

Members Present

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

Members Absent

Mr. Tholen

In Attendance

- **Board Members**

Mr. Bossert, Mr. Liehr, Mr. Scholl, Mr. Enz, and Mr. Vickery

- **Department Heads**

Mike 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

Mr. Greg Deck commented that he would be available if there were any questions pertaining to ZBA Case 10-09.

3. Approval of Minutes – August 25, 2010 and September 10, 2010

A motion to approve the minutes was made by Mr. James and seconded by Mr. Washington. Motion carried.

4. Building

- **Rebuilding Together in Kankakee County (formerly Christmas in April) – Waiving of Building Permit Fees**

Mr. Van Mill stated that in the past they have worked with Christmas in April and they did projects during a defined timeframe. It seems like this new organization is doing projects on an “as needed” basis. They did have an issue come up a few weeks ago and were working with them on a permit for a roof. The recommendation of his office would be that they could see considering waiving the permit fee on a temporary basis. They can see how much activity that actually will generate for their office and if it is more than what they anticipate the policy could be reevaluated. They would still have to go through the permitting process.

Mr. Washington made a motion to waive the building permit fees on an annual basis and to review it annually and Mr. James seconded it. Motion carried with a roll vote of 11 ayes and 0 nays.

5. Subdivision

- **Country Springs Subdivision, 2nd Addition – Variances**

Delbert Skimerhorn stated that this is a request for two variances for Country Springs Subdivision, 2nd Addition. The developer has asked that we bring the variances before the committee before he formerly submits the subdivision to see if he can get the variances approved. Evidently, if he doesn't he probably will not go forward with the subdivision. This is an extension of Country Springs Subdivision in St. Anne Township. They are asking for a variance on right-of-way. Our current zoning ordinance requires an 80' right-of-way and they are asking that it be reduced to a 60' right-of-way so that it matches the existing

subdivision and the stub road that it links into. The other variance that they are asking for is that they be allowed to build the road with an A-3 surface instead of hot mix asphalt. There again, the existing road leading up to it is already an A-3 surface. The township road commissioner also agrees that A-3 would be acceptable to them.

Mr. James made a motion to approve the variances and Mr. Stauffenberg seconded it.

Discussion

Mr. Tripp stated that he is ok with the right-of-way but he questions the road surface.

Mr. Dave Tyson of Tyson Engineering is representing Mr. Hoekstra on this project and he stated that the road base will be the same – the full 12” base that is required. It will go up to the 24’ width and will have the appropriate ditches for drainage according to the subdivision ordinance. The difference is not having to put the hot mix asphalt on. The reason for this is that all the existing roads out there are already A-3. The township road commissioner said that he does not have the ability to maintain a hot mix asphalt road. The problem that would occur with a hot mix asphalt road is that it will not be heavily used because there are only nine lots there so it will dry out. He will have to be performing maintenance on it within the next five to seven years. It will crumble and start to break up. He doesn’t think that this road will have very much traffic on it at all. They are asking for it for two reasons – he doesn’t think a hot mix asphalt road will hold up in this situation and the township road commissioner doesn’t want it.

Ms. Schmidt asked if this was an already cut up parcel of land that has its own tax ID number. If so, when did it become its own parcel?

Mr. Skimerhorn stated that it is one large parcel right now. Mr. Tyson stated that it was done in 1959.

Ms. Schmidt asked what the purpose of an 80’ right-of-way was.

Mr. Skimerhorn stated that when they redid the subdivision ordinance the Highway Department recommended that we go with a larger right-of-way to allow more room for parking and minor roadways.

Ms. Schmidt asked if this has been discussed with the Highway Department. Do we have a letter from them?

Mr. Skimerhorn stated that there is a letter from them in today’s packet. It went out for a 45-day review just like it would for a full subdivision. The Highway Department and the Health Department commented on it. Highway’s letter reiterates that it does not meet our code. They are not for nor are they against it.

Mr. Hess stated that Mr. Piekarczyk commented in the letter that there is no drainage.

Mr. Tyson stated that the subdivision will have full drainage – it will have full drainage ditches on both sides. That has to go back to the County for review. This is just to ask for the variances right now. The infrastructure plans will have all the proper drainage on it.

Mr. Skimerhorn stated to keep in mind that this is just for the variances. It has not been fully designed yet. They have not sent it to an independent engineer for review because they do not have design drawings.

The original motion passed with a voice vote.

6. Zoning

- **ZBA Case #10-08; request for a Special Use Permit Section 121-99.c.14.e (Farm Related Sales & Services – Feed, Grain & Seed Sales) & Variances to Sections 121-99.e (Lot Width), 121-99.g.3 (Rear Yard Setback), 121-294.b.7.b (Parking Lot Surfacing), and 121-294.b.10.a.1 (Required Parking Spaces) in an A1-Agricultural District, on a parcel generally situated in Section 30 of Otto Township. The petitioners are Chebanse Crop Service, Inc., property owner and John Lilienthal, applicant. Mr. Lamme stated that about three weeks ago they received notice from the State of Illinois that they were awarded a grant to put bike racks on the front of the buses that provide rural transportation and then we informed that we needed to submit an application for the award that was just received. He would like a motion to allow the County Board Chairman to sign the application and the contract that will follow.**

Mr. Dennis Marek, attorney representing the petitioner, stated that he was available to answer any questions.

Mr. Skimerhorn stated that this is a request for a special use permit for Farm Seed Sales on a 2.16 acre in Otto Township. The site was formerly a farm sales site and was granted a special use permit in 1969 that went away somewhere in the late 1970's or early 1980's. That is why they need to reapply for a special use permit to reestablish the use there. Along with the special use permit, they are also requesting four variances. The variances being requested are for: reduction of lot width from 330' to 200', reduction of rear yard setback from 100' to 50', reduction of required parking spaces from 27 to 3, and relief from the requirement to pave the parking area.

Mr. James made a motion to approve subject to the understanding that it is a variance and if they should ever change the use the variances do not stay with it and Mr. Stauffenberg seconded it.

Mr. Skimerhorn stated that it would be evaluated if it changes.

Discussion

Mr. Olthoff stated that he thinks three parking spaces are very minimal.

Mr. John Lilienthal, applicant, stated that this is not for retail sales; it is merely a warehouse. They have two employees and occasionally someone else will come and park. Only two spaces would be needed 99% of the time. They don't sell out of there to people coming in to buy seed corn.

Mr. Bossert asked if farmers would be coming to pick up an order.

Mr. Lilienthal stated that in the springtime some farmers will come in and pull up underneath a conveyor and load out seed and then leave. They won't be there for a long period of time. This is just a distribution location and storage.

The original motion passed with a voice vote.

- **ZBA Case #10-09; request for Rezoning from A1-Agriculture District to RE-Rural Estate District and a Variance to Section 121-281.c (Accessory structures in front yard), on parcels generally situated in Section 04 of Salina Township. The petitioners are Richard J. Bertram, Sr. and Louis M. Bertram, property owners and Richard J. Bertram, Jr. and Lisa M. Bertram, applicants.**

Mr. Skimerhorn stated that Mr. Bertram Jr. and his wife would like to divide 3.77 acres off of the family's 31 acre farm on the north side so that they can build a home on the property. They want to be next door to his parents so that he can take care of them. They would like to build a home in the woods toward the back which is why they need a variance. Located on the property are two pole barns; one is at the edge of the woods and one is farther back into the woods. The ordinance says that there cannot be accessory structures in the front yard so that is why the variance is needed.

Ms. Barber made a motion to approve and Mr. Washington seconded it.

Discussion

Mr. Scholl stated that he thinks what they are requesting is logical when you look at the parcel and the topography of the area – to preserve what is there and to maximize the aesthetic quality of the area. There are a number of homes built in that area. Ground is not being taken out of agriculture production. It is a proper and aesthetically correct place to put the house, in his opinion.

Mr. James stated that his major concern is the safety factor. He knows of several homes out there where the roadway goes back in off the road a considerable distance which makes it difficult to access it in an emergency.

Mr. Skimerhorn stated that they can build a home anywhere on the property as long as they meet our setback. The issue here is whether or not they have to tear down the pole barn.

Original motion passed with a voice vote. Mr. James opposed.

7. Other Business

- **Energy Efficient Conservation Block Grant – Authorization for Mike Van Mill to Sign Sub-contracts with Local Government/Recipient**

Mr. Van Mill stated that the K3 County Regional Planning Commission was awarded a grant for energy efficiency that they distributed to all the local units of government to encourage them to apply for projects that would improve energy efficiencies. They created a committee to review the applications and make recommendations. They sent those to the State and the State approved those projects that they recommended. They have announced the awards and are now in the process of putting the contracts together.

Michelle Sadler from Planning stated that they had twelve applicants and they awarded grants to seven. They were for lighting, HVAC, and replacing doors and windows. The projects have to be completed by March 2012. This is a pass through from the Illinois Association of Regional Councils to the Planning Commission and then they pass the money through to the local government and they forward it onto the recipients. The awardees were as follows: KCC received \$80,750; BBCHS received \$115,323; Manteno Public Library received \$3,834; Manteno Community Fire Protection District received \$48,978; Bradley Fire & Police Department received \$30,000; Bourbonnais Fire Protection District received \$50,808; and the K3 County Courthouse received \$28,895.

Mr. Washington asked what the original amount of the grant was and how much of it was used.

Ms. Sadler stated that it was \$358,588 and then there was approximately \$32,000 for administrative; the whole amount was used.

Mr. Washington made a motion to accept and Mr. Stauffenberg seconded it. Motion carried with a roll call vote of 11 ayes and 0 nays.

- **U.S. EPA Brownfield Assessment Grant Application**

Marilyn Campbell from Planning stated that we are applying for a \$400,000 Brownfield Assessment to assess both potential hazardous substances and petroleum substances. There is no cost to the County; there is no match for this grant. Besides assessing the sites, they will have a community plan on how to reuse those land areas that would become available and potentially have businesses on them to put money back into the county government. Right now there is ground that is not being used because of the potential threats from any kind of hazardous wastes or substances.

Mr. Van Mill stated that a few weeks ago they held a meeting with all the local units of government and asked for their support behind this so this could be a county-wide approach. There is potential to do that. This will be led by the County. They see this as a positive economic development project because we will be able to take properties that have even the perception of being contaminated in some way and getting them assessed so that people can use those properties again and put them back on the tax rolls. This is an important project that they feel needs to go forward.

Mr. Olthoff asked if this would cover all sites in Kankakee County that we think has a problem.

Ms. Campbell stated that we can inventory as many sites as have the potential. Inventory means just that we think that it could possibly be a site then there will be a process to assess which ones would really be tested. That would be determined by several different factors; such as, what is the potential for reuse, what is the potential that the community agrees with the possibilities, etc. We are probably looking at a potential of maybe 16 actual Phase #1 assessments which is to just go in and get the history of the site. Phase #2 actually goes in and actually does the borings; there may be six of those. By doing this preliminary assessment now, we can go on to the next round of applying for clean-up and the revolving loan fund. There are other opportunities that we would have later but without this initial step we would not have these opportunities.

Ms. Campbell stated that they are asking the County Board to authorize them to submit the application.

Mr. Washington made a motion to authorize the County Board to authorize them to submit the application and Ms. McBride seconded it.

Discussion

Mr. James stated that this concerns him from the standpoint that they are going to come in and select a group of areas that they think are potential. They will take a look at about 20% of them and there is no funding established to correct the situation. He has a feeling that with this program we may be opening a can of worms that we can't live with.

Ms. Campbell stated that this is the assessment grant; probably 33% of the sites will not need to be assessed further.

Mr. Van Mill stated that this program may speed up the process of a property being sold and being put back on the tax rolls.

Ms. Barber asked if it is basically first come first served with this grant. How are the assessments determined in terms of the need and the property?

Mr. Van Mill stated that there would have to be some discussions about that. First of all, he thinks we would look at a broad county analysis and then make decisions as we gather information. They would work together and have the control for the County.

Mr. Washington stated that all this is doing is saying that we are going to have the monies to do the initial phase study to determine if or how contaminated they are.

Original motion carried with a voice vote.

- **Demolitions Permits**

Mr. Van Mill stated that at the last meeting an issue was brought to their attention asking them to look into changing our policies within the office with regard to demolitions and looking at environmental issues. They did do an assessment of what communities are doing locally within Kankakee County. They also went out to counties outside our area to see what they were doing in terms of demolition and looking at asbestos. Ms. Schmidt had brought that up as an issue and they took it upon themselves to do that over the last month. They looked at a number of counties and what they have here today is a draft of a document that they would require during a demolition of a commercial or industrial structure. This is similar to what some counties in the suburbs do. If a commercial or industrial structure was going to be demolished, they would insure that the demolition contractor acknowledges that he has a responsibility for asbestos and that he is responsible for the proper disposal of that. He spoke to Ms. Schmidt yesterday about that and she asked them to evaluate lead paint; they are going to look at having that added to this form. At some point we will take it to the State's Attorney to insure that we are okay within our liability. If everything works out, they will have this as part of their administrative process during a demolition. This is just for information purposes.

Mr. Enz stated that he and our state representative had a conference call with the IEPA on this very issue and his understanding is that right now we are not following the Illinois law. To the best of his knowledge, the Illinois law states that no demolition permit can be issued without a permit from the State of Illinois. He would like for Mr. Van Mill to check that out. He doesn't think the document before us goes quite far enough. It was suggested to him by the IEPA that the best ordinance that there was in the State of Illinois was Will County's ordinance.

Mr. Van Mill stated that they looked at their ordinance but their Building Department is not responsible for the environmental section. They have an Environmental Department; we don't have one. They may have the best one but they have a process; we have to use what we have available. Right now, this is what is available to us to use. We are in budget cuts and are going to be losing people shortly. Based on what the information he has right now and what they can do, this is what they are putting out there for consideration.

Mr. Enz stated that he didn't think that it would cost the County anything if the State law was followed and no permits were issued until a copy of the permit from the State of Illinois was received. What cost would there be?

Mr. Olthoff asked if that is what the second paragraph states.

Mr. Enz stated that it doesn't seem real clear to him.

Ms. Barber stated that her understanding is that if she were the contractor and she was asked to tear a building down and the building is 150 years old and she calls up and has someone come out and do testing, then she can bring that report in when she comes to get a permit. Is that how it is going to work? She has to prove that she has done due diligence and there is no harmful substance present.

Mr. Van Mill stated that would be her responsibility. She is signing an affidavit saying that she is doing it. What Mr. Enz is saying is that we would require them to show us the permits required or a permit from the EPA.

Ms. Barber stated that right now the way it is worded is that she is putting her name on the line saying that she has done what she needed to do. She doesn't necessarily have to prove it unless asked.

Ms. Schmidt stated that she would like to see the State law followed. Are we doing it wrong or right?

Mr. Van Mill stated that he doesn't think that they are doing it wrong. He hasn't been notified that they are. He will talk to Mr. Enz's point of contact. He has information from other IEPA inspectors that we are not doing it wrong. He will get it clarified.

Mr. Enz stated that when he talked to the EPA they said that out of 102 counties only 7 are following this law. It is something that they have not aggressively pushed but his understanding is that they are going to start doing so.

Mr. Van Mill asked who they are putting the liability back on.

Mr. Enz stated that they are trying to put it back on the contractor.

Mr. Van Mill stated that is what he has done in this document.

Mr. Bossert asked if we are talking about all zoning or just commercial and industrial.

Mr. Van Mill stated that he thinks it is only commercial and industrial.

Mr. Bossert asked what EPA is claiming to have jurisdiction over - all zoning or just commercial?

Mr. Enz stated that is only commercial.

Ms. Barber stated that her family just had this experience. They hired a company that came out and they took samples and they made sure that they were doing it based on law. That is what you pay for. They are certified by the State.

Mr. Vickery asked if the health department has any input into this. He watched a three day process on a corn crib in Will County who is suppose to be doing their job. The first day there was a big hole, the next day it was pushed into the hole and burned, and on the third day it was covered up.

John Bevis from the Health Department stated that he agrees with Mr. Van Mill in that with the economic times we are losing staff. When it comes to a demolition permit their office has been attempting to coordinate with the Building Department in an effort to ensure that both parties are aware of what is going on. He is not for sure if he understands what the law is or isn't in regards to what the EPA is suppose to do. Ideally, it would be great if we could go out and make sure that every contractor does things right but ultimately their office as well as Mr. Van Mill's can only do what they are responsible for. If someone doesn't do what they are suppose to do and a complaint is made and it is determined that they were in violation of something, such as the asbestos dumping that occurred a couple of months ago, then it gets investigated and the EPA will enforce their law in regards to what needs to be done and who is in trouble for it. If a contractor signs the document presented here today, they can't come back and say that they did not know.

Mr. Van Mill stated that they would look at the law and see what their responsibilities are and then bring it back next month.

8. Old Business

- **Update of Pembroke Township Revolving Fund**

Mr. Van Mill stated that they have sent the information to the State's Attorney's office and they are working to get the audit.

Ms. Schmidt stated that yesterday she listened to the Revolving Loan Fund meeting tape and it is her understanding that the roof was fixed and paid for back in July. It is her understanding that before they even voted on this the roof was fixed and paid for. They were led to believe in both of those meetings that the roof still needed to be fixed and that the fact that we were going to allow Mr. McCarty to pay the bills made them feel better that those funds were going to be taken care of properly. She is upset that they were led to believe that the roof still needed to be fixed.

Mr. Van Mill stated that he was not aware of that.

Ms. Schmidt stated that there was extensive talk about \$340,000 that was mismanaged and no one knows what happened to it. She feels like she is a steward of the taxpayer's money. She wants answers to why they were not told the truth in the beginning when we voted on this.

Ms. Schmidt made a motion to rescind the vote and Mr. James seconded it.

Discussion

Ms. McBride stated that Mr. Franco said that since he was doing the project and he wanted to see the project finished, he was going to go ahead and pay to have the roof done and then try to get his money back. This is the statement that he made at a meeting that they had before the Revolving Fund Loan meeting. He did say someone was working on the roof as the meeting was taking place. He said that he was standing responsible for it so the people could be paid and so the project could be finished, but he wants his money back.

Mr. Van Mill stated that it would have to have been the Revolving Loan Fund meeting.

Mr. Stauffenberg stated that Mr. Gibbs said at the PZA meeting that the roof had been repaired but the problem was that insulation was put in the drainpipes which plugged them up so the water can't run off of the roof and it runs down the side of the building through the brick. He was aware of that from day one. It's not that the roof has not been repaired it is that whoever did it plugged up the drainpipes.

Mr. James stated that he is a little concerned about what was in the article in the paper that was sent to the board members. He is concerned as to what we are doing about this publicity. If we are getting involved in a really sad situation we should be thinking seriously about getting out. Has anyone gone out and inspected this property to verify what is being published? We should be concerned about finding out by going out there.

Ms. Schmidt stated that she thinks if you asked most people that were at that meeting they thought the roof still needed to be repaired. She personally was led to believe that the roof needed to be fixed and that they had a proposal in front them from a roofer that when he was done then he would be paid.

Mr. Van Mill stated that he did to.

Ms. Schmidt stated that there are other issues with this whole deal. The roof was messed up when Nestle had it. They heard that IEPA hacked holes in the roof and then she heard that birds pecked holes in the roof. Which is it? If there is a consultant and a contractor on the project, then why isn't the roof inspected before the whole project even starts? If the damage is afterwards, why isn't the property insured so any damage made by birds afterwards would have been fixed by an insurance company? She thinks we ought to go back to square one and get the true facts and start over.

Mr. Olthoff stated that they could have Mr. Gibbs come in before the next PZA meeting to address this.

Ms. Schmidt stated that she doesn't think that helps. She wants to see some documentation. She wants the whole story.

Mr. Washington stated that he was not confused at all about what happened with the roof. Mr. Gibbs said that the roof had been repaired but the insulation was in the drain. We have had "no hands" on that project simply because it was not funds coming from the County. Now we are looking at a small amount of money to finish off the project by clearing the drains and possibly adding property, which has been eliminated from it. He doesn't understand why all of these questions came up now versus when we had the very subject before the committee. Why go back now and get information that was not pertinent at the time that we were considering it.

Mr. Vickery stated that Mr. Washington is correct. We are not involved in the whole project. The only thing that we are involved in is the roof. The State is involved in the other part. They have a person on site and whatever questions that the Press brought up should be addressed to that person.

Mr. James stated that at that meeting it was stated that the building was paid for and was 99.9% completed; the loan would be the only indebtedness other than maybe some start-up costs. His issue here is that we are all going under the assumption that we are investing in a project that is 99.9% completed and we have articles in the paper calling us liars. He thinks we better know what we are talking about. We better be finding out and he is willing to go out there and find out.

Ms. Barber stated that after the last meeting with Larry Gibbs she drove out there and it is quite obvious that a lot of work has been done. It looks good. That building is completely locked down, so how did someone get in there to take pictures and write articles? Who is behind this? She remembers the question being asked about why the roof was not done first. They were told that at the time of the grant writing the roof was fine and then someone came to inspect it and put some dings in it. The drainage of the gutters was the issue.

Mr. Tripp said that this is a loan so we will get our money back.

Ms. McBride stated that it was her understanding that the money could not be let anyway until the audit was brought in and some documentation showing where the money has been going. We can stick to that.

Mr. Enz stated that he had a conversation last night with Sam Payton, the mayor of Hopkins Park, who has the responsibility of inspecting this building. He told him that if he would give him a call he would get him inside of the building. He would assume Mr. James could come, too.

Mr. Hess said that it was stated that we are just involved in the roof but we are more involved than that. We have furniture, copy machines, tables, chairs, etc.

Ms. Schmidt stated that it was her understanding from the tape that she listened to that the contractor is going to take a \$1.9 million. There is \$340,000 unaccounted for from this grant money. There is still mold remediation that has to be done. Who is going to pay for that? There is also talk about who is going to pay for the electricity and everything else after all the money is gone and before they get renters in there. She hates to throw good money after bad if there is no business plan. She thinks it would be helpful to the people of Pembroke Township to cause them to do a business plan and be a little more concentrated on what they are doing here. It would help the project, help us, and help spend this money properly. We are not forcing that issue and she thinks we should.

Mr. Olthoff stated that it is his understanding that this money has not been approved yet pending the audit being brought in.

Mr. Hess stated that is what they voted on.

Ms. McBride stated that before we rescind we should go out there and see what is going on for ourselves so we know that everything has been done right. We should have gone out and inspected it first but we did not. She thinks we should go there before we rescind so the next time we come to this meeting we have all our ducks in a row.

Ms. Schmidt stated that was not a stipulation of the previous vote. The reason she wants to rescind it is so that we can start over and do this properly.

Ms. Barber stated that she thinks we need to go back to what was agreed to at the last meeting which was that we asked for the audit. We asked for the paper trail and we have not received it yet, so at this point there are no monies on the table. This is a mute discussion because until they follow through with that we can't go forward.

Mr. James stated that Ms. Barber made a good point; however, once they show up with the paperwork we are committed. We can't rescind it at that point.

The original motion to recommend to the County Board to rescind the agreement with the Revolving Loan Fund of \$46,000 to the Nestle Plant project in Pembroke Township failed with a roll call vote of 2 ayes and 8 nays.

9. New Business

10. Adjournment

A motion to adjourn the meeting at 10:14 a.m. was made by Mr. Hess and seconded by Mr. James. Motion carried.

Bill Olthoff, Chairman
Joanne Langlois, Executive Coordinator