr. Walters stated that the proposed gate is 25-feet wide and that Mr. Mueller would not be able to fit through gate, thus constituting a taking of property. Mr. Walters stated that Derek Jackson said that the office was not taking a position on the matter, but that, as far as he was concerned, approving the request would be taking a position. Mr. Walters asked the board to approve the fence and deny the gate, stating that the gate is a civil matter that needs to be litigated in the courts. Mr. Walters offered pictures for members to view.

Ray Wesley inquired whether the access easement was considered, by definition, a public road.

Mr. Walters stated that he does not know the definition of a public road off the top of his head.

Mr. Wesley stated that this matter was worth looking into.

Kristen Novacich asked why the petitioners were not willing to gate only their portion of the driveway instead of blocking Mr. Mueller and his costumers, stating that the request did not seem fair.

Derek Jackson explained that the Mr. Hairston, the applicant, had stated at the on-site hearing that the proposed location was due to security concerns.

Matt Brandmeyer stated that it could be interpreted by the court that there is some sort of interference in a private agreement if the Committee were to move forward with the petition since we'd be favoring one party over the other. Matt stated that the most prudent action would be to postpone the decision until the civil matter is worked out. Matt also stated that the Committee has the option to move forward in either the affirmative or the negative. Matt stated that, according to our state's attorney, we would not be liable either way, reiterating that he felt the most prudent action would be to postpone the decision in order to not favor one party over the other.

Philip Chapman stated that it seems to him that Mr. Hairston has the right to secure his property but no one else's. Mr. Chapman stated that considering the questions raised by other Board members regarding public access and what constitutes a public road, he doesn't feel that he has enough information to make a full decision on the matter. Mr. Chapman stated that he did not feel compelled to approve any fence that includes a gate that prevents access to Mr. Mueller's property of business. Mr. Chapman explained that if the owner desires to build a fence with a gate that ensures his security without violating his neighbor's right to have access to his property or run a business approved

previously by the County, he would be willing to look at the design changes and type of fence proposed by the property owner.

Matt Brandmeyer informed the Committee that they may also impose conditions on the request, if they felt it was appropriate.

Mr. Walters stated that the court order defers the decision to the Board, although he doesn't feel that they have the authority to make the decision, and that he feels that postponing the item is just "kicking the ball down the road". Mr. Walters asked the Board to make a decision as soon as possible.

Old Business:

Chairman Maxwell explained that the applicants had requested that the Zoning Board of Appeals findings of fact and recommendation for zoning case Z16-0063 be tabled until February – at which time they will provide an additional update.

Kristen Novacich made a motion to table Resolution, Zoning Board of Appeals Findings of Fact, and Recommendation for Z16-0063, the petition of KSEM, Inc., until February. Seconded by Ray Wesley. Voice vote. All ayes. Motion approved.

New Business:

Kristen Novacich made a motion to approve Resolution, Zoning Board of Appeals Findings of Fact, and Recommendation for Z16-0075, the petition of Kevin and Teresa Franko. Seconded by Phil Chapman. Voice vote. All ayes. Motion approved.

Ray Wesley made a motion to approve Resolution, Zoning Board of Appeals Findings of Fact, and Recommendation for Z16-0078, the petition of Jim Stinchfield. Seconded by Phil Chapman. Voice vote. All ayes. Motion approved.

Kristen Novacich made a motion to approve Resolution, Zoning Board of Appeals Findings of Fact, and Recommendation for Z16-0077, the petition of Jeffrey Gause, with the condition that the Special Use Permit be made transferrable. Seconded by Nick Petrillo. Voice vote. All ayes. Motion approved.

Kristen Novacich made a motion to approve Resolution, Zoning Board of Appeals Findings of Fact, and Recommendation for Z16-0074, the petition of Gregory Kline. Seconded by Ray Wesley. Voice vote. All ayes. Motion approved.

Mr. Chapman asked Mr. Mueller if he has concerns with an eight-foot fence.

Mr. Mueller stated that his concern was with the gate, and that he does not care about the height of the fence.

Mr. Chapman stated that we were just talking about the fence and not the gate.

Chairman Maxwell asked that Mr. Chapman propose an amendment identifying that the variance is being granted for the fence only and to exclude the gate at this time.

Matt asked that, if the Committee were to act on the request, the condition be worded in such a way that would preclude the applicant from having to reapply for the gate should the civil matter be resolved. Matt clarified that approval of the variance would apply to both the gate and the fence.

Mr. Chapman asked if anyone had moved to include the gate. Mr. Chapman stated that if he were to make a motion, then the gate would be totally excluded.

Mr. Wesley asked what the reason would be to have the fence without the gate if the purpose is to secure the property, stating that he thought they should table the request for more information as he felt the Committee has more questions than answers at this point.

Kristen Novacich stated she did not see how the proposed structure would secure the property since it would only be erected along the west property line and would not enclose the property and that the gate and fence seemed to be aesthetic in nature.

Mr. Petrillo agreed, stating that he has a problem with the request.

Mr. Chapman asked if there was anything the Committee could do to help solve the dispute.

Mr. Walters stated that he did not think the issue could be settled easily as a practical matter.

Chairman Maxwell stated that the Committee should move forward with the vote cautiously, as they only getting Mr. Mueller's story.

Mr. Wesley stated that he does not feel the fence and gate will provide their stated purpose of securing the property and that he would like to table the request until more information is received.

Ray Wesley made a motion to postpone Resolution, Zoning Board of Appeals Findings of Fact, and Recommendation for Z16-0079, the petition of Arbon Hairston and Denise Lutes, until January 5, 2017 for more information. Seconded by Phil Chapman. Voice vote. Nick Petrillo, Larry Trucano, David Michael, Philip Chapman, Ray Wesley voted aye. Kristen Novacich voted nay. Motion approved.

Kristen Novacich made a motion to approve Jacob Prairie Subdivision – Minor Subdivision Plat. Seconded by David Michael. Voice vote. All ayes. Motion approved.

Kristen Novacich made a motion to approve Del Boca Vista Subdivision – Minor Subdivision Plat. Seconded by Phil Chapman. Voice vote. All ayes. Motion approved.

Chairman Maxwell asked Derek Jackson if St. Jacob Township was willing to accept the maintenance responsibilities for Carrollton Drive and Clayborne Court.

Derek Jackson stated that the Highway Department and the Township had inspected the road and found them to be acceptable to take over for long-term maintenance.

Kristen Novacich asked if St. Jacob had the man power for maintaining the streets.

Matt stated that the township is willing to accept the streets and is aware of their duties.

Larry Trucano made a motion to approve the Acceptance of Carrollton Drive and Clayborne Court into the Township Highway Maintenance System. Seconded by David Michael. Voice vote. All ayes.

Matt Brandmeyer explained that the Purchase Order Reports were generated through the purchasing department and detail our operational expenses for the month. Matt explained that the expenses have already been incurred and paid for, but that there is a procedural requirement for the Committee to sign off on the report and that it provides them a chance to inquire about any expenditures.

David Michael asked if the Data Processing Equipment was a monthly expense.

Matt explained that the expense was for a one-time lap top purchase.

Kristen Novacich made a motion to approve the Purchase Order Reports for November and December. Seconded by Nick Petrillo. Roll call vote. All ayes. Motion approved.

The Committee discussed potential meeting days and times. It was decided that the first and third Thursday of the month at 5p.m. in the County Board Room was a good compromise among Committee members.

Kristen Novacich made a motion that the Planning and Development Committee meet the first and third Thursday of each month at 5p.m. Seconded by Philip Chapman. Voice vote. All ayes. Motion approved.

Kristen Novacich made a motion to change the location of Planning and Development Committee meeting from the P&D Department Conference Room to the County Board Room. Seconded by Philip Chapman. Voice vote. All ayes. Motion approved.

Administrator's Report:

Matt Brandmeyer thanked the P&D Committee members who were able to meet last week to go over committee business. Matt said he appreciates they took time out of their busy schedules and looks forward to working with everyone. Matt provided an overview of a memo that was provided in the packet regarding Committee business. Matt introduced several department staff members who were in attendance including Kim Petzing, Eve Druke, Steve Brendel, and Breana Lamb.

Matt provided an overview of budget items for the year. He said that other than personnel and operations cost there are a few ongoing programs and projects that require the committee's review. He said in January he'll have several of the budget items on the agenda for the second meeting in January. He said after the Committee's review, the items will either go to the Finance or Grants Committees and then to the County Board for final review and approval.

Matt said items for the sustainability and green schools program will include the roll-off program, recycling bins, and the yearly green schools allotment. He said the roll-off program is around \$145,000 and the bins will be less than \$20,000. He said the county provides \$150,000 in grants to municipalities and townships and \$75,000 to fund the Green Schools program. He said all of the programs are funded through landfill fees. He said the environmental grant process for municipalities and townships is just beginning, and the committee can look forward to reviewing the funding request in March. He said the school grants won't be available until the Fall after the summer break.

Matt said they have ongoing initiatives to update the comprehensive plan and completing stormwater management and watershed plans. Matt handed out materials regarding the initiatives. (Editor's note: all materials were made a part of the meeting record and are available upon request.) Matt said the Plan Commission has been working on the comprehensive plan for a year. He said the first year primarily entailed issue identification, development of the planning scope, and a public engagement strategy. Matt said this year the plan will be written and public engagement steps will be undertaken. He said an RFQ was advertised in October. He said 5 consultants responded, and the Commission made a recommendation to hire the most qualified firm. Matt said the contract amount will be around \$65,000, which is \$10,000 less than what he budgeted. Matt said he'll have a full report and the recommendation for the January meeting.

Matt said the department is working on several watershed plans, including Cahokia Creek (Holiday Lake, Edwardsville, Collinsville) and the American Bottom (Granite City, Pontoon Beach). He said the planning process includes a citizen flood survey, open houses, and stakeholder meetings. He said the overall objective for the plans is to identify issues and develop a list projects and recommendations for each watershed. He said the plan can be used as a decision-making tool rather than reacting to problem spots like they've done in the past. He said the watershed plans are extraterritorial and include multiple jurisdictions, which is necessary because what one town does affects the other, and the geography contains a complete drainage area. He said the municipalities and townships have been very supportive of the endeavor. Matt said the countywide plan and the Silver Creek Plan are 90% complete and are being forwarded to the Stormwater Commission for review and approval. Matt said they have an existing contract with Heartlands Conservancy for not-to-exceed \$45,000 which is renewable for FY17.

Through an inter-agency agreement, the Planning and Development Department provides the Madison County Soil and Water Conservation District with \$39k in order to provide NPDES inspections. Matt said there is also \$150,000 budgeted to partly fund new culverts under IL Rte. 162 to drain Long Lake. He said the amount will cover about 1/3 the cost of the project in a partnership with Pontoon Beach and MESD. He said the project is a direct result of the flooding that happened as a result of the previous December rains, particularly in northern part of Pontoon Beach in "Tank Town." Matt said he's going to forward the request to the Stormwater Commission first before bringing it to P&D, so they'll likely see it in February.

Adjournment:

Kristen Novacich made a motion to adjourn the meeting. Seconded by Ray Wesley. Voice vote. All ayes. Motion approved.

Meeting adjourned.

