

AGENDA OF THE LEE COUNTY BOARD

JANUARY 16, 2007

9:00 A.M.

3RD FLOOR BOARDROOM, OLD LEE COUNTY COURTHOUSE
112 E. SECOND STREET, DIXON, ILLINOIS

OPEN MEETING WITH INVOCATION OR PLEDGE OF ALLEGIANCE

ROLL CALL

ANNOUNCEMENTS

APPROVAL OF BOARD MINUTES OF PREVIOUS MINUTES

Roseann Para - To address the Board concerning Zoning Petition 06-P-1433

PUBLIC/VISITOR COMMENT:

A. ITEMS ON THE AGENDA - VISITORS ALLOWED 10 MINUTES

B. ITEMS NOT ON THE AGENDA - VISITORS ALLOWED 5 MINUTES

TO ZONING BOARD: 07-P-1436 - Grandt/Haliczer - Willow Creek Twp.
07-P-1437 - Zoning Office - Limiting the number of cars
07-P-1438 - Zoning Office - Home Occupation

TO PLANNING COMMISSION:

-0-

FROM ZONING BOARD: 06-P-1433 - Haliczzer - Willow Creek Twp.
06-P-1434 - Johnson - Hamilton Twp.
06-P-1435 - Jalapeno Pepe's - Viola Twp.

FROM PLANNING COMMISSION:

-0-

REPORTS OF COMMITTEE:

FINANCE

CLAIMS

SOLID WASTE/HEALTH & WELFARE

ROAD & BRIDGE

COMMITTEE CLAIMS

COUNTY PROPERTIES

R.C.&D. - BLACKHAWK HILLS

COUNTY SERVICES

911 BOARD

ADMINISTRATIVE SERVICES

EXECUTIVE/JUDICIAL/LAW ENFORCEMENT

COUNTY OFFICERS REPORTS, REQUEST FOR DEPOSIT OF FUNDS, ORDERS PAID IN VACATION

OLD BUSINESS

NEW BUSINESS

APPOINTMENTS Chuck Plock - Dixon Community Fire District

Employee Handbook

Highway - County Maintenance Resolution

MILEAGE & PER DIEM

ALL BILLS & APPROPRIATIONS ALLOWED BY ROLL CALL

ADJOURN

LEE COUNTY ZONING BOARD OF APPEALS

Ron Conderman, Chairman
Craig Buhrow, Member
Mike Pratt, Member
Gene Bothe, Member
Tom Fassler, Member

Chris Henkel, Zoning Officer
Alice Henkel, Clerk

The Lee County Zoning Board of Appeals met on Thursday, January 4, 2006 at 7:00 p.m. in the Lee County Courthouse, Dixon, Illinois. Chairman Ron Conderman called the meeting to order and roll was called. The following members were present: Craig Buhrow, Mike Pratt, and Gene Bothe.

Chairman Conderman asked if there were any changes or corrections to the minutes from the last time the board met (November 2006) and there were not. Mike Pratt made a motion to approve and Craig Buhrow seconded it. All were in favor.

The first item of new business was petition 06-P-1433, by Stephen Haliczzer. Petition is for R-1 Rural Residential for PPN #21-12-35-300-032. The property is currently zoned Ag-1, Agricultural District, and is located in Willow Creek Township.

Attorney Douglas Lee was sworn in as representative for Stephen Haliczzer. Also sworn in were Rick Bowers, engineer; Beth Einsele, realtor; and Deborah Haliczzer, wife of Petitioner.

Attorney Lee was first to address the board. He stated to the board that he believes this petition is a good example of the way the new zoning ordinances are working. Attorney Lee explained he feels this way because the parcel is not prime farm ground, the Petitioner is not using lots smaller than 2-acre (concept plan) instead of larger 5-acre tracts, and would not be an isolated-type of residential development.

Attorney Lee presented two exhibits of evidence—two aerial photographs, the first (Exhibit A) illustrating how the property is currently parceled off and the second (Exhibit B) showing the concept plan for how these existing parcels will be further divided. As the property currently exists, there are four, 5-acres parcels. Mr. Haliczzer's intentions are to break down these larger parcels into nine, 2-acre parcels.

The photos do show timber at the back of these lots and believes that also contributes to making this property ideal for residential development.

Attorney Lee then asked the realtor, Beth Einsele, to approach and explain the map she presented to the board (Exhibit C). Ms. Einsele used a map showing surrounding land owners and their parcels. She used red dots on the map to illustrate homes that are 15 years or older and green dots to illustrate homes that are under 15 years in age. There are currently 10 homes in the area that are 15 years or older and 15 homes that are less than 15 years old. Ms. Einsele feels this map accurately shows residential development, especially in the last 15 years, in the area of this proposed subdivision.

Attorney Lee then entered into evidence a letter from the Knetsch Family, primary adjacent landowners, stating their support of the proposed development of the parcel being petitioned (Exhibit D).

Attorney Lee also entered a proposed Agreement into evidence (Exhibit E). It is an agreement between the Petitioner and the County, stating the property will revert to its prior zoning (Ag-1) if the Petitioner does not submit a preliminary plat within two years.

Mr. Lee, furthermore, presented a proposed Finding of Fact to the board (Exhibit F).

Chairman Conderman addressed the visitors and asked if there were anyone present that would like to speak either for or against the petition. The following were sworn in: RoseAnn Para, Richard Para, Gene Isakson and Jarvis McNeilly.

RoseAnn Para was first to approach the board. She presented a letter from Frances Mitchell, adjacent landowner, stating she is represented by RoseAnn Para at the meeting and joins Mrs. Para in her questions and objections (Exhibit G).

Mrs. Para's concerns were primarily regarding the affect on the environment, the change of the character of the neighborhood and the possibility of setting precedence for future development of this nature. Mr. Para concurred.

Jarvis McNeilly was concerned about increase stormwater run-off and the possibility of restricted hunting. Mr. Bowers stated that the county road commissioner has intentions of doing ditch work on Johnson Road. Mr. Henkel assured him that since Lee County has adopted a stormwater ordinance that the possible run-off will be looked into and will have to be approved prior to approval of the Final Plat. If the Petitioner can not/does not come into compliance with that particular ordinance, the project will not be able to proceed.

Gene Isakson feels this subdivision will become a burden on the tax payers. He also feels that Paw Paw will also be burdened because the subdivision would exist outside of city limits. Therefore, the city would not receive any tax benefit from the subdivision. He feels the County should be trying to maintain Ag-land.

Nikki Isakson, wife of Gene Isakson, approached the board and was sworn in. Mrs. Isakson is the Director of the Paw Paw Library District. She agreed with her husband and feels Paw Paw is heavily burdened by out-of-area residents by what she has seen through the Library District.

She also brought up concerns about how these proposed nine homes will affect the water table and the septic/sewer systems. It was also explained to her that these issues would have to be reviewed and approved prior to approval of the Final Plat.

After further discussion by all parties, Chairman Conderman proceeded with the Findings of Fact that had been presented by Attorney Lee. See Exhibit F for any amendments made to Findings of Fact.

Gene Bothe made a motion to approve petition 06-P-1433 and Mike Pratt seconded it. All were in favor. Chairman Conderman announced the petition will go before the Lee County Board on January 16, 2007 with a recommendation for approval.

The second item of new business was petition 06-P-1434, by Adam D. Johnson. Petitioner is requesting a variance to PPN #09-19-33-400-005. The property is currently zoned Ag-1, Agricultural District, and is located in Hamilton Township.

Keith Zoeller, realtor; Adam Johnson, Petitioner and Daniel Johnson, Petitioner's father were sworn in.

Mr. Zoeller, realtor for the Petitioner, approached the Board and explained that the Petitioner is seeking a variance for 5 acres of a 10.32-acre parcel that is located on Baseline Road. A former dairy operation currently exists on the property, as does a home. The Petitioner would like to use the existing free-stall dairy barn to house his family-owned business of plastic-injection molding. The Petitioner and his parents would reside in the home.

The Petitioner and his family currently operate this business in Mendota. They would like to move to this property so they could have their business where they reside. There would be no new construction; only existing buildings would be used. The business currently runs eight hydraulic presses and uses only safe plastics. There is no noise or pollution.

The Petitioner, Adam Johnson, displayed several items the business produces before the Board. Examples of these items are pedals for golf carts and a bird feeder.

Mr. Henkel explained to the Board that this matter falls under the Home Occupation Ordinance. However, under this ordinance there can be no manufacturing and only family members can be employees. The Lee County Regional Planning Commission recommended the Petitioner seek a variance to the Home Occupation Ordinance to allow the manufacturing and to allow employment of a non-family member.

Audience member, Ronald Clary, was sworn in.

Mr. Clary is an adjacent landowner who just wanted to verify that the land remains Ag-zoned. The Board assured Mr. Clary it would.

Chairman Conderman proceeded with the finding of facts. The first was the finding of fact regarding the effect of the proposed use upon the character of the neighborhood. He stated there would be no change.

The second was the finding of fact regarding the effect of the proposed use upon traffic conditions. It was agreed there would be minimal change.

The third was the finding of fact regarding the effect of the proposed use upon public utility facilities. It was stated there would be no change.

The fourth was the finding of fact regarding the effect of the proposed use upon public health, public safety or general welfare. The board concluded there was no change.

Mike Pratt made a motion to approve petition 06-P-1434 and Gene Bothe seconded it. All were in favor. Chairman Conderman announced the petition will go before the Lee County Board on January 16, 2006 with a recommendation for approval.

The third item of new business was petition 06-P-1435, by Jalapeño Pepe's, Inc. Petitioner is requesting a Special Use, I-3 Heavy Industrial District for PPN #20-11-23-100-005, for the purpose of an Adult Entertainment Establishment. The property is currently zoned C-3. General Business District and is located in Viola Township.

Attorney Ronald J. Broida was sworn in on behalf of the Petitioner. Assistant State's Attorney, Andrew Bollman, was present on behalf of the County.

The Petitioner met all notification requirements for this public hearing.

Mr. Broida explained that the Petitioner is seeking, in conjunction with discussions held with the Lee County State's Attorney's office, a variance and special use for the existing Adult Entertainment Establishment, known as Heartbreakers.

Mr. Bollman explained that he and Mr. Broida have been in negotiations over this matter and have come to the agreement that this parcel should be zoned I-3, Special Use with a variance. This zoning is part of the comprehensive agreement that the State's Attorney's office would recommend for the Zoning Board of Appeals to pass so the State's Attorney can move forward. This essentially will allow more regulation on behalf of the State's Attorney's office, especially on matters such as alcohol.

When this matter has been resolved, Heartbreakers will be granted a liquor license and will become a 21-and-older establishment. This will help cut down on the number of underage DUI's and misdemeanors that occur there. Attorney Bollman feels this is a good alternative to the battle the County is currently facing in court at this time.

Mr. Henkel explained the variance would be for the 1000-foot distance for a residence due to a residence located within those 1000 feet.

There were no objectors from the audience.

Mike Pratt made a motion to approve petition 06-P-1435 and Gene Bothe seconded it. All were in favor. Chairman Conderman announced the petition will go before the Lee County Board on January 16, 2007 with a recommendation for approval.

Under Old Business, Mr. Henkel informed the Board that the new Junk Car Ordinance is to be presented to the Lee County Regional Planning Commission on Tuesday, January 9, 2007. If it passes the Planning Commission, it will come before the Zoning Board of Appeals in February.

Under New Business, Mr. Henkel presented the 2007 Meeting Schedule to the board (Exhibit H). The schedule was approved.

On the motion of Gene Bothe, seconded by Craig Buhrow, the meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Alice Henkel, Clerk

AGREEMENT

EXHIBIT E

This Agreement is made and entered into as of the ____ day of January, 2007, by and between Stephen H. Haliczzer and Deborah H. Haliczzer (“Developers”), and Lee County, a county organized and existing under the laws of the State of Illinois (“Lee County”), and is based on the following recitals.

- A. On or about October 26, 2006, Developers filed their Petition to Re-Zone (“the Petition”), in which Developers requested that the following real estate (“the Property”) be re-zoned from AG-1 to R-1:

Part of the East Half (E1/2) of the Southwest Quarter (SW1/4) of Section Thirty-five (35), Township Thirty-eight (38) North, Range Two (2) East of the Third (3rd) Principal Meridian, Lee County, Illinois described as follows: Commencing at the Northwest corner of the said East Half (E1/2); thence South 01 degree 28 minutes 44 seconds East on the West line of said East Half (E1/2), a distance of 66.00 feet to the Point of Beginning of the tract being described; thence North 88 degrees 37 minutes 50 seconds East parallel with the North line of said East Half (E1/2), a distance of 512.08 feet to the intersection with the centerline of a public road designated Johnson Road; thence South 00 degrees 44 minutes 03 seconds East on said centerline, a distance of 1658.50 feet to the intersection with the centerline of a public road designated Howlett Road; thence South 69 degrees 21 minutes 50 seconds West on said centerline, a distance of 519.28 feet to the intersection with the West line of said East Half (E1/2); thence North 01 degree 28 minutes 44 seconds West on said West line, a distance of 1829.73 feet to the said Point of Beginning, containing 20.04 acres, more or less.

- B. The Lee County Regional Planning Commission (“Planning Commission”) has in similar matters recommended that a re-zoning request such as that of Developers, if approved by the Lee County Board, be approved in conjunction with an agreement in which the owners and the Lee County Board would agree that the owners would submit a Preliminary Plat of Subdivision for the re-zoned property within two years, and in the absence of approval of such Preliminary Plat of Subdivision, the owners would file a petition to re-zone the subject property from R-1 to AG-1.
- C. On December 4, 2006, the Planning Commission approved Developers’ sketch plan subject to the incorporation of shared driveways.
- D. After due notice as required by the Lee County ordinances, a public hearing on the Petition was held before the Lee County Zoning Board of Appeals (“ZBA”) on January 4, 2007, following which the ZBA voted to recommend the proposed re-zoning for approval to the Lee County Board.
- E. Developers have agreed that if the Lee County Board approves the recommendation of the ZBA to re-zone the Property from AG-1 to R-1, Developers will prepare and

3
submit their Preliminary Plat of Subdivision to the Planning Commission. Developers further agree that if the Lee County Board has not approved their Preliminary Plat of Subdivision within two years after approving the re-zoning, Developers will file a petition with the Lee County Board asking the Property to be re-zoned from R-1 to AG-1.

Now, therefore, in consideration of the mutual covenants, promises, and undertakings contained herein, Developers and Lee County hereby agrees as follows:

1. Recitals. The foregoing recitals are hereby incorporated herein as if fully set forth below as representations of Developers and Lee County.

2. Agreement to Re-Zone. Upon approval of this Agreement, the Lee County Board agrees to approve Developers' Petition by re-zoning the Property from AG-1 to R-1, Rural Residential District.

3. Undertaking to Present Preliminary Plat. Within a reasonable time, and not later than two years after approval by the Lee County Board of the Petition and this Agreement, Developers agree to prepare and submit to the Lee County Board a proposed Preliminary Plat of Subdivision for the Property.

4. Agreement to Approve Preliminary Plat. If the Planning Commission considers Developers' Preliminary Plat of Subdivision and recommends approval thereof to the Lee County Board, the Lee County Board agrees to approve such Preliminary Plat of Subdivision for the Property.

5. Undertaking to Request Re-Zoning. If the Lee County Board has not approved Developers' Preliminary Plat of Subdivision for the Property within two years after approving the Petition and this Agreement, then Developers agree to petition the Lee County Board to re-zone the Property from R-1 to AG-1.

6. Limitation on Divisions. Prior to the approval of the Preliminary Plat of Subdivision by the Lee County Board, Developers agree they will not subdivide the Property into more than four tracts for each quarter section as if the Property is zoned AG-1.

7. Binding Effect. This Agreement will be binding on Developers and each of their successors and assigns and all owners from time to time of the Property and will be binding upon the Lee County Board. This Agreement will be deemed to run with the land of the Property.

8. Miscellaneous.

- a. All provisions, conditions and regulations as set forth in this Agreement and the documents or plans to which it refers shall supersede all Lee County ordinances, codes, and regulations that are in conflict with the Agreement as

they may apply to the Property. However, when this Agreement is silent, the Lee County ordinances shall apply and control.

- b. Notwithstanding any other provisions to the contrary with respect to the Property, this Agreement shall be effective for a term of 20 years from the date of the Agreement or, if longer, the longest term permitted by law or any extended time that may be agreed to by amendments.
- c. This Agreement shall bind the successors and assigns of the Developers, Lee County, and their successors in office.
- d. Nothing in this Agreement shall in any way prevent the alienation, encumbrance, or sale of the Property or any portion of it, and the new owner or owners as well as all successors in any interest in or to the Property shall be both benefitted and bound by the conditions and restrictions expressed in this Agreement.
- e. Within 30 days after execution, the text of this Agreement (or a suitable memorandum hereof) may be recorded at the sole cost and expense of Developers in the Office of the Recorder of Lee County, Illinois.
- f. This Agreement shall be enforceable in the Circuit Court of the Fifteenth Judicial Circuit, Lee County, Illinois, by either of the parties hereto by any appropriate action at law or in equity to secure the performance of any of the covenants or undertakings herein.
- g. Unless stated otherwise elsewhere in this Agreement, any notice required or permitted under it shall be in writing and shall be deemed given when mailed by registered or certified mail.

If to Developers: Mr. & Mrs. Stephen H. Haliczzer
332 Eli G. Jewell Court
Sycamore, Illinois 60178

With a copy to: Douglas E. Lee, Esq.
Ehrmann Gehlbach Badger & Lee
215 E. First Street
P.O. Box 447
Dixon, Illinois 61021

If to the County: Nancy Nelson
Lee County Clerk and Recorder
112 E. Second Street
Dixon, Illinois 61021

With a copy to: Paul T. Whitcombe, Esq.
Lee County State's Attorney
309 S. Galena Ave.
Dixon, Illinois 61021

- h. Pursuant to 55 ILCS 5/5-3002, this Agreement is intended to allow for any matter not inconsistent with the provisions of the Illinois Counties Code, nor forbidden by law.

IN WITNESS WHEREOF, the parties to this Agreement have caused it to be executed as of the day and year first above written.

LEE COUNTY,
an Illinois county

ATTEST:

By: _____
James Seeberg, Chairman

Nancy Nelson, County Clerk

DEVELOPERS:

Stephen H. Haliczzer

Deborah H. Haliczzer

Prepared by:

Douglas E. Lee
Ehrmann Gehlbach Badger & Lee
Attorneys for Developers
215 E. First Street, Suite 100
P.O. Box 447
Dixon, Illinois 61021
(815) 288-4949
(815)288-3068 (FAX)

