

Members Present

Mr. Tripp, Mr. Stauffenberg, Ms. McBride, Ms. Barber, Mr. Hess, Mr. Washington, Ms. Schmidt, Mr. Olthoff, Mr. James, and Mr. Whitten

Members Absent

Mr. Tholen

In Attendance

- **Board Members**

Mr. Scholl, Mr. Bossert, and Mr. Liehr

- **Department Heads**

Mr. Van Mill

- **Media**

Leigh Marcotte

Dimitrios Kalantzis

1. Call to Order

The meeting was called to order by the Chairman, Mr. Olthoff, at 9:00 a.m. Quorum present.

2. Public Comment

3. Approval of Minutes – March 24, 2010

A motion to approve the March 24, 2010, minutes was made by Mr. James and seconded by Mr. Whitten. Motion carried.

4. Planning

5. Zoning

- **ZBA Case #09-11; request for Rezoning from A1-Agriculture to A2-Agriculture Estates, on parcels generally situated in Section 07 of Salina Township. The petitioners are Antoni J. and Susan L. Neven, property owners and Robert D. and Donna L. Bottger, applicants.**

A copy of a letter from the applicant's attorney was given to each committee member that confirms there will be a recorded restrictive covenant requiring that a small wet bottom detention basin or pond shall be placed in the front yard of each parcel in order to provide for storm water management.

Mr. Whitten made a motion to approve and Mr. Washington seconded it. Motion carried with a voice vote.

Discussion

Mr. Scholl stated that this has been bounced around for quite some time. The major issue out there is water and if we could get everybody on board within the area to deal with the drainage problem it could be resolved, but that is not going to happen. The other option is, if we had the authority as a county, is to go in and do the work and then send the bills to the appropriate property owners, but that is not doable either. He thinks this is a reasonable compromise so we can proceed with this. He thinks these codicils that are proposed have to be on the building permit so that anyone who wants to build out there knows what they are obligated to do. It shows up and is enforceable before building can begin.

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- **ZBA Case #10-03; request for Rezoning from A1-Agriculture to A2-Agriculture Estates, on parcels generally situated in Section 24 of Pilot Township. The petitioner is Richard A. Boudreau, property owner and applicant**

Mr. Skimerhorn stated that he made a mistake last month when he stated that 8 acres was taken off of the original parcel and deeded to the adjoining property. It was actually .8 acres. This is a request for rezoning from A1 to A2. The original parcel was 14.54 acres in size and this was prior to the current owner's possession of the property. The previous owner had deeded .8 acres off of the back side. When that happened they lost their legal nonconforming status, which prompted the requirement for rezoning from A1 to A2.

Mr. James made a motion to approve and Mr. Washington seconded it. Motion carried with a voice vote.

6. Other Business

- **Recycling Program**

Mr. Whitten stated that he talked to the mayor of Bradley last night and he asked Mr. Whitten to help get a recycling program ready. They are going to go door to door telling people how to recycle and a designated recycling place will be set up. All the proceeds will go to "Rebuilding Together".

- **EXECUTIVE SESSION – Review of Executive Session Minutes – 5 ILCS 120/2(c)(21)**
- **Release of Closed Session Minutes**

Mr. Boyd could not make it to this meeting so this will be put on next month's agenda

7. Old Business

8. New Business

Mr. Olthoff stated that Mr. Whitten has tenured his resignation and he will no longer be on our committee. He thanked him for his 16 years of service and said it has been a pleasure working with him.

Mr. James stated that we have some policies that he believes need to be reviewed in regards to approving building permits. In his district they had a person move in and put up a Morton building against the covenants and got a permit issued. Fourteen neighbors complained but were not able to get it stopped. It went to court and the judge ruled in favor of the person who put up the building because it was already built. Now that person is countersuing the fourteen neighbors asking that they each pay \$500 to help pay his legal bills or he will sue them. As far as he is concerned, it is unnecessary for this to have ever happened. If we would have a policy whereby people had to show that they are in compliance with the covenants of the area, these types of things would not happen. He feels it is partially our fault for allowing a permit without reviewing the covenants. He thinks that we need to take a look at requiring people to show that they are in compliance with the covenants before they can get a permit to build in a residential area.

Mr. Olthoff asked if it was in the requirements now.

Mr. Van Mill stated that over the 20 years they have gone back and forth over the issue of covenants and how they try to address them. It puts us in a very difficult position, especially if the covenants are stricter than what our county codes are. Over the years we have attempted to insure that people that come in for building permits are aware of their own covenant restrictions. If they are aware of certain developments that

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have various requirements, they try to comply with that. Things will slip through because every subdivision in the county has various provisions. If an application meets their requirements, they have no other recourse but to issue it. It is up to the owners to make sure that they meet the requirements of the covenants because he is not empowered to force those private contractual stipulations that those property owners amongst themselves buy into.

Mr. Washington asked if a list of those private covenants is given to the people seeking a building permit or do we merely verbally tell them about them. He thinks in order to form a basis for correcting some of this we need to have each private covenant on file so when someone comes in and makes a request for a permit then the appropriate covenant can be submitted to that applicant so that they are aware of those things.

Mr. Van Mill stated that there is no set policy. Different situations are handled differently. He does not know if we have all the covenants on file.

Ms. Barber stated that it is her experience with covenants that if you are a land owner and there are covenants the land owner is made well aware of them. She thought they were the guidelines that is agreed upon to live within when the land is purchased.

Mr. Scholl stated that he wanted to make a distinction here. Private covenants are not necessarily enforceable by the county in issuing building permits.

Mr. Skimerhorn stated that one of their requirements is a copy of the deed and the covenant we have here today will be attached to it.

Mr. Liehr stated that unless someone has reason to look at the covenants he can see people filing them away and not remembering all of the provisions of the code when they go to do something. He is more inclined to think that we should attempt to have information on what the private covenants are so that we can help property owners.

Mr. Skimerhorn stated that they do remind them to check their covenants.

Mr. Van Mill stated that his concern would be that we have the most updated and accurate ones. We wouldn't want them to rely on something that we may have that is outdated and inaccurate. They need to be relying on their own neighborhood's contact.

Mr. James stated that his point is that we could make it part of the requirement for permit issuing. We make it the burden of the applicant to prove that they own the land and that they have a survey. This would be just one more thing that they would have to provide. It would cease to create problems that now are created. There was nothing about not putting a second building up, but there was a restriction about what type of building you could put up. Even the owner that developed the land participated in the suit against the individual for not complying but because the building was erected it passed. All we would have to do is require applicants to submit their covenants and make sure that they understand them. If this thing could have been red flagged when it first started, then this whole situation could have been avoided. Right now we have a war going on over there. These are the type of problems we create because we won't go the extra mile to help the citizens and he thinks we should.

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Mr. Van Mill stated that if this person understood his covenant and still wanted to build it the way he did, the county could not deny it.

Mr. James stated that we should issue the permit subject to making sure that he complies with the covenant.

Mr. Van Mill stated that we can't do that.

Mr. Washington stated that when he said issue the covenants when they apply for the application, a sentence or two could be added at the top of the covenants that states that "this is the list as the county knows it but we advocate that the applicants research their covenants". He doesn't think that we can do anything over and above that because we are the county and we are not trying to enforce private covenants, but we can make them aware that they should research their covenants.

Ms. Barber agrees with Mr. Washington. She does not think that we should take any liability on with this. We should just put a disclaimer on the building permit or issue them some kind of handout reiterating the importance of their responsibility. They know what their covenants are and they know how to go about getting them. We can't manage that. She thinks we need to make a disclaimer and educate the applicants on what they need to do.

Mr. Tripp stated that we could have them sign off that they are aware of this.

Mr. Bossert stated that the county does not enforce compliance with culverts being placed in the right of way when a building permit is issued, but we do require that the road commissioner approve the placement and size. Similarly, could we not require that the local authority, such as the home owner's association, to review the plans and make sure it is in conformity with the local covenants? It puts the burden on them to enforce it but yet we are satisfied that it has been reviewed. That is a procedure that is done in Will County. The problem that comes up is that many home owners' associations are inactive. That is an avenue we need to pursue.

Mr. James stated that if that vehicle had been in place, things would not have turned out they way they did. He feels that we are not emphasizing enough how things should be done.

Mr. Olthoff stated that he thinks that for us we could have a disclaimer that they sign that states that they are checking the covenants and we are just making them aware.

Mr. Van Mill stated that they could do that.

Ms. Schmidt stated that she agrees with Mr. James. The investment of those people in that neighborhood depends on those deed restrictions and it is a recorded document that is part of that particular parcel of land that becomes, as far as she is concerned, the law of that parcel of land. She thinks that is something we should try to protect.

Mr. Olthoff stated that once they sign the disclaimer and then they violate their covenant it is a private property matter.

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Mr. James stated that we just might influence them not to violate it.

Mr. Bossert asked the realtors in the room how many closings that they are involved in do they insure that the covenants are attached to the deed when they sell a piece of property. He has gone through two closings in the County and has never seen a covenant.

Mr. James stated that if you read your title policy you would see that it is in there. It is pretty difficult getting around knowing that you have covenants and what they are.

9. Adjournment

A motion to adjourn the meeting at 9:28 a.m. was made by Mr. Whitten and seconded by Mr. James. Motion carried.

Bill Olthoff, Chairman
Joanne Langlois, Executive Coordinator