

MINUTES OF THE PLAN COMMISSION & ZONING BOARD OF APPEALS OF THE VILLAGE OF SOUTH BARRINGTON

Held Tuesday, July 11, 2017

CALL TO ORDER

The meeting was called to order at 7:34 p.m. by Chairman Michael McCombie. Roll call was taken.

PRESENT: Commissioners Decker, Gillis, Kwasek, White, and Chairman McCombie.

ABSENT: Commissioner Fox and Murarka

A quorum was present. Also in attendance were Mayor Paula McCombie, Trustees Joseph Abbate, Stephen Guranovich, Bernard Kerman, Hina Patel, Anthony Stagno, Village Building Officer Michael Moreland, Village Engineer Natalie Karney, Deputy Clerk Liz Chabalowski and Village Attorney Matt Holmes.

Representatives for the Petitioners were Attorney Scott Hargadon, Pete Lovato, Builder Dean Snow, Magnolia Pointe HOA President Ahmed Shaaban.

APPROVAL OF MINUTES: Motion to approve the minutes of June 15, 2017 made by Commissioner Gillis, seconded by Commissioner White. Motion passed.

PUBLIC COMMENT: None.

OLD BUSINESS: None.

PUBLIC HEARING-Cont'd

1. GOEBBERT'S FARM – Petition of Goebbert's Farm Inc. and Related Entities ("Goebbert's) for Amendment to 1994 Rezoning Ordinance (No.0-94-039)

Chairman McCombie invited anyone who wanted to speak to come forward and be sworn. Attorney Scott Hargadon from Meltzer Purtil & Stelle was sworn in. He stated that he was here tonight on behalf of the Goebbert family and a number of different entities that are their operating entities as well as the underlying owners of the property that makes up Goebbert's farm. He stated that some months ago, they

filed a petition seeking to amend the 1994 ordinance that governed the zoning of this property and from 1994 set that the improvements and uses that were existing in 1994 were legally non-conforming uses in the Village. He stated there was a lawsuit by the Magnolia Pointe Homeowners Association that adjoins Goebbert's and he is pleased to state that the lawsuit has been settled this evening with the signing of a settlement agreement but also with the agreement of their counsel and with his clients and also with the Village acting through both the Mayor and Attorney Storino, that the Goebbert's would agree in exchange for the Village making the improvements that have been made since 1994 for legally non-conforming uses that they would agree to restrictions on their uses on the site and through those restrictions a settlement was made. He stated that the part of the ordinance that is at issue is in Section 6 where the Goebbert's have agreed that without going to the Village for a zoning approval, they will not expand the uses from a list of permitted uses which is attached as an exhibit to the ordinance.

Attorney Storino suggested that rather than going through the ordinance that they walk the Plan Commission through it; those uses that are permanent in nature and how they are handling them, those that are temporary in nature and how they are handling those, the conditions on the berm and those types of things.

Attorney Hargadon stated that what was agreed to was that basically there can't be any new uses or new permanent structures without obtaining zoning approval from the Village. He added there are new restrictions on moving and creating temporary structures within a zone that is adjoining the property line with Magnolia Pointe. They cannot build any more temporary structures without zoning except if they are outside the area adjoining the property line and the structures have to be 225 square feet or less. He stated that there are new height restrictions that were introduced and in exchange for this, the Goebberts have agreed to build a berm along Star Lane on the north side of their property. They will do the grading for the berm and the Homeowners Association has the obligation in the agreement to plant the berm and then maintain it. He added that there were also agreements reached on storm water management and a host of other issues but he thinks that this ordinance in effect is the updating and legalization of the existing non-conforming uses in exchange for a fairly comprehensive set of performance zoning criteria and restrictions on uses by the Goebberts.

Attorney Storino noted at the last hearing there was a complicated map that was in their packet that shows a series of temporary and permanent uses some of which were very detailed in identifying what existed in 1994 and what came after that. He noted that after 1994, uses were expanding on the Goebbert's property. He said that what the Goebberts and Magnolia Pointe have done in the last month is reach an agreement wherein those uses that came after 1994 can now become legalized so

that we can identify what is out there today and code it for permanent or temporary and freeze that in time. That is the nature of the legal non-conforming use so if the Plan Commission and then the Board approve what Mr. Hargadon has identified as the ordinance, then that will legalize those uses that sit on the property from this day forward and make them legal non-conforming. In the law, what it means is that they can't be expanded and they can't be altered. He added that there are some exceptions to that in the ordinance but in principal, without going through every single provision of the ordinance, which is very legalese in nature, the principal is that what you see out there today is what is going to stay there.

Commissioner Kwasek said that he was curious about what can be expanded and to what degree. Mr. Hargadon answered that no permanent structures under this ordinance could be expanded without zoning approval and temporary structures could not be moved or expanded without zoning approval. He added that it is not a complete prohibition on growing and they could petition to expand but they would have to receive in effect an amendment to the existing ordinance in order to do so. He said what this has accomplished more or less is that it has made Goebberts into like a planned development in that they have identified and created very detailed surveys showing where everything is and in effect, other than some temporary structures which can be moved outside of the area that immediately adjoins Magnolia Pointe, everything pretty much has to remain in place and cannot be expanded and the uses that are there now cannot change. He added that they can change the exterior of a building as far as materials or paint and they can make changes to interiors of structures without having to go through zoning. But all of that has to be without expanding the footprint or the usable square footage of the buildings. He added that there is a 200 foot setback for which there is special rules to protect the Magnolia Pointe residents which are more restrictive in that zone than it is outside of the zone.

Chairman McCombie asked if there was anyone in the audience who would like to come forth and give any testimony. There were none. He asked Village Engineer Karney if she had any comment and she replied she had no objection to what has been presented. Building and Zoning Officer Moreland also did not have any objections.

Mr. Pete Lovato asked if he could make a comment and he was sworn in by Chairman McCombie. Mr. Lovato said he had a brief comment and that the matter that is on the agenda immediately following this one has to do with the guard house and gates that Magnolia Pointe has applied for authorization. He added that the way that the agreement between Magnolia Pointe and the Goebberts entities are structured, these two things are linked so they have an agreement with each other that neither will go forward if the other one does not. He asked how the

Commission handles things like this and they have said that they will not press for the passage of the ordinance unless Magnolia Pointe gets its gate petition. Chairman McCombie stated that he appreciates what Mr. Lovato is saying and thanked him for the comment. He stated that if the Commission would make a recommendation to the Board to approve this agreement and then make a recommendation to not approve the other, they would still have their day in court which is in front of the Board.

Chairman McCombie asked if there were any other comments. There were none. He stated that they will go ahead with a recommendation to the Board to approve the Goebbert's petition to update the 1994 ordinance and approve their site plan and extend the non-conforming uses. Attorney Storino explained there are multiple exhibits to the ordinance which includes a very comprehensive site plan, surveys and restrictions.

Commissioner Kwasek made the motion to recommend the amendment to the ordinance for Board approval, seconded by Commissioner Gillis. Roll call was taken, motion passed.

Chairman McCombie asked for a motion to close the public hearing for Goebbert's. Chairman Kwasek made the motion, seconded by Commissioner Decker. Voice vote was taken, motion passed.

PUBLIC HEARING – Cont'd

2. Magnolia Pointe – Guard House and Gate

Chairman McCombie stated that at this point he would like to continue this public hearing and he would like to hear from someone who would like to discuss the guard house and gate.

Builder Dean Snow and Magnolia Pointe HOA President Ahmed Shaaban were sworn in by Chairman McCombie.

Chairman McCombie stated that he read through the submittals and he thought it was a very nice packet with a lot of very good information.

Mr. Shaaban directed his comment at Attorney Storino offering his condolences and that they are very grateful for his presence tonight. Attorney Storino thanked him.

Mr. Snow stated that as to their last meeting, what they were trying to achieve is a complete renovation of the entrance of Magnolia Pointe, as well as a guard house

and gates. He stated that per the recommendations of the staff, they have addressed a lot of the outstanding issues that came up at the last meeting. In general, they have moved the island to the north to provide space for two cars, one at the gate intercom and one passed it. He added that they have adjusted the size of the island and some of the things that were outlined last time were such as what was happening to the pavers on the street, where the lineation between old and new begins, they have replacement of existing asphalt that needs to be done to the east to provide for the gate loops which would be the automatic sensors that open up the gates from the inside. They have also provided a full landscape plan which removed the gates and the masonry structure that were in the right-of-way with the exception of the gate monuments themselves which have already been determined that they could have. He stated they have also provided a landscape lighting plan and Ms. Karney had suggested that they clarify some of the lighting. He stated that this was not commercial-grade lighting, it is professional landscape lighting and all the bulbs are LED and most of these bulbs are the equivalent of 75-100 watt. They will not be using the large spot lights that are there now. What they are trying to do is add ambience to the landscaping itself and the parkway.

He stated that he will go down the list of items. The first thing was to move the island two feet north which they have done to create a wider space for the passage of a second vehicle. The site plan indicates the pavers and what happens with the pavers. The north section of the gate, number 3, talked about a tree so they actually moved the gates a few feet to the west because they would like to preserve those parkway trees. Number 4 was the existing (inaudible) and relocation of that and they have shown that on the plan which is just west of the south pillar near the gate. They've addressed the storm sewer issue and that was outlined in the civil engineering. The site plan indicates the removal of pavers which is item number 6, and is outlined on the engineering as well. The fences in the right-of-way have been removed. The water line from the well, this is the only item that they objected to, they did not move that line and they know that Mike wanted that moved. He stated he is not comfortable putting that line 20 feet underneath a slab of a structure because that makes it even more difficult. He stated they will try and be sensitive to the over dig and bring it up on the south side of the building but they want to keep that on the outside in case it needs any maintenance. Number 9, the sidewalk, now complies. Number 10, the catch basin, has also been addressed by Land Technology and their notes state that the catch basin adjacent to the entrance has little or no tributary to justify the greater length and the catch basin was apparently installed to intercept debris from the ditch lines north and south of the entrance in an attempt to enter the storm sewer system. He stated that Natalie gave them some guidance and he feels this is now appropriate. Number 11, it appears that the existing grade shown on the site plan

is in conformance. For the approval of the plans for the issuance of a building permit, a pre-construction meeting will be required and they are in agreement with that. The site plan does not address the floor drain; they removed the floor drain and the footing drain tiles are not required and it shows that on the engineering and the building plans as well. They addressed the lighting and presented the photometric plan. For the landscape plan, they listed the plants and the maintenance and building plans have been provided.

Chairman McCombie had a question about the fountain. He stated that he sees there are four lights in the fountain but asked how the fountain actually operates. Mr. Snow stated that the fountain has four spray heads in it that come out of the water about four feet and then there is a spray ring on the outside and the lighting is inside of it. He stated that the water spray is adjustable and that there is a valve on the fountain for that purpose. He stated that during the winter, it will be drained and winterized.

Chairman McCombie asked why they are relocating the pillars for the existing monuments in the front in the landscape area. Mr. Snow stated that they will be moved forward about three feet. They are going to keep the two wing walls as drawn, however, right now the pillars are spiral shaped and they are putting in a square so they will be moving them forward toward the street so that the wall hits the center of the pier. Chairman McCombie stated that there is an existing fence which Mr. Snow said will be removed. Chairman McCombie stated that the lighting on the building seems to be fine. He said that he had no comments about the lighting in the landscaping except that if it is directed at cars it might have to be changed. He asked if twenty feet is enough for two cars in there and Natalie stated that that was the minimum so it should be enough.

Chairman McCombie stated that it still remains a very large guardhouse and he is not trying to deter them but that it is a very tall guardhouse. Commissioner Kwasek added that with the gates, it will be extremely tall at fourteen feet. Mr. Snow stated that he feels that part of the homeowners association's drive for that is that the sale of the homes are tremendous and have some of the biggest facades in South Barrington. He thinks that the scale of the guardhouse and gates would be disproportionate if they tried to make them smaller. Chairman McCombie stated that when he looks at the gates, although they are gorgeous, they are still fourteen feet six inches tall. Commissioner Gillis asked if the gates were made of iron and if they had any idea of the weight. Mr. Snow stated yes, they were to be made of iron and that they are very heavy. Commission Gillis added that if these gates are that heavy and if they are opening and closing with every car, they will have maintenance issues to deal with. Mr. Snow said that they will consult with their professional regarding any issues. Commissioner White asked if someone

will be manning the guardhouse and Mr. Shaaban said no, it will be unmanned and that the gates will be automated. If they did use a guard, it would be during the Fall Festival.

Chairman McCombie asked if there was anyone else who would like to comment. Mr. Walter Kaczynski was sworn in. He stated that he was one of the property owners in Magnolia Pointe. He stated that they have been following the progress of the design and the way that this has been handled by the homeowners association. He stated that it looks like the majority of the homeowners and property owners are not aware of what is going on. He added that he would recommend that before the permit is issued for this project that a meeting of the subdivision take place to make people aware of what is going on. He stated that some of the owners were unable to see the plans. He stated he had concerns about the size of the structure and the costs to the homeowners. Commissioner Gillis suggested that a meeting be scheduled with the homeowners association and take a vote. Chairman McCombie thanked him for his comments and suggested that he review the homeowners association by-laws for a course of action to be taken with regard to his concerns.

Chairman McCombie asked if there were any other comments. There were none.

Chairman McCombie stated that based on the plans that they have looked at this evening, asked for recommendation to go before the Board to approve the guardhouse and gate. Commissioner Kwasek made the motion, seconded by Commissioner Gillis. Roll call was taken. Motion passed.

Chairman McCombie asked for a motion to close the public hearing. Motion made by Commissioner Kwasek, seconded by Commissioner Gillis. Voice vote was taken, motion passed.

NEW BUSINESS: None

Chairman McCombie asked for a Motion from the Board to adjourn the meeting. Commissioner Kwasek made a Motion. Commissioner Gillis seconded. By unanimous vote the meeting was adjourned at 9:35 p.m.

Respectfully submitted,

Liz Chabalowski, Deputy Clerk

These Minutes were approved this
_____ day of _____, 2017