

**APPROVED AS SUBMITTED** Minutes of the **REGULAR MEETING OF THE ZONING BOARD** held on Tuesday, April 8, 2008, in the Public Meeting Room in the Village Hall, One Olde Half Day Road, Lincolnshire, IL

**PRESENT:** Acting Chairman Rubinstein, Members Pratt, Manion and Soifer and Alternate Kalina

**ABSENT:** Trustee Liaison McDonough

**ALSO PRESENT:** Steve McNellis, Director of Community Development, and Stephen Robles, Planner

**CALL TO ORDER:** Acting Chairman Rubinstein called the meeting to order at 7:00 p.m.

### **1.0 ROLL CALL**

The roll was called by the secretary and **Acting Chairman Rubinstein** declared a quorum to be present.

### **2.0 APPROVAL OF MINUTES**

2.1 Approval of the Minutes of the Regular Zoning Board Meeting held on Tuesday, March 11, 2008.

**Mr. Pratt** moved and **Mr. Manion** seconded a motion to approve the minutes as submitted. The motion passed unanimously by voice vote.

### **3.0 GENERAL BUSINESS**

Before **Acting Chairman Rubinstein** recessed the Zoning Board meeting, the meeting was referred to Steve McNellis for a few words:

**Steve McNellis, Director of Community Development**, read the following statement, provided to the Zoning Board, to members of the audience and residents. In March of this year, the Zoning Board discussed the proposed text amendment regulating Columbaria in the Village. At that meeting, there was limited discussion, due to a desire to provide a general notice to the public and send copies of the proposed amendment to the church properties in the Village, who would have additional regulations on their property, as a result of any proposed code change. It was discussed that a notice should be placed in the newsletter and on the Village's website, providing a general notification of this hearing. However, since the notice appeared in the newsletter, we have received several calls from interested residents regarding this issue and tonight's Public Hearing.

It should be noted that last year, the Zoning Board reviewed an application for a columbarium on a specific church property in the Village. That request, which is no longer active, led to the Village Board's decision in January to refer a proposed text amendment regulating columbaria, so as to ensure that a specific process and basic requirements be put in place, should there be a decision to permit these types of structures. Last Fall, Staff and two trustee representatives held a meeting with concerned residents adjacent to the property noted above, upon which a specific application for a columbarium had been made. At that meeting, Staff stated that we would inform those

residents of any matter that was on a Village agenda related to that columbarium. While Staff believed that promise was related to a specific application for that site, upon which there is no active application, we can understand how our intent, and what those residents may have heard, could be seen differently. Quite frankly, in retrospect, it would have been prudent to notify those interested residents. Therefore, Staff would highly recommend that we listen to all members of the public who wish to comment this evening, and then continue the meeting to May, at which time anyone not present this evening will have an opportunity to state their comments for the record. We would also propose that Staff notify all property owners within 250' of a church in the Village, of the May Continued Public Hearing. We would further recommend that the Zoning Board's discussion of these comments be very limited this evening, and that a more in-depth discussion take place at the May meeting, so that all public comments can be taken into consideration.

**Director McNellis**, asked if there is a consensus amongst Zoning Board, to continue the public hearing until May to allow anyone who couldn't attend tonight's meeting the opportunity to speak next month. **Mr. Pratt** concurred with Director McNellis' request. **Acting Chairman Rubinstein** asked the Zoning Board for any objections, to which there were none.

**Acting Chairman Rubinstein** recessed the Zoning Board meeting and opened the Continued Public Hearing.

- 3.1 **Continued Public Hearing** regarding proposed text amendments to Sections 6-2-2, Definitions, for the purpose of establishing definitions for memorial facilities, and 6-5A-2, Special Uses (in the R1, R2, and R3 Single-Family Residence Districts), 6-5B-3, Special Uses (in the R2A Single-Family Residence District), 6-5C-3, Special Uses (in the R4 Single-Family Attached Residence District, and 6-5D-3, Special Uses (in the R5 Mixed Use General Residence District) of the Village of Lincolnshire's Zoning Regulations regarding the permissibility of memorial assembly facilities and memorial gardens as Special Uses in the R1, R2, R2A, R3, R4 and R5 Residence Zoning Districts (Village of Lincolnshire).

**Stephen Robles, Planner**, summarized Staff's memorandum dated April 4, 2008, and noted that the Zoning Board may recall from last month's meeting, the Village Board has requested Staff establish standards for memorial facilities that would provide clear criteria for regulation of such facilities. In researching standard for memorial facilities in surrounding communities, Staff found that local communities define "cemeteries" or "memorial gardens", but are not specific on imposing development regulations. In addition to researching best practices amongst nearby communities, Staff was also directed by the Village Board regarding specific standards they felt should be incorporated. As a result, Staff is proposing to create two new zoning terms and definitions to identify the types of memorial facilities that would be permitted; "memorial assembly facility" and "memorial garden" - definitions of the proposed terms were provided from the Staff Memorandum. **Planner Robles** noted that neither of the two facilities would allow for the burial of non-cremated human remains. This was specifically requested by the Village Board to prohibit the permissibility of cemeteries as part of this amendment. By establishing a memorial

garden use, religious institutions would have the ability to create memorial gardens that would essentially be landscape improvements, provided that no human remains of any kind are placed within the garden.

**Planner Robles** further noted that Staff had determined that it was appropriate to create separate requirements for both indoor and outdoor memorial assembly facilities. The criteria for indoor memorial facilities are minimal since these facilities must be located within a fully enclosed structure that would be regulated by the Zoning Code. Since any visual impact of an indoor facility would be completely contained within an enclosed building, Staff concern is significantly reduced. Conversely, outdoor memorial facilities have the potential to create a larger impact to abutting residences. Based on the direction of the Village Board to encourage memorial facilities to locate within the interior of the church properties, Staff is recommending large setbacks to address this request. **Planner Robles** noted that there is an existing columbaria facility that was constructed in 2001 located at a church within the Village. Once new regulations are established, this facility will be required to proceed through the same process and adhere to the same standards. Based on the discussion of the previous Zoning Board meeting, Staff has revised the proposed text amendments as noted in the Staff Memorandum, along with a complete revised version of the proposed text amendments.

**Bill Cameron**, residing at 6 Victoria Lane, Lincolnshire was sworn in by Acting Chairman Rubinstein and noted that he was among the residents adjacent to the Community Christian Church, where a columbarium is being attempted to be established. He also noted that the proposal would create a new definition and allow [columbaria] 100' from a residential property line, but still in an "R1" district. Under State Law and State regulations by the Comptroller of the State of Illinois, a columbarium is a cemetery and a cemetery is not permitted in an R1. An R4 is needed to do this, and I don't think you want to change R1's to R4's to accommodate cemeteries. **Director McNellis** commented that Staff has spoken with the Village Attorney about this, and it is our understanding that there is a different definition for cemetery than that of a columbarium. We have looked into the legal ramifications of these definitions, don't believe that placing columbaria in an R1 District is against State Law. However, since there is going to be another meeting in May, Staff will bring copies of everything that the Village Attorney can provide responses to for this matter and let the Zoning Board review. **Mr. Cameron** added that they have been aware that the State Comptroller was the legal authority to regulate cemeteries in Illinois, and that is why they asked the question of is a columbarium a cemetery? The answer from the Comptroller's Office was yes. Just among us, do you really want to put a cemetery adjacent to residences in Lincolnshire?

**Joy Serauskas**, residing at 1 Fairfax Lane, Lincolnshire was sworn in by Acting Chairman Rubinstein and commented that columbaria is the public storage outside of human remains. What Staff is proposing will be in the heart of every residential district. **Ms. Serauskas** further noted that many times in this room, everybody has commented that the heart of Lincolnshire is its residents, as reflected in the Village's Mission Statement and its Comprehensive Plan. The fact that Staff would allow outside storage of human remains in a residential area, when the Village doesn't even allow it in M1 District, is beyond comprehension. The fact that a petitioner wants something does not

justify the fact that they should get it. There are no options suggested; from no columbarium at all, to only inside, to only a memorial wall. **Ms. Serauskas** additionally asked Staff what is meant by “assembly use”? **Planner Robles** responded that assembly use was included in specific reference to standard 1(a) of the proposed text amendments. As these proposed text amendments were reviewed by Village Attorney Simon, as well as, Attorney Julie Tappendorf, both with the Ancel Glink Law firm, it was recommended Staff include assembly use as part of that requirement in order to avoid treating religious uses different than other assembly uses. **Ms. Serauskas** asked who assembles? **Planner Robles** responded that based on the recommendation from both attorneys, the Village needs to be careful not to strictly limit text amendments to a specific use because that may be seen as favoritism or setting specific requirements for a select use instead of being applied to the overall Village. Assembly use is not currently defined by the Village Code and that is something Staff would need to look into. **Ms. Serauskas** questioned how many uses are going to be allowed on a single zoning lot? **Director McNellis** offered that there has been no discussion with regards to that. The direction Staff received from the Village Board was in the matter of columbaria regulations. While it wasn't unanimous, there was a consensus of the Board to send to the Zoning Board a request to permit columbaria under certain circumstances. There was no request to discuss the number of uses permitted on a lot. At this point, the discussion is mainly about columbaria, as it was directed to Staff to put standards in place. Perhaps this is a standard the Zoning Board may want to consider. **Ms. Serauskas** noted that she would like the same restrictions used on residential lots be applied; one lot, one use. Churches have many uses, and now the Village is considering adding another use. She further noted that outside storage should also be considered. The Zoning Board has to think about when passing an ordinance, how it affects the rest of the ordinances.

**Mark Needlman**, residing at 4 Victoria Lane, Lincolnshire, was sworn in by Acting Chairman Rubinstein and asked what is meant by a Special Use and the number of uses? **Director McNellis** described special use process with the Village. **Mr. Needlman** also noted that one of his concerns regarding columbaria, even though he does not support them, is that he is very concerned in how columbaria are regulated in terms of the number of them that are placed in a given area. He wasn't aware if there are any standards or whether its based on how much land the church or synagogue or whatever the entity may be, that there needs to be some regulation. **Mr. Needlman** presented the question of how is the Village going to regulate the number of these [columbaria]? He further noted that his second concern is whether these columbarium will be generating revenue. People are going to purchase these slots are going to be charged by the facility that is going to be putting the columbaria up, and he thought it wouldn't be a small amount of money. **Mr. Needlman** asked whether those types of revenues can be generated in such a way for this type of structure, by a 501(c)3 use, like a church?

**Director McNellis** commented that there have been a number of questions asked here this evening. Staff will go back and obtain answers on all of these questions and will provide the Zoning Board with question and answer responses at the May meeting. Staff will also provide the same responses at the back of the podium for interested members of the public.

3.2 Consideration and Discussion regarding proposed text amendments to Sections 6-2-2, Definitions, for the purpose of establishing definitions for memorial facilities, and 6-5A-2, Special Uses (in the R1, R2, and R3 Single-Family Residence Districts), 6-5B-3, Special Uses (in the R2A Single-Family Residence District), 6-5C-3, Special Uses (in the R4 Single-Family Attached Residence District, and 6-5D-3, Special Uses (in the R5 Mixed Use General Residence District) of the Village of Lincolnshire's Zoning Regulations regarding the permissibility of memorial assembly facilities and memorial gardens as Special Uses in the R1, R2, R2A, R3, R4 and R5 Residence Zoning Districts (Village of Lincolnshire).

**Acting Chairman Rubinstein** tabled this item until the regularly scheduled meeting in May.

**4.0 UNFINISHED BUSINESS (None)**

**5.0 NEW BUSINESS**

**Director McNellis** advised the Zoning Board that Chairperson Irene Itkin has offered her resignation from the Zoning Board, which is due to her relocating to Deerfield. He further noted that an opening with the Zoning Board is now available. There is a questionnaire form that anyone of interest can receive at the Village Hall from the Deputy Clerk, Carol Marshall. Ms. Marshall can provide the questionnaire and our Mayor will look at the Mayor's Talent Bank when we have openings on our various Boards.

**6.0 CITIZEN COMMENTS (None)**

**7.0 ADJOURNMENT**

There being no further business, **Mr. Soifer** moved and **Mr. Pratt** seconded a motion to adjourn, **Acting Chairman Rubinstein** adjourned the meeting at 7:27 p.m.

Respectfully submitted,

Linda S. Jones, Secretary