

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

Held Thursday, February 1, 2018

CALL TO ORDER

The meeting was called to order at 7:30 p.m. by Chairman Mr. Michael McCombie. Roll call was taken.

PRESENT: Commissioners Abri, Gillis, White, and Chairman McCombie.

ABSENT: Commissioners Kwasek, Murarka, and Fox.

A quorum was present. Also in attendance were Village Building Officer Michael Moreland, Village Administrator Robert Palmer, and Village Attorney Melissa A. Wolf of Storino, Ramello & Durkin.

PUBLIC COMMENT

Chairman McCombie stated that anyone in the audience who would like to make a comment on anything that is not on the agenda this evening may make their comments at this time. Chairman McCombie further stated that the published notice for this evening's meeting did include Toll Brothers, however they contacted the Village to notify them that they were not ready with their presentation therefore they would have to postpone coming before the Board to another date that has not yet been determined.

Mr. Rob Mueller of 27 Ranier Circle, South Barrington stated that he would like to comment on some challenges that they are having in their neighborhood which they would like to have recorded. Mr. Mueller stated that he and his family moved to South Barrington in 2013 and did so to give their children a better opportunity, a better school system, and that they are very proud of their community. Mr. Mueller stated that at the time they purchased their home they were shown a planned community by Toll Brothers that they believed showed a certain representation of what the future neighborhood would look like and what type of community they were proposing. Mr. Muller further stated that the marketing material he was given in 2012 is not in line with the community that is currently being built in 2018.

Mr. Mueller stated that they moved into a community that was suppose to have certain size lots, certain size home requirements, and those lots would be representative of a certain quality of home. Mr. Mueller stated that he felt Toll Brothers should not

be allowed to misrepresent themselves and would like to know how they are being allowed to currently build homes that do not represent the marketing material they were initially given. Mr. Mueller asked if the Village had given Toll Brothers approval to be building these homes. Mr. Mueller further stated that the Board members being South Barrington residents should also be concerned with what is currently being built on those home sites. Mr. Mueller stated that Toll Brothers will be leaving our community and he is very concerned about what Toll Brothers may be negotiating behind the scenes.

Mr. Mueller stated that Toll Brothers has not put their mail boxes in and they have had their temporary mail boxes robbed three times because they are not secure and locked. Mr. Mueller asked at what point will Toll Brothers be accountable for this?

Chairman McCombie stated that the Post Office will not allow mail boxes at this time and the Mayor is working with local representatives from the community to get the Post Office to allow mail boxes at their homes.

Chairman McCombie stated that the Village has also stopped issuing building permits for the area currently in question. Chairman McCombie stated that Toll Brothers was noticed in the Public Notice that they would be on the agenda this evening, but because they are not on the agenda no recommendations will be considered by the Board this evening.

Mr. Mueller stated that as a community they plan on delivering a cease and desist letter for future building on the lots in question.

Mr. Mike Lombardi stated that he has purchased a home on Lot 365 from Toll Brothers in The Woods Subdivision and has not been issued a permit for building so he is one of the homeowner's currently in limbo over this issue. Mr. Lombardi stated that he understood the dilemma of the current homeowners, but when he purchased his home eight months ago there was nothing to suggest that there would be an issue. Mr. Lombardi stated that he and his family plan on being in the area for a very long time and are building an expensive home with several upgrades like many of the other homes in the area. Mr. Lombardi stated that if the Village does not allow the homes to be built, Toll Brothers could stick with Signature Homes and sell them at a discount when they decide to leave the community. Mr. Lombardi offered to talk to any current residents and wanted to let the Board know that his family is not the only family that is in limbo right now.

Mr. Kuldip Mohanty of 8 Shenandoah Circle, South Barrington stated he purchased his home in 2015 from Toll Brothers and his family moved here for the school district and type of community that was presented to them at that time. Mr. Mohanty stated that at the time of purchase they were looking at the lots in question and were told that Signature homes were not being built on those lots at that time. Mr. Mohanty further stated that he is not sure what has changed since that time, but felt it was absurd of how many things have changed since he purchased his home in 2015.

Ms. Sharon Linn stated that she recently purchased a Signature Lot months ago and put down a \$100,000 deposit. Ms. Linn stated that they have not been able to start their home due to the current issues that exist and no one is telling them what to do next and when there might be a resolution to this problem so they can begin construction on their home. Ms. Linn stated that she is hoping for a quick resolution to this situation so they can begin building their new home.

Chairman McCombie stated that Toll Brothers did originally ask to be put on the agenda for this evenings meeting and then contacted the Village to say they were not ready and asked to be postponed to a date not yet determined.

Mr. Weberbee of The Woods of South Barrington stated that he and his wife also moved to the community for the school district and the type of community that was depicted by Toll Brothers concerning specific lot and home sizes. Mr. Weberlee stated that they have made some minor changes to their home including a patio which had to be approved by the HOA. Mr. Weberlee further stated that the changes that are being made by Toll Brothers are so major and do not follow what was previous represented by them to the current homeowners when they initially purchased their homes. Mr. Weberlee would like to see a greater transparency on this issue and would like to know what is the legality of this issue and are they in compliance with Village regulations.

Chairman McCombie stated that these issues would be presented when Toll Brothers comes back before the Board. Chairman McCombie asked that all audience members that wish to be notified of the Public Hearing with Toll Brothers to fill out their names and contact information on the provided sheet on the back table before leaving so the Village can notify them when a date is scheduled.

Ms. Donna Dulubiak for 21 Ranier, South Barrington asked if that meeting will be a Public Hearing forum such as tonight's meeting? Village Attorney Wolf stated that it was her understanding that the Village Attorney and Toll Brother's attorneys are working on a resolution to this neighborhood situation and she was not sure what Village Board this issue will come back before.

Village Attorney Wolf stated that the public will have access to anything that will be undertaken but she was not sure if it will come back before a Public Body.

Ms. Dulubiak asked when would there be an opportunity for the homeowner's to present their documentation to the Village? Village Attorney Wolf stated that the homeowner's may give any documentation that they want to present to the Village now. Ms. Dulubiak stated that she is worried that Toll Brothers will give their documentation and the homeowner's will not have an opportunity to present theirs to the Village. Mr. Mueller asked again if these legal documents will be Public Record. Village Attorney Wolf stated yes.

Mr. Wong stated that he has also purchased a lot and is waiting on a building permit from the Village to start his new home. Mr. Wong felt that his pending application for a building permit should be granted under the Ordinances that were in place at the time the application was submitted. Village Attorney Wolf stated that pending building permits are one of the issues that the attorneys are trying to work out.

Ms. Dulubiak asked if this will come back as a Public Hearing forum. Village Attorney Wolf stated that if there is an amendment to the PUD, then it will have to come back before the Board at a Public Hearing. Chairman McCombie stated that along with the Village he felt that this was a very important issue and that is why the Village has currently not allowed any further building permits to be issued until this has been resolved. Chairman McCombie encouraged members of the audience to reach out to the Village for additional help.

APPROVAL OF MINUTES

Chairman McCombie asked the Board for a Motion to approve the Minutes of the meeting held December 28, 2017. Commissioner White made a Motion. Commissioner Gillis seconded. By unanimous vote the Motion was passed.

AGENDA ITEMS

Chairman McCombie stated that the first item on the agenda was the Public Hearing on Regulating Short Term Rentals. Chairman McCombie asked for a Motion from the Board to open the Public Hearing. Commissioner Gillis made a Motion. Commissioner Abri seconded. By unanimous vote the Motion was passed.

Chairman McCombie asked if there was any public comment. Being none Chairman McCombie asked Village Building Officer Moreland to make his presentation.

Village Building Officer Moreland stated that this has been before the Board previously and is back before the Board this evening as a Public Hearing. Building Officer Moreland stated that this is currently verbatim of the BAACOG template on Short Term Rentals with a few minor changes. Building Officer Moreland stated that the term had been increased to 4 months instead of 3 months and pertains to residential properties. Building Officer Moreland further stated that the penalty section had also been clarified. Chairman Gillis asked if the definitions were updated from 3 months to 4 months. Building Officer Moreland stated that he will make that correction.

Chairman McCombie asked for a Motion from the Board to recommend approval of the Regulating Short Term Rental Ordinance to the Board of Trustees. Commissioner Gillis made a Motion. Commissioner White seconded. Roll call was taken. Chairman McCombie - yes, Commissioner Abri - yes, Commissioner Gillis - yes, Commissioner White - yes. By unanimous vote the Motion was passed.

Chairman McCombie asked for a Motion from the Board to close the Public Hearing. Commissioner Gillis made a Motion. Commissioner White seconded. By unanimous vote the Motion was passed.

Chairman McCombie stated that the next item on the agenda was the Public Hearing For Sale and Real Estate Signs. Chairman McCombie asked for a Motion from the Board to open the Public Hearing. Commissioner White made a Motion. Commissioner Gillis seconded. By unanimous vote the Motion was passed.

Chairman McCombie asked if there was any public comment. Being none Chairman McCombie asked Village Building Officer Moreland to make his presentation.

Building Officer Moreland stated that this issue was also previously before the Board and there has been more definitions addressing residential signs along with clarifying some previous language. Commissioner Gillis asked about the penalties for non-conforming signs. Building Officer Moreland stated that the two year compliance was part of the Electronic Sign Ordinance which was previously approved. Village Attorney Wolf stated that non-conforming is different from illegal signs, so if an illegal sign was put up the Village would not have to wait two years to take it down.

Village Attorney Wolf asked if in Paragraph G - Section 10-3 if the language pertains to real estate signs on residential properties other than commercial properties. Building Officer Moreland stated that they can change the language to "other than real estate signs". The Board agreed.

Being no further comments, Chairman McCombie asked the Board for a Motion to recommend approval of the For Sale and Real Estate Sign Ordinance with stated modifications to the Village Board of Trustees. Commissioner White made a Motion. Commissioner Abri seconded. Roll call was taken. Chairman McCombie - yes, Commissioner Abri - yes, Commissioner Gillis - yes, Commissioner White - yes. By unanimous vote the Motion was passed.

Chairman McCombie asked for a Motion from the Board to close the Public Hearing Commissioner Gillis made a Motion. Commissioner White seconded. By unanimous vote the Motion was passed.

Chairman McCombie stated that the next item on the agenda was the Accessory Uses and Structures Public Hearing. Chairman McCombie asked for a Motion to open the Public Hearing. Commissioner Gillis made a Motion. Commissioner Abri seconded. By unanimous vote the Motion was passed.

Chairman McCombie asked if there was any public comment. Being none Chairman McCombie asked Village Building Officer Moreland to make his presentation.

Building Officer Moreland stated that this was done by the Village to have some control on detached garages and sheds. Building Officer Moreland stated that this has been reviewed by the Building and Zoning Board Building Officer Moreland stated that they had changed and clarified the definitions and added the definition of a shed. Building Officer Moreland stated that a detached garage and shed is not considered an accessory building. Building Officer Moreland further stated that if someone wanted these items they would have to come before the Board and prove a hardship to decide if it would be allowed.

Chairman McCombie asked about the language in Section 2 stating, "single family detached dwelling, small residential care homes providing they are eligible to obtain State licensing." Building Officer Moreland state that this language was in the existing Ordinance and in every district. Chairman McCombie asked why we have this language included? Village Attorney Wolf stated that this language was not specific to the Text Amendment that was being changed to be brought before the Plan Commission for this meeting. Building Officer Moreland asked if that language could be struck from the Ordinance. Village Attorney Wolf stated that they would need to review why the language was there in the first place. The Board agreed that they would like to have language reviewed and possibly removed.

Chairman McCombie asked the Board for a Motion to continue the Public Hearing until a future date not yet determined. Commissioner Abri made a Motion. Commissioner Gillis seconded. Roll call was taken. Chairman McCombie - yes, Commissioner Gillis - yes, Commissioner Abri - yes, Commissioner White yes. By unanimous vote the Motion was passed.

Chairman McCombie stated that the next item on the agenda was the Public Hearing for The Amendment to the Planned Unit Development (PUD) applicable to The Arboretum Shopping Center to permit two buildings with an amended parking layout. Chairman McCombie asked for a Motion to open the Public Hearing. Commissioner Gillis made a Motion. Commissioner Abri seconded. By unanimous vote the Motion was passed.

Chairman McCombie asked for all participants who will be giving testimony to stand and be sworn in. Chairman McCombie asked if the testimony they were about to give was the truth to the best of their knowledge. All participants answered yes. The Board was presented with Proof of Notification of Surrounding Properties.

Mr. Todd Shaffer of Haeger Engineering stated that they were previously before the Board for a Text Amendment for Rascal Flatts and Hampton Social which are located on C Pad. Mr. Shaffer further stated that per discussions at that meeting they have constructed a B lot to the west of Rascal Flatts. Mr. Shaffer stated there were restrictions put on A pad and B pad. Mr. Shaffer further stated that they are not proposing to change anything on A pad but are asking to change the footprint from one large building to two small buildings on B pad and to shift the buildings toward Route 59. Mr. Shaffer presented to the Board an overlay of what is currently on the site and what they are proposing to change. Mr. Shaffer stated they are proposing splitting the 25,000 square foot building into two separate 5,600 square foot buildings which will be a reduction of 13,800 square feet. Mr. Shaffer further stated that they are shifting the buildings towards Route 59 and they are adding 10 parking spaces. Mr. Shaffer stated that the reason they are shifting the buildings closer to Route 59 was the parking concern and the uncertainty of what will be going into Building B. Mr. Shaffer stated that they are showing an interim building on the plan. Mr. Shaffer stated that they are also proposing a trash compactor which would also be a change to the plan and they will be having one transformer instead of two and will lose two parking spots. Building Officer Moreland stated that the trash compactors are sealed. Mr. Shaffer stated that there are other trash compactors already in The Arboretum.

Mr. Shaffer stated that they will be constructing the north/south drive aisle which will connect to the south side of the shopping center.

Chairman McCombie asked if Building B would increase in size? Mr. Shaffer stated that if it increased in size they would have to come back before the Board for approval. Mr. Shaffer stated that 13 parking spaces were added next to by Building B per the request of the Village Engineer. Village Engineer Karney stated that they will also be getting a parking analysis after the two restaurants are done.

Mr. Steven Corlis displayed renderings of the proposed Charles Schwab building and building materials to the Board. Mr. Corlis stated that they were trying to get a direction from the Board to see if they were in favor of their design. Chairman McCombie stated that he liked the building design and materials but felt that the signage for the building was way too large. Chairman McCombie stated that this would come before the Architectural Review Board if they plan to proceed. Mr. Corlis stated that they can defiantly work on the signage. Chairman McCombie suggested that they photo shop how the bank building and their building will look together.

Being no further discussion Chairman McCombie asked for a Motion from the Board to recommend to the Board of Trustees the approval of the modification to the PUD to change A building from 25,000 square feet to two buildings of 5,600 square feet each, the amended parking layout with the addition of 8 parking spaces to the overall building plan, and the addition of a trash compactor for the two C buildings. Commissioner Gills made a Motion. Commissioner Abri seconded. Roll call was taken. Chairman McCombie - yes, Commissioner Abri - yes, Commissioner Gillis - yes, Commissioner White - yes. By unanimous vote the Motion was passed.

Chairman McCombie asked for a Motion from the Board to close the Public Hearing. Commissioner Abri made a Motion. Commissioner Gillis seconded. By unanimous vote the Motion was passed.

Chairman McCombie stated that the next item on the agenda was the Septic System Variance - Lot 53 Cutter's Run (2 Pacer Trail - Representative: Peter Diorio.

Mr. Peter Diorio of Dior Builders stated that they are coming before the Board to ask for a variance on the septic system on Lot 53 Cutter's Run (2 Pacer Trail) because the Cutter's Run HOA has demanded that the house be placed on a 45 degree angle instead of being parallel to the street. Mr. Diorio stated that instead of using a conventional septic system they are asking for the variance so they can implement a septic system that they have been working on with their engineers and Village Engineer Karney.

Chairman McCombie stated that he did drive by the lot before the meeting this evening and asked why they would not be able to turn the house facing Morgan Lane and would the HOA not allow it? Mr. Diorio stated that they would not be able to do that because of the topography of the lot and the house will have a walk out basement.

Chairman McCombie asked Village Engineer Karney to describe the septic system that they are proposing. Village Engineer Karney stated that the soil tests indicate that if the house was positioned parallel to Pacer Trail as shown in their original drawing a conventional system which is an aggraded system would work. Village Engineer Karney stated that by putting the house on an angle, it eliminated a lot of space available for the septic system. Chairman McCombie asked if the system they are proposing is a new system? Village Engineer Karney stated that it is a completely different system that pre-treats the affluent before it goes into the some type of a field which is typically a trench field. Village Engineer Karney stated that the Village does have it in their Code that system is allowed only if the other types of systems don't meet soil requirements. Village Engineer Karney stated that it is not a soil issue on this lot but the location of the house that is preventing the system to be implemented.

Commissioner Abri asked who is dictating the location of the home? Village Engineer Karney stated that it is the Cutter's Run HOA. Mr. Diorio stated that the HOA rejected the plan with the house facing Pacer Trail and dictated where the location of the house needed to be and this has been going on since September.

Chairman McCombie stated that they are asking the Board to grant a variance for a septic system that is not approved because there are other choices and an HOA cannot create a hardship for the Board to grant their requested variance. Chairman McCombie stated that he did not feel an HOA can create a hardship. Chairman McCombie asked Mayor McCombie if an HOA can create a hardship? Mayor McCombie stated that the HOA would not have the final word on something like this. Chairman McCombie asked how can the Board resolve this? Mayor McCombie stated that the HOA can't break a Village Ordinance by having someone put in a different septic system on their lot. Mayor McCombie further stated that this can set a precedent because if you let an HOA determine something other than architectural features, they are actually going against what the Village Ordinance states.

Village Engineer Karney displayed the original plan for the house to the Board. Village Engineer Karney stated that they did a preliminary review of the plan to see if the septic system that the Village approved would work and on the original plan it does work.

Chairman McCombie asked why the HOA rejected the original plan? Mr. Diorio stated that the HOA felt that when people were driving into the subdivision they would see the back of the house. Mr. Diorio stated that there are homes in the subdivision that are placed at 45 degrees.

Building Officer Moreland stated that the HOA has driven the builder to seek approval of the NS350 system which the Village is not happy about approving because this system was to be used in the worst case scenario and this lot can have a traditional approved septic system put on it that will work. Building Officer Moreland stated that if the Board rejects granting the variance, it will put them in a position where they will have to use a traditional system.

Chairman McCombie asked if they could build the house without the walkout? Mr. Diorio stated that currently it is very difficult to get financing for a home in South Barrington that does not have a walk out.

Village Attorney Wolf stated that the Plan Commission is a recommending body and if they reject the variance it will then go before the Board of Trustees for their rejection or approval. Chairman McCombie stated that if the variance is rejected by the Board of Trustees, then the Village Attorney and Building Department will give direction on what will happen next. Mr. Diorio asked if a building permit is granted for the original location of the home and the HOA is overruled, will the HOA be able to come back and place a lawsuit against them? Chairman McCombie stated that if a building permit is issued by the Village, then the HOA would have to bring a law suit against the Village.

Building Officer Moreland stated that he will prepare a report for the Village Board on this matter. Village Engineer Karney will also prepare a report for the Village Board.

Chairman McCombie asked the Board to recommend not granting the variance for the septic system based on the Village Ordinance because the hardship has been caused by the HOA and not the soil conditions of the lot which are suitable for a conventional septic system. Chairman McCombie asked for a Motion from the Board. Commissioner Abri made a Motion. Commissioner Gillis seconded. Roll call was taken. Chairman McCombie - yes, Commissioner Abri - yes - Commissioner Gillis - yes, Commissioner White - yes. By unanimous vote the Motion was passed

Village Engineer Karney asked if the builder goes back before the HOA and they reject the original plan again, can the Village issue a building permit? Village Attorney Wolf stated that they will be analyzing what can be done.

OLD BUSINESS - None

NEW BUSINESS

Village Engineer Karney stated that she and the Mayor had just attended an event where they passed out a document called 1 2 3 Go which is a guide for Municipal leaders and officials regarding protection and conservation of the water systems.

Village Engineer Karney passed out the book to each of the Board members to read through and possibly get some ideas for the Comprehensive Plan and any ideas they may have for the Village.

ADJOURNMENT

Being no further business, Chairman McCombie asked for a Motion from the Board to adjourn the meeting. Commissioner White made a Motion. Commissioner Abri seconded. By unanimous vote the meeting was adjourned at 9:45 p.m.

Respectfully Submitted,

Christine Latoria, Secretary

These Minutes were approved this 31st day of May, 2018

