

**VILLAGE OF BANNOCKBURN
PLAN COMMISSION/ZONING BOARD OF APPEALS MEETING
FEBRUARY 4, 2013**

1. 01-02/04: **Call To Order.** Chairman McShane called the meeting of the Plan Commission and Zoning Board of Appeals to order at 7:01 p.m.

Chairman: James McShane

Commissioners Present: Robert Borden, David Elston, Louise Feeney, William Montgomery, Richard Peters

Commissioners Absent: Susan Knaack

Also Present: Village Manager Maria Lasday, Village Counsel Betsy Gates, Village Counsel Hart Passman, and Village Administrative Assistant Blanca Vela-Schneider

Visitors: Village Residents Bruce and Susan Nelson (1665 Meadow Lane)

2. 02-02/04: **Pledge of Allegiance.** Chairman McShane led everyone in reciting the Pledge of Allegiance.
3. 03-02/04: **Welcome.** Chairman McShane welcomed the newest member, Louise Feeney. Commissioner Feeney provided a brief background of her life in Bannockburn, noting that she has been in the Village for over 11 years in the former Tellefsen house.
4. 04-02/04: **Approval of the January 7, 2013 Plan Commission & Zoning Board of Appeals Regular Meeting Minutes.** Commissioners Borden, Elston and McShane offered corrections to draft January 7, 2013 Plan Commission & Zoning Board of Appeals regular meeting minutes. Commissioner Borden moved, seconded by Commissioner Peters, to approve the January 7, 2013 Plan Commission & Zoning Board of Appeals regular meeting minutes, as amended. On a voice vote, the motion was unanimously approved. Ayes: Six (Borden, Elston, Feeney, McShane, Montgomery and Peters; Nays: None, Absent: One (Knaack).
5. 05-02/04: **Work Session on the Comprehensive Plan.** Chairman McShane continued this issue until later in the meeting.
6. 06-02/04: **Introduction.** Village Counsel Passman introduced Village Counsel Betsy Gates who is shadowing him and will assume his responsibilities with the Village of Bannockburn in the near future.
7. 07-02/04: **Discussion Regarding Nonconforming Structures and Legal Nonconforming Lots of Record.** Village Counsel Passman stated that a resident raised a concern over Section

10-105 of the Zoning Code and how it affects lots that are substantially smaller than the minimum lot sizes provided in the Code. He stated that Holland & Knight was requested by the Commission and Board of Trustees to review and evaluate the resident's concerns and provide a legal opinion. He stated that Village Counsel Filippini has provided his legal opinion in the Commission's packets. He stated that nonconforming lot and structure regulations are complicated because they represent an attempt in zoning codes to allow for existing but otherwise-prohibited lots and structures. He stated that Section 10-105 is specific to nonconforming lots and is meant for the lots that are undersized and unimproved. He stated that undersized lots that are improved are actually regulated according to the nonconforming structures regulations, and not by Section 10-105, because a nonconforming structure does not comply with all bulk and space requirements in the zoning code. He stated that the bulk and space requirements include lot size. He stated that the Village Counsel's office appreciates the resident's concerns, but stated that if anything were to occur to the resident's house, his lot would be treated under the nonconforming structure regulations. Village Counsel Passman stated that the nonconforming structure regulations would allow the house to be repaired or rebuilt as long as the nonconformity is not increased. He stated that Section 10-105 is meant for properties that are undersized and vacant, and is designed to prohibit more development than what is intended by the underlying zoning district. He stated that the purpose of the 75% requirement in Section 10-105 is meant to acknowledge and address lots that are a little undersized but may still be developable, as distinguished from lots that are so significantly under the minimum threshold as to be too small to be developed as though it is in conformity with the zoning district.

Commissioner Feeney inquired what would happen if a significantly non-conforming structure is demolished. Village Counsel Passman stated that it would depend on the type of nonconformity but that, generally speaking, a new structure would not be permitted to increase the nonconformity. Commissioner Montgomery stated that he agrees with the resident's concerns and that the zoning code should be clearer. He stated that there are a significant number of homes that are nonconforming structures and need to be clearly protected without having to make a discretionary plea. Commissioner Elston stated that it appears that nonconforming lots are disfavored. He stated that the timeframe of 1 year to begin rebuilding a structure on a nonconforming lot may appear to be arbitrary, but noted that if someone is being diligent, it could be done.

Village Counsel Passman noted that the subject regulations reflect a policy decision by the Village. He stated that if the Village wanted, the nonconforming lot and structure regulations can be carefully tweaked (to avoid unintended consequences) to clarify the concerns from the resident and the Commission.

Chairman McShane stated that he feels that a one year time limit is too restrictive and suggested a longer period to allow rebuilding of nonconforming structures. He stated that lots that have not been built upon should not be subject to the same rights as those where a structure exists. Village Manager Lasday inquired whether modifying Sections 10-104 and 10-105 in the zoning code to offer further clarification would inadvertently place the Village at risk of zoning challenges. Village Counsel Passman stated that the Village could amend its language in the

zoning code without placing the Village at risk of zoning challenges but that the language should be crafted carefully.

Village Residents Bruce and Susan Nelson arrived and noted that they thought this issue was going to be discussed after the Comprehensive Plan Update work session. Chairman McShane swore in Village Residents Bruce Nelson and Susan Nelson and offered the floor to them to address their concerns.

Mr. Nelson stated that his and several other lots were platted as ½ acre lots in 1928, prior to the Village's incorporation in 1929. He indicated that the Village created A & B districts in 1948 but permitted these ½ acre lots to remain. He stated that from his research in the University of Chicago Law Review books from the 1940's, one could challenge that the Village was not allowed to create the number of nonconformities by permitting houses to be constructed on the those lots. He stated that an argument could be made that the zoning code could be ignored because the Village essentially changed the character of the B district by permitting construction of the ½ acre lots.

Upon inquiry from Chairman McShane, Mr. Nelson stated that he wants to have his property to be legally conforming. Mrs. Nelson stated that the zoning code indicates that she and her husband have no legal authority to use their house. Village Counsel Passman reiterated that the Section 10-105, is intended for vacant, undersized lots but that her property falls under Section 10-104 (nonconforming structures) of the Zoning Code which provides for the reconstruction of a structure as long as the nonconformity is not increased. Mr. Nelson questioned whether a variance for his property would be needed if he wanted to increase the size of his house. Village Counsel Passman replied that there would be a potential that a variance would be needed. Mr. Nelson countered that he believes he can forego obtaining a variance from the PCZBA and go to court, though this is not his intent. He indicated that the Village should expand the definition of the B district or create a new district to accommodate these lots. He stated that if the Village is trying to preserve its zoning, he feels the Commissioners are going about it the wrong way.

Chairman McShane inquired what Mr. Nelson would want if a new district was created. Mr. Nelson stated that he would like to see less restrictive setback regulations. He added that he would also like less restrictive setback regulations in the B district, noting that the side yard requirements are the same in the B district as in the A district. He did note that he found the front yard setback regulations acceptable. He stated that he also feels that the bulk regulations ought to be modified to allow larger homes.

Mr. Nelson indicated that the Village's bufferyard regulations need to be amended because it is unrealistic to plant 30-50 ft. width areas. He stated that he likes the concept but it is not feasible on smaller lots with trees. He stated that opacity levels can be achieved if the width is smaller and a hedge is permitted. Chairman McShane stated that the Village has debated opacity regulations for years and what works for one person does not work for everyone. Mrs. Nelson pointed out that the Village does not account for the maturity of trees in its analysis. Mr. Nelson stated that another issue is that the Village's limits its review to 2 years after planting when it takes several years for trees to become established.

Commissioner Elston stated that he is not familiar with Mr. Nelson's street, but it sounded like Mr. Nelson is saying that it would improve resale value and be better for the community and for him to be able to build new houses instead of remodeling the existing houses. He stated that it also sounded to him that Mr. Nelson has indicated that new houses would not be possible under the existing zoning code regulations. He stated that the question is how a third residential district would impact the Village. Chairman McShane stated that it bears looking into.

Village Manager Lasday stated that there have been several complaints regarding the Village's bufferyard regulations and that any more regulations would set people over the edge. Mr. Nelson stated that he is not suggesting making the regulations more stringent, but is suggesting that more options be provided. Commissioner Elston stated that the Commission should look at lot size issues before looking at bufferyard issues.

Mr. Nelson stated that another issue that needs to be addressed is exterior lighting. Mrs. Nelson agreed, noting that the zoning code should be a document that is easy to understand.

Village Counsel Passman stated that there seems to be multiple issues that can basically be placed under two categories: 1) carefully crafted language to clarify nonconforming lot regulations; and 2) the Village's policy regarding how to regulate these lots. He stated that the Village has resisted adding a third residential zoning district, but if a new district is desired, bulk regulations will need to be considered. He added that there still may be lots that do not conform. Chairman McShane inquired how large a house would Mr. Nelson consider an acceptable size. He stated that his house is 1,880 sq. ft. but he feels a 4,500 – 5,500 sq. ft. house would be acceptable.

Commissioner Elston stated that there seems to be a consensus from the Commission that clarification is needed regarding nonconforming lots and structures. He inquired whether the Commission wished to amend the 1 year deadline to begin the reconstruction of a nonconforming structure. Village Counsel Passman stated that a public hearing would be required to amend the Zoning Code. Chairman McShane stated that he feels that an amendment is necessary. Commissioner Elston inquired whether the Commission wanted to consider adding a third residential district. Chairman McShane stated that more research is needed on the 45 nonconforming lots prior to making a decision. Commissioners Peters and Borden agreed. Village Manager Lasday stated that identifying the lot size and setback requirements is a lengthy process that may take significant time. Commissioner Elston requested that an address map be provided when Village Manager Lasday provides the analysis of her research. Village Manager Lasday stated that she will speak with the Board of Trustees who has the authority to direct whether the review of a text amendment is warranted.

8. **08-02/04: Work Session on the Comprehensive Plan Update.** Chairman McShane noted that this is a work session. He indicated that he was not in attendance at the January meeting, but that he had heard that the Commission was not in favor of rezoning certain areas in the Village to allow empty nester housing. He stated that a questionnaire should be sent to the residents to gauge their interest, noting that several residents may be interested in downsizing their homes to other types of housing in the Village of Bannockburn. Village Manager Lasday noted that this topic was included in the annual citizen's survey which will be mailed in the

upcoming newsletter. Commissioner Elston stated that the term “empty nester housing” should be better clarified. Chairman McShane stated that he thinks that every community has recognized the need to provide empty nester housing options but care is needed to ensure that the development thrives. Village Counsel Passman stated that this conversation is spurred by the review of the Comprehensive Plan and whether the Village wishes to possibly be amenable to consider something that was not previously allowed. This issue was continued.

9. 09-02/04: Other Business. * *Public Hearing for the Consideration of a Text Amendment(s) to the Bannockburn Zoning Code, Amendments to Existing Special Use Permits, Granting of New Special Use Permits, Variations, and any other Zoning Relief Necessary to Permit the Installation of a New Illuminated Nameplate Sign along the Tollway and the Installation of an Additional Ground Identification Sign along Lakeside Drive at the Property Located at 2275 Half Day Road, Submitted by Bannockburn Wanxiang, L.L.C.* Chairman McShane opened up a public hearing for the consideration of a text amendment(s) to the Bannockburn Zoning Code, amendments to existing Special Use Permits, granting of new Special Use Permits, variations, and any other zoning relief necessary to permit the installation of a new illuminated nameplate sign along the Tollway and the installation of an additional ground identification sign along Lakeside Drive at the property located at 2275 Half Day Road. Village Manager Lasday noted that the petitioner was not prepared to provide a presentation this evening and has requested a continuation on this issue. Commissioner Peters moved, seconded by Commissioner Borden, to continue this issue until the March 4, 2013 PCZBA meeting. On a voice vote, the motion was unanimously approved. Ayes: Six (Borden, Elston, Feeney, McShane, Montgomery, Peters), Nays: None, Absent: One (Knaack).
10. 10-02/04: Work Session on the Comprehensive Plan Update. Chairman McShane stated that he reviewed the changes from the last meeting and his only issue is in regards to the housing. Commissioner Peters stated that he likes the new flow of Chapter 1 but indicated that what was removed on page 5 should be added to the back end of page 6 to cement the continuity. Commissioner Borden stated that the Chart on page 8 should separate Trinity residents. Village Manager Lasday stated that she is still trying to find this information but has not been successful thus far.

Commissioner Elston noted that the listing of Commissioners should be alphabetized. He suggested removing the word “lifestyle” and placing some of the information found on page 5 back onto page 1. Village Manager Lasday stated that she thinks this section should be expanded to include shopping and businesses. Commissioner Elston stated that either more is needed in this section or it needs to be moved to page 1.

Commissioner Elston inquired whether bufferyard should be placed under the environment. Village Manager Lasday stated that she is thinking that landscaping may be addressed under Open Space, noting that it is the intent to bolster the best management practices and sustainability. Commissioner Elston stated that his thought process in having landscaping identified in the environment section is to show the Village’s dedication in preserving its trees and shrubs. Commissioner Borden stated that this section deals more with award winning practices that the Village has been pursuing. Chairman McShane stated that a new section may make sense. Village Counsel Passman stated that this is the introductory chapter and some

items may be better placed further into the Comprehensive Plan. Commissioner Elston stated that Chapter 1 is the marketing piece in case people do not read further.

Commissioner Elston identified a minor scrivener error on page 2 and suggested that the placement of the sentences on page 3 be modified. Commissioner Borden stated that some of Bannockburn School's awards are not identified on page 4 and suggested flipping the order of the achievements. Village Manager Lasday stated that Bannockburn School representatives provided her a list of achievements and that she would need the School to provide an update. Commissioners Borden and Peters offered revisions to Chapter 1.

Commissioner Elston indicated that the word country urban should match up with the definition found in Chapter 2. Commissioner Peters stated that Bannockburn is more country ex-urban than country urban. The Commission further discussed rearranging some of the language in Chapter 1 and reincorporating some language that was removed. Commissioner Elston inquired whether there are still properties that are sub dividable. Village Administrative Assistant Vela-Schneider stated that there are a few properties that are sub dividable.

Chairman McShane stated that the maps in the Comprehensive Plan are awful and not very clear. He stated that the maps should be revamped. Commissioner Elston noted that the pathways on Half Day Road and Waukegan Road are identified as meandering. Village Manager Lasday stated that Half Day Road somewhat meanders but Waukegan Road is straight. Commissioner Peters suggested approximating the population on page 9 instead of trying to figure out the exact Village population.

Commissioner Elston suggested adding additional language in the first paragraph on Chapter 2. Commissioner Peters inquired whether the Village has secured the necessary easements to complete the trails and pathways. Village Manager Lasday stated that the Village has not secured the necessary easements.

Commissioner Peters inquired whether the pictures of the Bannockburn Green Retail Center are current. Village Manager Lasday replied that they are not current. She inquired whether the Commission would like to change the format of the photos to be included with the text. Chairman McShane stated that the photos should be updated. The consensus of the Commission is to incorporate the photos. Commissioner Elston suggested that page 37 be amended to remove language that addresses the Village's protection and preservation of the oak trees at the Retail Center, which have been removed. Chairman McShane stated that not all trees were removed and added that other trees were added to replace the removed oak trees. Commissioner Peters offered alternate language that addressed the modified landscaping.

Commissioner Peters suggested using more generic language regarding the office district. Commissioner Elston inquired when the Village completed the survey that is addressed on page 37. Village Manager Lasday stated that she does not know when the survey was conducted. The consensus of the Commission is to remove this language.

Commissioner Elston stated that a new photo is need for photo 27. Commissioner Elston inquired whether photo 36 should be amended. Village Manager Lasday stated that she is not sure but noted that photo 34 may also be changed.

Chairman McShane stated that Chapter 3 will be reviewed if Village Manager Lasday is able to review it.

11. 10-02/04: **Adjournment.** There being no further business before the Commission, Commissioner Borden, seconded by Commissioner Peters, to adjourn the PCZBA meeting. On a voice vote, the motion was unanimously approved. Ayes: Six (Borden, Elston, Feeney, McShane, Montgomery, Peters), Nays: None, Absent: One (Knaack). The meeting was adjourned at 9:02 p.m.