

## **Minutes of the Land Use and Development Committee**

The Land Use and Development Committee of the McLean County Board met on Thursday, June 7, 2007 at 4:45 p.m. in Room 400, Government Center, 115 E. Washington Street, Bloomington, Illinois.

Members Present: Vice-Chairman Segobiano, Members Caisley, Clark and Ahart

Members Absent: Chairman Gordon and Member Baggett

Other Board Members Present: None

Staff Present: Mr. John Zeunik, County Administrator;  
Ms. Christine Northcutt, Recording Secretary,  
County Administrator's Office

Department Heads/  
Elected Officials  
Present:

Mr. Phil Dick, Director, Building and Zoning;

Others Present:

Mr. Mike Behary, County Planner, Building and Zoning; Mr. Tom Bargmann; Mr. Larry Dietsch; Ms. Kathy Neil; Mr. Nate Kelson; Mr. Larry Biefeldt

Vice-Chairman Segobiano called the meeting to order at 4:45 p.m. Vice-Chairman Segobiano stated that the first order of business is consideration of the May 3, 2007 minutes. Hearing no additions or corrections, he placed the minutes of the May 3, 2007 Land Use and Development Committee meeting on file as submitted.

Vice-Chairman Segobiano presented the bills from May, 2007 which have been reviewed and recommended for transmittal to the Land Use and Development Committee by the County Auditor. The prepaid total and the fund total is \$26,316.50. He asked for a motion to approve the bills.

Motion by Ahart/Caisley to recommend approval of the May, 2007 bills as presented by the County Auditor. Motion carried.

Vice-Chairman Segobiano stated that the first item for the Committee's consideration is an application of Thomas and Donna Bargmann to approve a vacation plat for a part of the front building setback area of Lot 3 Flying "W" Estates Subdivision which is located in Empire Township at 5 Pinto Drive, LeRoy. Vice-Chairman Segobiano informed the Committee that this item will be presented in the form of a Public Hearing. He called the Public Hearing to order at 4:45 p.m. He asked Mr. Phil Dick, Director, Building and Zoning to present this item to the Committee.

Mr. Dick informed the Committee that public notice of this Public Hearing was published in *The Pantagraph* on May 19, 2007 and notification has been sent to all property owners within 250 feet of this property. Mr. and Mrs. Bargmann are requesting to vacate the easterly 10 feet of the westerly 40 foot front yard building setback area of Lot 3 of Flying "W" Estates Subdivision. This Subdivision was recorded with a 40 foot front yard setback while the Subdivision Zoning Ordinance only requires a minimum of 30 feet. The applicants want to build a deck in front of their dwelling. Both the McLean County Highway Department and County Health Department have signed off on this request.

Vice Chairman-Segobiano invited the applicant to address the Committee. Mr. Bargmann stated that he has followed the application process as stated by the Building and Zoning Department and he is hoping to move forward with the request.

Vice-Chairman Segobiano asked if there were any comments from County staff. Hearing none, he asked if there were any questions from Members of the Committee.

Mr. Caisley stated that Pinto Drive is a cul-de-sac. He asked if there were any plans for this road to become a major thoroughfare. Mr. Bargmann responded that it does not appear that it will ever become a major thoroughfare.

Vice-Chairman Segobiano asked if there are any other questions from the Members of the Committee. Hearing none, he asked if there were any other parties present who wish to address the Committee regarding the proposed vacation plat. Hearing none, he declared the Public Hearing closed at 4:49 p.m. He asked if there were any other comments or questions about this request. Hearing none, he called for a motion.

Motion by Caisley/Ahart to recommend approval of an application of Thomas and Donna Bargmann to approve a vacation plat for a part of the front building setback area of Lot 3 of Flying "W" Estates Subdivision which is located in Empire Township at 5 Pinto Drive, LeRoy, File Number S-07-07.  
Motion carried.

Vice-Chairman Segobiano stated that the second item for action is an application of Larry Diestch to approve a vacation plat for a part of the front building setback area of Lot 8 Kickapoo Meadows Subdivision which is located in Randolph Township at 3311 Country Meadow Lane, Heyworth. Vice-Chairman Segobiano informed the Committee that this item will be presented in the form of a Public Hearing. He called the Public Hearing to order at 4:49 p.m. He asked Mr. Dick to present this item to the Committee.

Mr. Dick advised the Committee that public notice of this Public Hearing was published in *The Pantagraph* on May 19, 2007 and notification has been sent to all property owners within 250 feet of this property. He stated that Mr. Dietsch is requesting to vacate the easterly 10 feet of the 131 foot front yard setback of Lot 8 in the Kickapoo Meadows Subdivision. Because this lot is triangular in shape and the lot width requirement at the front setback line is 200 feet for lots over one acre in area, the front setback is extraordinarily long. Typical lots have a front setback of 30 feet. The applicant has concurrently applied for a variance in lot width requirements to allow the lot width to be 182 feet at the front setback line rather than 200 feet as required for lots over one acre. The case went before the Zoning Board of Appeals on Tuesday, June 5<sup>th</sup> and was approved. Both the County Highway Department and County Health Department have signed off on this request.

Vice-Chairman Segobiano invited the applicant to address the Committee. Mr. Dietsch responded that he did not have anything to add at this time.

Vice-Chairman Segobiano asked if the County staff had any comments. Hearing none, he asked if there were any questions from Members of the Committee.

Mr. Caisley stated that Country Meadow Lane is a cul-de-sac. He asked if there were any plans for this road to become a major thoroughfare. Mr. Dietsch responded that it does not appear that it will ever become a major thoroughfare.

Vice Chairman Segobiano asked if there were any parties present who wished to address the Committee regarding this case. Hearing none, he declared the Public Hearing closed at 4:52 p.m.

Vice-Chairman Segobiano asked for a motion on this case.

Motion by Ahart/Caisley to recommend approval of an application of Larry Dietsch to approve a vacation plat for a part of the front building setback area of Lot 8 Kickapoo Meadows Subdivision which is located in Randolph Township at 3311 Country Meadow Lane, Heyworth, File Number S-07-09.  
Motion carried.

Vice-Chairman Segobiano stated that the last item for the Committee's consideration is an application of Bill and Kathy Neil to approve a vacation plat for a part of a drain tile easement area of Lot 25 in Sherwood Subdivision which is located in Old Town Township at 9506 Abby Way, Downs. Vice-Chairman Segobiano asked Mr. Dick to present this item to the Committee.

Mr. Dick stated that that public notice of this Public Hearing was published in *The Pantagraph* on May 19, 2007 and notification has been sent to all property owners within 250 feet of this property. Mr. and Mrs. Neil are requesting to vacate part of the drain tile easement on the south 10 feet of the north 20 feet of Lot 25 in Sherwood Subdivision except the east 25 feet thereof and also except the west 20 feet thereof. An existing drain tile easement 40 feet in width is evenly divided along the north side of Lot 25 and the south side of Lot 26 for a common collector pipe to which the sand filters for septic systems are connected that flows to the tertiary treatment plant for the subdivision. The pipe is located more than 10 feet from the edge of the proposed vacated easement. Typically, the Health Department would like to have the existing pipe shown on the plat, but there is at least 12 feet of distance on the easement from where the proposed vacation is located. Both the County Highway Department and County Health Department recommend approval of this request.

Vice-Chairman Segobiano asked if the Building and Zoning Department were satisfied with the plat map and the request. Mr. Dick responded the Building and Zoning Department would recommend approval of this request.

Ms. Ahart asked if the proposed dwelling will be built 12 feet from the drainage tiles. Mr. Dick responded that is correct. She asked if there would be interference with the drainage. Mr. Dick responded that there will not be any interference with the drainage.

Vice-Chairman Segobiano invited the applicant to address the Committee. Ms. Kathy Neil introduced herself to the Committee. She asked Mr. Nate Kelson, builder, to address the Committee on her behalf.

Mr. Kelson informed the Committee that he wanted to clarify for the Committee that it is actually a proposed septic system that is being put in the easement that is 12 feet away from the drainage tiles; not the actual dwelling. The dwelling itself is still within the Zoning setback.

Vice-Chairman Segobiano thanked Ms. Neil and Mr. Kelson for their input. He asked if there were any comments from members of the County staff. Hearing none, he asked if there were any members of the audience who would like to address the Committee regarding this request.

Mr. Larry Biefeldt introduced himself to the Committee. Mr. Biefeldt informed the Committee that he developed this Subdivision. He stated that he was unsure as to why Ms. Neil would have to apply for a vacation plat. He stated that this Public Hearing should have never been required to take place. When he developed this area and put the covenants into place for this Subdivision, he provided a 40 foot easement throughout that area because there are a lot of trees located there. Typically, when houses are located 40 foot from the front, there is a certain amount of distance in the back of the house in order to hook up to the effluent system that is provided for them. The question that arises here is whether or not you can build a house in an easement. Mr. Biefeldt stated that, in his opinion, you can build a house in an easement because no one owns an easement. In the covenants, it states that "...Each lot owner shall be responsible for the maintenance, repair, and replacement of any pipes or other equipment transporting water for the common lines to the improvement located on their prospective lots..." Mr. Biefeldt stated that he would be happy to answer any questions that the Committee may have.

Vice-Chairman Segobiano thanked Mr. Biefeldt for his comments. He asked if staff would like to respond to Mr. Biefeldt's comments.

Mr. Dick stated that the Subdivision Ordinance does not enforce covenants. In addition, in the Subdivision Ordinance, an easement is defined as "A quantity of land set aside over or under which a liberty, privilege or advantage in land without profit is dedicated and is distinct from ownership of the land and is granted to the public, a particular person or a combination of both." Mr. Dick stated that there is a bit more of a restriction upon an easement than Mr. Biefeldt may have indicated. Mr. Dick stated the Mr. Biefeldt had indicated that he and his attorney disagree with the Building and Zoning Department's interpretation of an easement. Mr. Dick stated that Mr. Biefeldt's attorney is Mr. Frank Miles. Mr. Dick and Mr. Miles spoke about this issue, and Mr. Miles agreed that Mr. and Mrs. Neil would have to obtain a vacation plat from this easement in order to install this septic system.

Mr. Bielfeldt stated that he knows that attorneys would argue about the definition of an easement and he stands by his original statement.

Vice-Chairman Segobiano asked if there were any questions from Members of the Committee.

Mr. Caisley asked Mr. Bielfeldt if he placed a storm drain in this easement. Mr. Bielfeldt responded that he put an effluent line in the easement which will run to a sewer treatment plant.

Vice-Chairman Segobiano asked that the Committee's questions be directed to either the applicant or the staff. He asked if there were any other questions. Hearing none, Vice -Chairman Segobiano declared the Public Hearing closed at 4:52 p.m. He asked if there were any further discussion or comments from Members of the Committee.

Mr. Caisley asked if the drain field is far enough away from the drain that Mr. Bielfeldt has constructed so that there will not be a public health problem. Mr. Dick responded that there will not be a drain field on this lot. This system will have a septic tank and will drain into a line that goes into the drain tile easement.

Vice-Chairman Segobiano stated that on the staff report, item 3(b) states that the County Health Department recommends approval of the proposed drain tile easement.

Vice-Chairman Segobiano asked if there were any other questions or comments. Hearing none he called for a motion.

Motion by Clark/Ahart to recommend approval of an application by Bill and Kathy Neil to approve a vacation plat for a part of a drain tile easement area of Lot 25 in Sherwood Subdivision which is located in Old Town Township at 9506 Abby Way, Downs, File Number S-07-10. Motion carried.

Vice-Chairman Segobiano asked if there was any further discussion or comments. Hearing none, he asked for a motion to adjourn.

Motion by Ahart/Caisley to adjourn at 5:08 p.m.  
Motion carried.

Respectfully submitted,

Christine Northcutt  
Recording Secretary