

**Planning and Development Committee
Meeting Minutes for June 1, 2017**

Members Present:

Brad Maxwell, Chairman
Nick Petrillo
Larry Trucano
Philip Chapman
Ray Wesley

Members Absent:

David Michael
Mick Madison
Robert Pollard

Others Present:

Matt Brandmeyer	Derek Baugh
Andi Yancey	Ruth Baugh
Breana Lamb	Dan & Dee Eberhart
Chris Doucleff	Scott Cousins
Eric & Kimberly Heberer	Tim Sherlock
Eddie Lee	David Mueller
Arthur Lee Baugh	

Call of Meeting to Order and Roll Call:

Chairman Brad Maxwell called the regular meeting of the Planning and Development Committee to order at 5:00 p.m. and conducted roll call.

Approval of Minutes:

Mr. Petrillo made a motion to approve the minutes from May 18, 2017. Seconded by Mr. Trucano. Voice vote. All ayes. Motion approved.

Zoning Petitions and Subdivision Overview:

Mrs. Yancey introduced Z16-0079, petition of Arbon Hairston and Denise Lutes, requesting a variance in order to construct a fence in the front yard setback that will vary in height between five (5) and eight (8) feet instead of the allowable four (4) feet. Mrs. Yancey stated that the adjoining property owner to the east, Mr. Mueller, came out in opposition because Mr. Mueller and Mr. Hairston have shared access and he did not want the gate placed in the easement. Mrs. Yancey said that it has been postponed since January pending court action to decide whether or not the easement could be gated. Mrs. Yancey stated that the court case was dismissed at the request of Mr. Hairston and Mr. Mueller as they came to an agreement stating that neither of them would obstruct the easement of record with any type of fence or other obstruction. The ZBA recommended approval. The Planning and Development Department recommended approval with the condition that it is for the fence only and not for any gate or other obstruction.

Mrs. Yancey discussed Z17-0020, petition of Arthur Baugh, owner of record, and Derek Baugh, applicant, requesting a variance in order to construct a metal accessory structure in an "R-3" Single-Family Residential District, a variance in order to construct an accessory structure in the front yard setback area, and a variance in order to install a private sewage system on a lot that is 14,800 square feet instead of the required 40,000 square feet. Mrs. Yancey stated that since the initial request was made, Mr. Baugh has made amendments to the type of private sewage system he will install, he is now going to have an aerator to a lateral field.

Mr. Chapman stated that it appears to him that if the property owner was not granted some sort of variance, the property would not be able to be developed due to the lot size and five parcels of similar size and character have already been developed and have some sort of private sewage system on them. Mrs. Yancey stated that is correct. Mr. Chapman asked

if the objections have been withdrawn and Mrs. Yancey stated that the concerns have not been withdrawn. Mr. Chapman asked Chris Doucleff if the newly proposed sewage systems is high tech and will suffice for the lot. Mr. Doucleff stated that was the case. Mr. Chapman pointed out that the new system will need a few inches of topsoil added underneath the lateral fields. Mr. Doucleff stated that was the case. A discussion ensued about the proposed out building. Mrs. Yancey stated that the concerns about the out building was the amount of impervious surface on the lot. Mrs. Yancey stated the applicant would be within the lot coverage standard, which is 30% of the lot. The ZBA recommended approval and staff recommended a few conditions of approval. Mrs. Yancey read the conditions aloud.

Mrs. Yancey introduced Z17-0027, petition of Craig Cooper, owner of record and applicant, requesting a variance in order to construct a metal accessory structure in an "R-3" Single-Family Residential District. Mrs. Yancey stated the applicant was informed that there were changes in regulation in regard to metal structures in residential districts but the applicant wanted to continue with his request. There was not any opposition and the ZBA recommended approval.

Chairman Maxwell stated that he would like to see the Committee consider a condition to refund the applicant's zoning hearing application fee providing that the County Board approves the text amendment that deregulates metal accessory structures in residential districts.

Mrs. Yancey discussed Z17-0026, petition of Gary Range, owner of record, requesting a variance in order to construct a new residence twenty (20) feet from the east property line instead of the required fifty (50) feet. Mrs. Yancey stated the property width is 159 feet and has made it difficult for the property to be developed. There was not any opposition to the request and ZBA recommended approval.

Lastly, Mrs. Yancey discussed Z17-0023, petition of Emile E. Damotte, applicant and owner of record, requesting a zoning map amendment in order to rezone a tract of land from "R-3" Single-Family Residential District to "M-1" Limited Manufacturing District. Mrs. Yancey stated the lot is currently dual zoned and the structures were placed on the property in 1940's and, therefore, are grandfathered. However, the uses have changed over the past few years and the current use is not in compliance with the zoning ordinance. Mrs. Yancey stated there were several neighbors who spoke in opposition the request and there was a 32-signature petition in opposition of the request.

Mr. Chapman asked why the neighbors are in opposition. Mrs. Yancey stated that they cited concerns with the condition of the property, junk and debris on site, public urination, and erratic business hours within the evening hours.

Mr. Wesley asked if the business would close if the committee denies the request. Mrs. Yancey stated that was the case. Mr. Brandmeyer stated some commercial use will be allowed to continue, but they would not be able to have storage within the yard. Mr. Brandmeyer stated that it is zoned residential but obviously the building is commercial and was built prior to the adoption of the zoning map, therefore they are allowed to continue their commercial use, it just cannot expand or change use.

Mr. Wesley asked if the Committee is reviewing the request because they want to change the use. Mr. Brandmeyer stated that they want to come into compliance with the zoning ordinance. Mr. Brandmeyer stated that a baseline needs to be established as far as the extent of the grandfathering on the property. He said that aerial photography helps with that determination, and the most obvious consideration is they can continue to use the structure for the business but not the yard.

Mr. Wesley asked if the commercial activity continued, it would have to be within the building. Mr. Wesley asked if there were bathrooms on site. Mrs. Yancey asked Mr. Damotte to speak to Mr. Wesley's inquiry. Mr. Damotte stated that the public urination occurred when he was in the process of evicting the tenant. Mr. Damotte stated there are two bathrooms on the property and that it was unacceptable behavior.

Mr. Wesley asked what can the Committee do, assuming the development is approved and issues continue. Mr. Brandmeyer stated that the Planning and Development Department also handles code enforcement and would be able to issue zoning violations. Mr. Brandmeyer also stated that code enforcement is complaint driven and they would have to receive a phone call before they would be involved.

Mr. Petrillo stated that if the committee allows the request, they are allowing for all other types of businesses to develop there and it could have an effect on the residents in that area. Mrs. Yancey stated that the adjoining properties

to the north are zoned M-1. Mr. Petrillo stated that other M-1 business might want to locate there, which could negatively affect the residents. Mr. Wesley stated that other parcels would have to be rezoned and would go through a public hearing process.

Mrs. Yancey stated that with an M-1 zoning designation, the Planning and Development Department can enforce M-1 screening standards which currently is not an option with an R-3 zoning designation.

Mrs. Yancey introduced Emergency and Temporary Occupancy Request – 5567 Moro Road, Moro, Illinois. Mrs. Yancey stated that under special circumstances, property owners can apply to place a mobile home temporality at a building site for no longer than a year. Mr. and Mrs. Eberhart plan on building a single-family dwelling at 5567 Moro Road but they are also in the middle of remodeling their current dwelling for sale, therefore they need the emergency placement.

Mrs. Yancey introduced Herberer Estates Subdivision. Mrs. Yancey stated that the applicant is proposing to split the parcel where they want to locate their dwelling from the remainder of the parcel with a proposed access easement.

Chairman Maxwell asked if there is access to lot one from the north. Mrs. Yancey stated there is not. Mr. Chapman asked how lot 1 will be accessed if they were to sell the land. Mrs. Yancey stated that lot 1 is not being developed. Chairman Maxwell stated that the lot could be developed if the subdivision is approved. Mrs. Yancey stated that if someone were to develop on either parcel they could. It was Mrs. Yancey's understanding that they plan to continue the existing uses of the property and they are doing the subdivision for finance purposes because the bank would not finance their new home with all of the acreage.

Citizens Wishing to Address the Committee:

Tim Sherlock spoke in regard to Z17-0023. Mr. Sherlock stated that the applicant rents the property out and the neighbors have dealt with rift raft ever since the owner had purchase the property. Mr. Sherlock described the condition of the property when the two previous tenants where there, he explain the property was full of junk and debris. Mr. Sherlock stated that the current tenants cleaned off the property before the zoning hearing and there are cars already returning to the property. Mr. Sherlock described the type of vehicles that have returned to the property. Mr. Sherlock stated the owner put up a six (6) foot fence prior to the zoning hearing, which is not the height required for an M-1 district. Mr. Sherlock asked that the Committee take into the consideration the neighbors who are against the rezoning in their decision.

Emile Damotte stated that there were two commercial properties built on the property in 1940. Mr. Damotte stated there was a clerical error and the property was zoned R-3 by mistake. The past owners house on the corner of the street was what should have been zoned residential. Mr. Damotte stated he is requesting to fix the clerical mistake that was made. Mr. Damotte stated he intends to abide by the M-1 regulations. Mr. Damotte stated that the fence that was erected is only six (6) feet because the property is zoned R-3 and he could not put up a taller fence and he would be happy to put up a taller fence.

Mr. Wesley asked why it has taken 50 years to try and correct it this issue. Mr. Damotte stated that when he bought the property in 2011, he believed it was zoned M-1 and afterwards he found out it was R-3. Mr. Damotte stated that the previous owner, Hap Schroeder, did not care if it was R-3 or not because no one was bothering him about it being R-3 and he continued to operate it as a commercial warehouse.

Mr. Brandmeyer stated that he takes issue with Mr. Damotte saying there was a clerical error. He stated that every ten (10) years, the County readopts the zoning map. Mr. Brandmeyer stated that if there are issues that need to be addressed, there is always ample opportunity by the property owner to do so. Mr. Brandmeyer said that when the County readopts the map it affirms that the zoning in place is the correct zoning. He said the process is notorious with a public hearing and notice in the paper. Mr. Brandmeyer said he wanted to make sure the committee knew that it wasn't something that had changed a few years ago and was not addressed.

Mr. Chapman asked if it was true that someone made a mistake and the zoning was flip-flopped incorrectly. Mr. Brandmeyer said he had not heard that. Mr. Brandmeyer said that Mr. Damotte's statement is a potential legal issue that the County would have to defend.

Mr. Wesley asked if it was normal to take six (6) years to address the zoning issue. Mrs. Yancey stated that the Planning and Development Department is complaint driven and the zoning map is not reviewed every day to ensure that business are zoned correctly, but that a complaint usually must be received. Mr. Damotte stated that there was a complaint from the neighbors and it came to light that the property was dual zoned. Mrs. Yancey stated that the complaint was earlier this year. Mr. Damotte stated that they were trying to evict the current tenant while the issue of the property being R-3 was brought to attention. Mr. Damotte stated again that there was a clerical error that caused the zoning to be R-3.

Eric Heberer spoke in regard to the Heberer Subdivision. Mr. Heberer stated that he owns the 15 acre parcel as well as the 40 acre parcel adjacent to it. Mr. Heberer said that they need to cut off two acres for financing because banks will not loan them 15 acres and a house and their only solution is to subdivide the house to a 2 acre lot in order to get a loan. Mr. Heberer stated he did not have any intentions on developing lot 1 because he farms it.

Mr. Wesley asked about the roadway access and if it could cause access issues in the future. Mr. Heberer stated that he can still get to his property on the east side if he were to sell lot 1 and he owns the parcel to the west so he would still be able to have access to the house if the parcel was sold. Mr. Brandmeyer stated it would be recorded and the buyer would be made aware of the access through the title search.

Eddie Lee, Supervisor of Choteau Township, spoke in regard to Z17-0023. Mr. Lee stated that he would like to object to the zoning request. Mr. Lee said that the previous businesses located at the subject property had no issues fitting within the neighborhood but for the past 6 years there have been issues with tenants such as junk and debris, public urination, and large amounts of junk cars. Mr. Lee stated that the businesses that were at the location years ago were not zoned properly and they worked perfectly with the community. Mr. Lee said that when Mr. Damotte was asked what kind of business is there, he did not say but he mentioned it would be M-1 compliant. Mr. Lee stated that there are too many zoning troubles down there currently and they do not need another one.

Unfinished Business:

Chairman Maxwell stated that Z17-0015, petition of John and Sandra Hess, is postponed until the June 15, 2017, Planning and Development Committee meeting.

Mr. Trucano made a motion to approve Resolution, Zoning Board of Appeals Findings of Fact, and Recommendation for Z16-0079, petition of Arbon Hairston and Denise Lutes, requesting a variance in order to construct a fence in the front yard setback that will vary in height between five (5) and eight (8) feet instead of the allowable four (4) feet with the condition that the subject variance pertains to the erection of a fence only, and not to a gate or other obstruction of the roadway easement. Seconded by Mr. Chapman. Voice vote. All ayes. Motion approved.

Mr. Brandmeyer stated that he revised the intergovernmental agreement with a little different scope and that he would like to move forward with the resolution. Mr. Chapman said he thinks it will help New Douglas. When Mr. Chapman toured New Douglas he realized they have issues there and that the community needs the assistance from the County. Mr. Chapman stated that town fathers are with the agreement and the village needs the County's help.

Mr. Chapman made a motion to approve the Resolution for Intergovernmental Agreement between the Planning & Development Department and the Village of New Douglas for Code Enforcement Services. Seconded by Mr. Petrillo. Voice vote. All ayes. Motion approved.

New Business:

Mr. Chapman made a motion to approve Resolution, Zoning Board of Appeals Findings of Fact, and Recommendation for Z17-0020, petition of Arthur Baugh and Derek Baugh, requesting variances in order to construct a metal accessory structure in an "R-3" Single-Family Residential District, construct an accessory structure in the front yard setback area, and install a private sewage system on a lot that is 14,800 square feet instead of the required 40,000 square feet with the conditions previously stated by Mrs. Yancey. Seconded by Mr. Wesley. Voice vote. All ayes. Motion approved.

Mr. Wesley made a motion to approve Resolution, Zoning Board of Appeals Findings of Fact, and Recommendation for Z17-0027, petition of Craig Cooper, requesting a variance in order to construct a metal accessory structure in an "R-3" Single-Family Residential District. Seconded by Mr. Trucano.

Chairman Maxwell asked the committee to consider refunding the application fee due to the text amendment that will be passed on the same day as Mr. Cooper's request, which would allow Mr. Cooper to construct a metal accessory structure without a variance. Voice vote. All ayes. Motion approved.

Mr. Petrillo made a motion to approve the Resolution, Zoning Board of Appeals Findings of Fact, and Recommendation for Z17-0026, petition of Gary Range, requesting a variance in order to construct a new residence twenty (20) feet from the east property line instead of the required fifty (50) feet. Seconded by Mr. Wesley. Voice vote. All ayes. Motion approved.

Mr. Petrillo stated he understands the concerns of the neighbors and he also understand that the owner is trying to run a businesses on the property. Mr. Petrillo said if it is not zoned to M-1 and they are still able to function as a business, each time the use changes the Committee will have to address it if it stays zoned R-3. Mr. Brandmeyer stated that is the case.

Mr. Wesley asked if the Committee could put conditions in place in order to ensure that the property stays in a shape that is acceptable to the neighbors. Mr. Brandmeyer stated that conditions are only allowed for variances and special uses, not for a rezoning. Mr. Brandmeyer said that he has seen where the applicant proposes deed restrictions or restrictions in the lease, but it would not be enforceable by the County.

Mr. Wesley stated he would like to see it zoned properly for what they are doing but he would also like to see it remain clean. Mr. Brandmeyer stated that he is proposing rewriting the County's zoning code, which could address what is being discussed such as something being zoned M-1 that could be less harmful to neighborhoods. Mr. Brandmeyer stated it could be something to address the issue if there are new rules within the M District, that the applicant could then come back and pursue the Committee again. Mr. Brandmeyer stated that the applicant could be waived the application fee and come back after the zoning ordinance is rewritten.

Mr. Petrillo asked if the zoning petition could be tabled until June 15 to discuss what Mr. Brandmeyer's thoughts are on the rezoning and give the committee more time to consider options for the neighbors and the business owners. Mr. Brandmeyer stated that he would talk to the applicant about potentially withdrawing at this time and then coming back when the zoning ordinance is rewritten.

Mr. Wesley would like to hear from the property owner on how much he would be willing to see some of these changes take place. Mr. Damotte stated he would like to rigorously abide by the requirements and to not be a problem for people in the neighborhood and to erect an 8 foot tall fence.

Mr. Petrillo made a motion to postpone Resolution, Zoning Board of Appeals Findings of Fact, and Recommendation for Z17-0023, petition of Emile E. Damotte, requesting a zoning map amendment in order to rezone a tract of land from "R-3" Single-Family Residential District to "M-1" Limited Manufacturing District until the June 15, 2017, Planning and Development Committee meeting. Seconded by Mr. Trucano. Voice vote. All ayes.

Mr. Wesley made a motion to approve the Emergency and Temporary Occupancy Request at 5567 Moro Road, Moro, Illinois. Seconded by Mr. Trucano.

Mr. Petrillo asked how the Committee will be able to enforce the 1 year allowance. Mr. Brandmeyer stated that they've done this a few times over the last few years, and there hasn't been any issues. He said the applicants have removed the structure within the given time period. Mr. Brandmeyer said that the Planning and Development Department follows up on it and applicants comply with what they said they would do.

Voice vote. All ayes. Motion approved.

Mr. Petrillo made a motion to approve Heberer Estates Subdivision. Seconded by Mr. Chapman. Voice vote. All ayes. Motion approved.

Mr. Chapman made a motion to approve the Resolution of Planning and Development Committee in Support of Video Gaming at Fairmont Park. Seconded by Mr. Wesley. Voice vote. All ayes. Motion approved.

Mr. Chapman made a motion to approve the Purchase Order Report. Seconded by Mr. Wesley. Roll call vote. All ayes. Motion approved.

Administrator's Report:

None.

Adjournment:

Mr. Wesley made a motion to adjourn the meeting. Seconded by Mr. Chapman. Voice vote. All ayes. Motion approved. Meeting adjourned.