

APPROVED AS SUBMITTED Minutes of the **REGULAR MEETING OF THE ZONING BOARD** held on Tuesday, December 9, 2008, in the Public Meeting Room in the Village Hall, One Olde Half Day Road, Lincolnshire, IL

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

ABSENT: Trustee Liaison McDonough

ALSO PRESENT: Tonya Zozulya, Planner, Adam Simon, Village Attorney

CALL TO ORDER: **Chairman Manion** called the meeting to order at 7:02 p.m.

1.0 ROLL CALL

The roll was called by the secretary and **Chairman Manion** 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, November 11, 2008.

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

3.0 GENERAL BUSINESS

3.1 **Continued Public Hearing** regarding a request for an amendment to an existing Special Use Permit (Ord. #96-1434-18) for an animal hospital located within the Eb Small Scale Office Zoning District, at 420 Half Day Road, to permit an expansion of the existing building and parking areas, as well as construction of a dog run (Lincolnshire Animal Hospital)

Tonya Zozulya, Planner, summarized Staff's memorandum dated December 5, 2008, and noted that the Zoning Board's decision to continue the Public Hearing until this month was to allow time for a legal review of the existing Special Use Ordinance by the Village Attorney, in order to determine the Animal Hospital's compliance with its provisions. The Village Attorney has reviewed the Ordinance and notes, in the memorandum within the presentation packet, that whether or not the Animal Hospital is in compliance with the existing Ordinance should not have a bearing on the Zoning Board's consideration of the Hospital's amendment request, should not constitute a reason for a denial of this request, nor is a determination on this alleged non-compliance within the purview of the Zoning Board. However, the Zoning Board may consider whether or not the Petitioner has been knowingly violating the existing Ordinance, which may serve as an indication of their future compliance with special conditions the Zoning Board may wish to impose as part of their review of the current Special Use Amendment request. It is Staff's opinion that outdoor dog walking is a customary activity that is incidental to the primary function of the hospital and is no more disruptive to the neighborhood than routine dog walking by residents on their own property or by hospital clients before or after their visit to the hospital (which is quite common at animal hospitals, veterinarian offices, etc.). Further, Staff consulted with the Village Board on this matter at their November 24, 2008, meeting. After considering the Village Attorney's findings as well as Staff's position, the

Village Board determined that the Animal Hospital should be allowed to complete the review process of their current Special Use Amendment request, and that any enforcement of the dog walking matter should be delayed until after this current request is addressed and voted upon by the Village Board. Given this, **Planner Zozulya** noted that the Zoning Board should make a decision regarding the Animal Hospital's Special Use Amendment request separate from the outdoor dog walking matter. In addition, the Village Forester has prepared a memorandum, which has been provided as a supplement to the previously distributed information and included within the presentation packet. As stated in the Village Forester's memorandum, none of the 62 trees scheduled for removal are considered "Appendix A" trees, or high-quality trees (as determined by the Village Code). All of these trees are believed to be undesirable species, and they are not only permitted, but also encouraged, to be removed and replaced with higher-quality species by Code. While acknowledging the residents' concerns about the temporary loss of privacy that is likely to be caused by the removal of these existing trees (while the new trees take time to mature), the Village Forester finds the proposed tree removal to be appropriate and acceptable, and will ultimately result in a stronger, high-quality, though smaller, forest. Thus, Staff believes that the plan revisions reviewed by the Zoning Board at the November meeting, as well as the Village Attorney's and the Village Board's determination regarding the existing Special Use Ordinance, address the Zoning Board's and adjacent residents' concerns. Should the Zoning Board find the scope of the proposed improvements acceptable, Staff would recommend approval of the Lincolnshire Animal Hospital's Special Use Amendment request, with the five (5) conditions outlined on Pages 2 & 3 of the December 5th Staff memorandum.

Chairman Manion recessed the Zoning Board meeting and opened the Continued Public Hearing.

Stu Clarke DVM, 21960 N. Harbor Rd., Barrington IL, and **Patrick Emmelot DVM**, 259 Washo Dr., Lake Zurich IL, as Petitioners, and **John Briggs, PE** Civil Engineering Manager with Bonestroo, Inc., 1815 Castlebar Rd., McHenry IL, were sworn in by Chairman Manion.

Mr. Clarke noted that by reducing the rear parking lot by three parking spaces and relocating the trash enclosure to the west of the proposed rear parking lot, the initial tree removal total of 73 trees has been reduced to 62 trees, and thereby replacing more trees than those being removed. Along with the 3'-4' berm located on the northern end of the property, the additional planting of 8' tall evergreen trees on top of the berm, will provide a vertical screening of 11'-14'. Also, **Mr. Clarke** pointed out that the elimination of two dog runs in the interior kennel area have created room for a second set of doors and a sound dampening vestibule, along with kennel windows removed from the west side of the building, will further protect sound loss from the facility. In response to residents' concerns with regard to any changes in the hours of operation, **Mr. Clarke** pointed out that, since the business hours coincide with those listed within the 1996 Ordinance for the property, any consideration to change the schedule would need a review by the Zoning Board. He also noted that during the past 10 years they have owned the veterinary practice, the dogs have been consistently walked outdoors, and the Animal Hospital has received no complaints from the adjoining residents from so doing. He added that he had no knowledge of the verbiage in the existing ordinance with regard to walking dogs

outdoors, as he believed it is a customary and natural part of the veterinary practice.

Joe Morrison, Attorney, with Morrison & Morrison, 32 N. West St., Waukegan IL, was sworn in by Chairman Manion and stated that he has been retained by several of the neighbors, and on their behalf, he will be expressing opposition to the proposed expansion. He noted that, at the time the property was forced annexed into the Village, it was rezoned Eb-Small Scale Office District in accordance with the business use of the property at that time. The property has 130' lot width, which is the minimum lot width for this type of use, and the existing facility covers less than 30% of the site. The proposed expansion will increase the impervious surface to approach the maximum for this type of use. Further, this type of property is surrounded by residential development, enclosed entirely within a residential area, and shown as residential in the Comprehensive Plan. The Special Use Ordinance, under which the Petitioner is currently operating, allows them to maintain a 3,000 square foot facility, and the proposed expansion will nearly double the square footage of the facility. **Mr. Morrison** referenced the defined hours of operation and the requirement within the Ordinance stating that all activity must be conducted within the enclosed building on the site, as well as consideration be given to the proposed expansion and its compliance with the Ordinance, ie. the outdoor dog run area, which would be in violation of the Special Use Ordinance. He also pointed out the Findings of Fact specifically reference that "the special use will be not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish or impair property values within the neighborhood," and consideration should be given to the existing uses, zoning classifications, the trend of development, and the Comprehensive Plan in the area of the subject property, as they are all residential in character. **Mr. Morrison** noted the previous testimonies from the residents wherein "injurious to the use and enjoyment of other property in the immediate vicinity" factors into the special use and are relevant and pertain directly to the issue of the aforementioned. Lastly, he cited the issues of lighting, safety, noise, traffic, and drainage concerns due to the increase of impervious surface on the site.

Galina Birgina, 14 Beaconsfield Ct., Lincolnshire IL, was sworn in by Chairman Manion, and inquired if the Zoning Board members had visited the subject property and viewed the close proximity of the adjacent residential properties, to which there was an unanimous affirmation. **Chairman Manion** stated that the Zoning Board will take her concern into consideration.

Linda DeGuide, 6 N. Hotz Rd., Lincolnshire IL, was sworn in by Chairman Manion, and addressed the drainage issue with her property. She noted that throughout the years of residential development in the area, her property has resulted in a marsh, grass is unable to grow on part of her property, and there is an increase in muddy areas. **Chairman Manion** assured Ms. DeGuide that all testimonies will be given consideration. **Planner Zozulya** clarified the statement previously made by Attorney Morrison indicating that the maximum impervious surface allowed for this zoned area permits 55% coverage, and the proposed expansion has a 47% coverage. Currently Lake County Stormwater Management Commission is reviewing the proposed design of the property for any compensatory storage and/or drainage issues relative to permitting the proposed expansion.

Mr. Clarke clarified that a dog walk area has always been proposed on the site, the dogs are walked independently within the enclosure, one at a time, and walked during allotted hours 3 times daily. In addition, the Special Use allows a maximum of 25 dogs kenneled at one time and **Mr. Clarke** does not anticipate increasing the number of allowed dogs.

Leming Yang, 10 Beaconsfield Ct., Lincolnshire IL, was sworn in by Chairman Manion and expressed concern for the privacy provided by the existing wooded area in the rear of the subject property, as his residence is located on the second floor of the building and trees over 20' in height currently give protection from the sun, in addition to privacy.

Ms. Birgina added that, contrary to Mr. Clarke's statement of the dogs being walked one at a time, she has personally seen employees with at least three dogs at a time.

Mr. Rubinstein requested clarification that the dogs are only walked within three 1-hour windows of time and if the proposed expansion would alter or increase those hours in which the dogs are walked, to which **Mr. Clarke** affirmed that there will be no increase or change in those hours.

Ms. DeGuide added her concerns that currently the extensive tree stand separating her property from the Animal Hospital hides the dog walking activities. However, the proposed expansion will expose same to her dog who will in turn bark each time a dog is sighted being walked. Also, any odors emitted from within the outdoor dog walking area, along with the odor of the trash dumpster, will have an impact on her quality of life.

Chairman Manion closed the Continued Public Hearing and reconvened the Zoning Board meeting.

- 3.2 Continued consideration and discussion regarding a request for an amendment to an existing Special Use Permit (Ord. #96-1434-18) for an existing animal hospital located within the Eb Small Scale Office Zoning District, at 420 Half Day Road, to permit an expansion of the existing building and parking areas, as well as construction of a dog run (Lincolnshire Animal Hospital)

Mr. Soifer stated his support for the proposed expansion and recognized that the tree removal/replacement, along with the remaining mature trees, will aesthetically enhance the area especially to the north and west, and the rear parking lot will most likely be hidden from sight due to the additional trees. Also, the berming and additional evergreens will offer vertical and year-round screening. In terms of noise, **Mr. Soifer** noted that it will not worsen, because the enclosed outdoor dog area will contain the animals and offer some improvement with regard to noise and sight. Further, Lake County Stormwater Management Commission's review of the site and expansion will ultimately determine the feasibility of the project. **Mr. Rubinstein** agreed with Mr. Soifer, albeit he understands the neighbors concerns, the expansion of the Animal Hospital will not harm the neighborhood in any way. **Mr. Pratt** concurred and is in favor of the proposed expansion.

Alternate Kalina noted that he is conflicted with the issues, especially since the surrounding area and the Comprehensive Plan favor residential development. At this time, his decision is leaning towards not supporting the expansion. **Chairman Manion**

understands the concerns of the neighbors with regard to sufficient privacy from the trees and landscape screening. However, if the Animal Hospital ever abandoned the site, **Chairman Manion** believes that any residential development of the property would most likely cause a bigger impact upon the removal of trees. Further, any decision from the Zoning Board is one step toward the approval of the expansion, as the Village Board will make the final determination. Therefore, from a zoning perspective, **Chairman Manion** supports the proposed expansion and does not see it as detrimental to the area.

Chairman Manion noted that consideration should be given to Staff's five recommendations prior to a motion. **Village Attorney Simon** reminded the Zoning Board of their concern to limiting the number of dogs being walked in the outdoor dog run area to one and if it should be so noted within the motion, to which there was immediate consensus to do so and accept Staff's recommendations.

Having made findings of fact, dated November 4, 2008, as well as those statements made in a Public Hearing held on October 14, 2008, November 11, 2008, and December 9, 2008, Mr. Soifer moved and Mr. Rubinstein seconded a motion to recommend approval to the Village Board of a Special Use amendment to permit an expansion of the existing building and parking areas, as well as construction of a dog run for the Lincolnshire Animal Hospital located at 420 Half Day Road within the Eb Small Scale Office Zoning District, based on the facts in the Petitioner's presentation packet, prepared by the Lincolnshire Animal Hospital, and as depicted on engineering and landscaping plans prepared by Bonestroo, and site photometrics plans prepared by Construction Options and AGA Architectural Design, Inc., date stamp received December 1, 2008, and subject to Staff's recommendations, as presented in Staff's memorandum dated December 5, 2008 and further subject to no more than one dog in the dog run at any given time.

*The motion carried with a roll call vote of 4 Ayes - Chairman Manion, Rubinstein, Pratt
1 Nay - Alternate Kalina*

4.0 UNFINISHED BUSINESS (None)

5.0 NEW BUSINESS (None)

6.0 CITIZEN COMMENTS (None)

7.0 ADJOURNMENT

There being no further business, **Mr. Pratt** moved and **Alternate Kalina** seconded a motion to adjourn, **Chairman Manion** adjourned the meeting at 8:00 p.m.

Respectfully submitted,

Linda Jones, Secretary