

**VILLAGE of SUGAR GROVE  
PLAN COMMISSION/ZONING BOARD OF APPEALS  
MINUTES OF REGULAR MEETING DECEMBER 20, 2006**

**1. CALL TO ORDER**

The regular meeting of the Plan Commission/Zoning Board of Appeals (ZBA) was called to order at 7:00 p.m. by Chairman Irv Ochsenschlager in the Village Board Room.

**2. ROLL CALL**

Plan Commission/ZBA members present

Steve Benesch            Bob Dray                    James Eckert                Barbara Manzanares

Irv Ochsenschlager    Ryan Reuland                Ed Saloga

Quorum present

Also present

Scott Buening, Community Development Director

Mike Ferencak, Village Planner

Steve Andersson, Village Attorney

Mike Hoffman, Teska & Associates, Planning Consultant

**3. MINUTES OF NOVEMBER 1, 2006 PLAN COMMISSION/ZBA MEETING**

Eckert noted a change that should be made on page 7, 5<sup>th</sup> paragraph. A new paragraph should begin at "Buening explained that one was basically rear pads because the concrete pad is outside the rear door. . ."

**Dray made a motion to approve the minutes of the November 1, 2006 Plan Commission/ZBA Special Meeting minutes as revised. Benesch seconded the motion.**

**The motion carried unanimously by voice vote.**

**4. PUBLIC HEARINGS**

**a. PETITION 06-027: SUGAR GROVE CENTER LOT 3  
MAJOR PUD AMENDMENT, FINAL PUD, PRELIMINARY AND FINAL  
PLAT (PUD: Planned Unit Development)**

New Channels Realty, LLC, Petitioner

**Opening of Public Hearing**

The hearing on Petition 06-027 was opened at 7:04 p.m. by Chairman Ochsenschlager who swore in those intending to give testimony. A quorum of Plan Commissioners/ZBA was present as at roll call.

**Introduction**

Ferencak explained that the petition was a request by the proposed Chesterbrook Academy. The subject site is at the southwest corner of Park Avenue and Capitol Drive. It falls within an existing PUD. The Petitioner seeks an amendment

because they wish to modify the lots and are asking for Final PUD approval for the site plan and also a Preliminary Final Plat to subdivide the lots.

After meeting with Staff and the Plan Council, the Petitioner has made revisions to the original plans. The current plan depicts a daycare facility with parking to the north and south of the building. Many of Staff's original issues with the plan have been resolved, with nine concerns remaining. Some of those remaining include: the subdivision be renamed and renumbered, new setback lines be added, property line dimensions be added/corrected, the sidewalk to Park Avenue be relocated to be in line with the center parking island and handicapped spaces, the landscape plan be reviewed further, a second set of windows be added to the east elevation of the building, light standard detail be provided and signage must meet the requirement of the Sugar Grove Center PUD.

The subject site and proposed plans for its development are in conformance with the Comprehensive Plan which calls for Corridor Commercial. The proposed use would fit in with the surrounding corporate and residential uses to the north.

The Staff's advice is for the Commission/ZBA to recommend approval for the Major PUD amendment, Final PUD and the Preliminary Final Plat subject to the nine conditions that remain to be resolved.

Steve Qualkinbush, of New Channels Realty, rose to speak saying they concur with the Staff Report and are in agreement with the Finding of Facts. However, there are a few of the conditions they do wish to discuss with Staff

#### **Public Input**

There was no public input from anyone present in the audience. Staff received one or two phone calls from the public inquiring about the project. But apparently there was no opposition to the petition formally voiced.

With no further testimony being given, Ochsenschlager closed the public hearing on Petition 06-027 at 7:07 P.M.

### **5. NEW BUSINESS**

#### **a. PETITION 06-027: SUGAR GROVE CENTER LOT 3 MAJOR PUD AMENDMENT, FINAL PUD, PRELIMINARY AND FINAL PLAT**

(New Channels Realty, LLC, Petitioner)

The Plan Commission/ZBA was in agreement of moving to this item in the agenda.

**Plan Commission/ZBA Discussion, Questions, Possible Action on Petition**

Benesch asked the Petitioner if he had an opinion about adding the second set of windows on the east elevation of the building? Qualkinbush responded that wall space is at a premium. This east wall would house coveys, bulletin boards and furniture as well as serving as a presentation wall for a classroom, adding the windows would impede the operation of the classroom. He noted that landscape materials are planned to be situated outside the windows. Eckert called attention to the air conditioning units that are proposed to be located along that east wall and that the noise from those units would be disruptive were a window located at that point.

Eckert questioned if stoplights or crosswalks would be installed at the intersection for the safety of the children. Buening said the corner would be posted with a four-way stopsign, but the pedestrian count would not warrant a stoplight. Dray asked if he understood correctly that this would strictly be a daycare pre-school facility and not a school, and that children that young would be accompanied by an adult to gain entrance to the building. Qualkinbush said there would not be children walking to the school on their own. Each child must come into the building with a parent/guardian and be signed in.

Dray asked Staff if there was a Village requirement that this building be of a certain percentage of masonry and if stucco, as being proposed, would qualify as masonry? Buening responded that there was nothing specific in the Village codes addressing the issue of masonry vs. stucco. He said the Architectural Review Committee reviewed the elevation and materials and did have some suggestions for its enhancement. But no comment was made either way regarding the use of stucco on the front face of the building. Hoffman interjected that the review group did not want the use of dryvit material on the building. The Village has control over the architecture so if there is something the Plan Commission/ZBA or Board finds they would like to have changed that would be proper.

Qualkinbush said the Architectural Review group did ask for the addition of brick wrap-around and the east elevation was discussed, being a highly visible elevation along Capitol Drive, but taller plant material would break up that façade which will help. Dray questioned if the stucco was smooth or rough? Qualkinbush said he believed it had some texture.

Eckert questioned if the Petitioner was going to respond to the Architectural Review Committee comment regarding the reorganization of the roof spread vents so they did not resemble chimneys. Qualkinbush said they planned to make changes and consolidate the vents.

Eckert asked for clarification of the lighting issue. Ferencak said the photometric plan needs to be updated to reflect the lighting location. With the shift of the north driveway the light locations were not updated.

In regard to the signage, Eckert asked what would be done to have the signage meet requirements? Ferencak said the Village would give the Petitioner a copy of the sign design that was approved for the Sugar Grove Center so they could determine if they could meet that standard or design a sign consistent with the other users on Capitol Drive.

Eckert made the assumption that the board on board fence along the west side of the site was to screen the Jewel service area, while the other sides were of wrought iron. Qualkinbush affirmed that was the reason for the board on board shown.

Eckert asked if by removing one parking space to widen the landscape island, would the parking space requirement still be met? Buening responded yes the requirement would be met.

Information was given that there were 150 schools in 13 States developed by this daycare operator, Nobel Learning Communities.

In response to more of Eckert's questions, the Petitioner said there would be two van-type buses on the site and the hours of operation of the preschool would be from 6:30 a.m. to 7:00 p.m.

Saloga expressed his opinion that the daycare center was a good fit in this location, making a good transition from the adjacent commercial and residential areas.

#### **Action on Petition**

With no further questions or discussion Ochsenschlager called for a motion.

**SALOGA MADE A MOTION THAT THE PLAN COMMISSION/ZBA RECOMMEND APPROVAL TO THE VILLAGE BOARD OF PETITION 06-027 WHICH REQUESTS A MAJOR PUD AMENDMENT TO ORDINANCE 2004-0921C, FINAL PUD DEVELOPMENT FOR A PROPOSED DAYCARE AND SCHOOL FACILITY, AND A PRELIMINARY AND FINAL PLAT IN THE B-3 REGIONAL BUSINESS DISTRICT PUD, SUBJECT TO THE CONDITIONS SET FORTH IN THE DECEMBER 20, 2006 STAFF REVIEW, PAGE 7.**

**REULAND SECONDED THE MOTION**

**ROLL CALL VOTE ON THE MOTION:**

**AYES: BENESCH, DRAY, ECKERT, MANZANARES, OCHSENSCHLAGER, REULAND, SALOGA.**

**NAYS: NONE ABSENT: NONE MOTION CARRIED.**

The recommendation is to be forward to the Village Board.

## **PUBLIC HEARINGS**

### **b. PETITION 06-030: 515 WILLOW STREET - VARIANCES (Algrid Norkus, Petitioner)**

#### **Opening of Hearing**

Chairman Ochsenschlager opened the public hearing on Petition 06-030 at 7:34 p.m. and swore in those intending to give testimony. Plan Commission/ZBA quorum was present as at roll call. Note: Commissioner Ed Saloga recused himself from any participation and vote regarding this petition.

#### **Petitioner's Requests**

Ochsenschlager read the Petitioner's requests, which were:

A variance to allow a single-family lot with a lot coverage of approximately 58% instead of the maximum allowed of 45%.

Variances to allow a single-family home with one brick wall encroachment into the 10' rear drainage and utility easement, one brick wall encroachment into the 10' front drainage and utility easement, three brick wall encroachments into the 7.5' east drainage and utility easement, and two brick wall and one brick stairwell encroachments into the 7.5' west side drainage and utility easement.

#### **Introduction**

Ferencak explained that these encroachments and the lot coverage issue came up in the engineering review of the site and at that time the walls were actually in place. The subject site is located in the Hannaford Farm Subdivision. The Staff recommendation on the petition is to deny both the variances for the encroachments into the drainage utility easements and the lot coverage. The Village recently raised the lot coverage requirement from 35% to 45% in the R-1 and R-2 Districts throughout the Village. The drainage utility easements are a common requirement on many lots in the Village and are there for public purposes.

#### **Petitioner Presentation**

James White, Attorney representing the Petitioner, presented the Petitioner's case. He submitted proof of having met the requirements for the holding of a public hearing and a letter indicating how they believe the conditions for approval of the requests have been met. In addition, he tendered photos of the subject site labeled Exhibits 1 through 5.

Norkus then took the floor explaining that in the building of his and his wife's dream home they looked to have a reliable builder and a prime location, which they found with builder Saloga and the Hannaford Farm Subdivision lot. The lot,

he said is wide open and on a pond. The elevation allowed them to have a walkout lower level. They contracted with a landscaper whose work they liked. The home, the lot and the landscaping are beautiful, he said and they ask that they could keep the landscaping and that the Commission/ZBA approve the variances.

White continued with the presentation. When the landscaper contacted the Village for a permit, he was under the belief that the unilock pavers he planned to use would not be considered as part of the lot coverage and that the pavers, unlike concrete, would not have the same runoff. He felt it was all right to go ahead. As he began the installation, Saloga came to the site and advised him that there was a problem with what he was doing and that it would be an issue with the Village.

The landscaper then contacted EEI regarding the use of unilock pavers and the building of the staircase. It was and still is the belief of the landscaper and Petitioner that these pavers are not considered permanent and wanted it to be allowed to have drainage travel underneath the stairwell. However, EEI thought that because of the very large size of the stairway, it was a permanent structure. White indicated it was not permanent since the blocks were held in place only by spots of glue and if it had to be moved it could be done with hammer and chisel.

White went on to say the question became did the stairway obstruct the drainage? The Petitioner thought the issue could be resolved by putting a pipe under the stairwell from the downspouts. Space is there between the side of the brick and the lot line to accommodate the drainage. So the drainage easement is still maintained.

White then addressed another concern, which was with their side yards. When the Hannaford Farm development came through a variance was given to reduce the side yard to 10' (from the usual requirement of 15'). So now it was literally impossible to put anything outside of the house without going into easements. They consider that a hardship that came with the property.

White said the Petitioner believed in good faith that they were able to do this without violating ordinances. It was only later that he found out Staff does count the pavers as part of the surface area. That is why the variances are needed.

White noted that this was not a situation where two backyards are right up to each other. It does not encroach on anyone behind because that is open space. White concluded by saying they believe they have met the criteria for the granting of the variances requested and respectfully requested the Plan Commission/ZBA to forward the Petition to the Village Board with a recommendation of approval.

Tim Lunn, one of the partners of the Hannaford Farm Subdivision development, then spoke. Lunn said he had been monitoring the situation through the process.

He advised the landscaper, giving suggestions, of how to soften some of the landscaping plans and material. A concern was how the landscaper was going to access the backyard to do his work. The only way he could was to go out into the open spaces with his equipment, which he did, damaging that open space quite a bit. The landscaper did give some funds back to the developers. Lunn said he didn't have a problem with certain encroachments. His main concern was the protection of the open space in the back. Now they would have to encroach into that open space to maintain their yard. Lunn said unfortunately the developers did not have any interaction prior to some of these improvements being installed.

Lunn said they did see the full permit originally and told the Petitioner to keep things out of the easements. There were three different permits related to this home and site. On the pool permit submitted quite a bit of paver block area and some proposed walkways were sketched in. The Petitioner should have been given a red flag at that point in time, he thought. On the smaller lots, like the one in question, it's tough to get as many of the conveniences outside of the home the owners would like to have.

Ochsenschlager asked if the Petitioner had been in contact with the home on the west side (the lot on the other side of the subject property remains vacant)? Norkus said he had not personally, but that his employees said the owner did not have any issues with the improvements.

White then spoke to the issue of the ability to get to the back yard. He asked if they agreed to take out the wall to allow the Petitioner full access to his back yard, as a condition of approval of the variances, they would do so.

#### **Public Input**

Staff had no input from the public at the Village office nor was there any public comment at the public hearing.

#### **Close of Public Hearing**

With no further testimony given, Ochsenschlager closed the Public Hearing on Petition 06-030 at 7:41 P.M.

### **6. NEW BUSINESS**

#### **b. PETITION 06-030: 515 WILLOW STREET - VARIANCES**

(Algrid Norkus, Petitioner)

The Plan Commission/ZBA agreed to move down to this item on the agenda.

#### **Plan Commission/ZBA Discussion, Questions, Possible Action on Petition**

Dray asked for clarification on the criteria for granting approval. He believed the

One item should read "The Landscaper and property owner have created the hardship" instead of how it is currently written that "the developer and property owner have created the hardship". Ferencak agreed and the wording would be changed.

Dray went on to pose a number of questions:

Is the stairwell foundation to the back yard made out of crushed stone with a sand base? The Petitioner answered yes. Dray said then there was no permanent footing underneath. The Petitioner answered there was no footing under the walls or anything.

What would the Village do if someone had planted landscaping in any drainage utility easement and the Village needed to do work in it? Would that landscaping be ripped out? Buening said the landscaping would be taken out and the Village would not replace it. The Subdivision Ordinance is specific about what can and cannot go into those easements. The improvements on the subject property are not in compliance with the Subdivision provisions.

Dray thought that some materials could have been used that would have been less invasive. As an example, large limestone steppers that would give the same access without creating such a mass. Would steppers still be considered impervious by the Village? Ferencak said limestone steppers typically wouldn't show up on a plat of survey. That would be something added afterwards. He did not think the Village would normally calculate limestone steppers as part of the lot coverage. Buening said it would depend upon how it's done. If stones were placed close together as a patio, then yes, it would be considered impervious.

White said some thought had been given by the Petitioner of appealing the Staff's decision regarding the imperviousness of the unilock blocks. However, they decided to first try to get the variances needed. He said they were now operating on the assumption that Staff has made a determination, and that's why the Petitioner has come to the Plan Commission/ZBA and asked for the variances from the determination.

Buening clarified that the Village does not require permits currently for brick paver work, but they are still considered part of the impervious surfaces that are covered under the lot coverage ratios since water cannot generally pass through them. Therefore, the Village is considering requiring permits for brick pavers. Unilock pavers, in his opinion, are no more temporary than a concrete patio that could be ripped up at some point in time.

Dray referred to an earlier statement from Staff that driveways could be put in drainage utility easements. Buening explained that driveways have been allowed in those easements as long as they are crossing perpendicularly. But generally that is discouraged. There are times when a small encroachment is allowed

provided it's not impeding that drainage easement and it's built at the local grade of that easement. White interjected that the driveway on the subject site goes along the entire side up to the garage area and it's allowed within the easement. That's why they say the stairwell is no more of an encroachment than a driveway.

Buening explained that there were two different components being considered. One is the actual encroachment into the easements and the other is the lot coverage. The lot coverage is significantly higher than what the allowable lot coverage is in this district. The easement issue is the functionality of the easements. They have gone beyond where the driveway encroachment would have been which is only about a foot and gone 3 or 4 feet into that easement area with a significant improvement. If the Village ever had to get in there, the driveway and stairway would have to be ripped out. Two feet of driveway is not much. But a four foot stairway on top of that is a significant encroachment into that easement.

Discussion then took place as to how a motion of action would be formulated regarding the Petition. Ferencak indicated that there may be a small error in the wording of the second variance being requested as to just how many encroachments are in each easement. Buening said each yard has to be looked at. There are four yards and at least one encroachment in all four yards.

#### **Plan Commission/ZBA Action on the Petition**

**DRAY MADE A MOTION THAT THE PLAN COMMISSION/ZBA RECOMMEND TO THE VILLAGE BOARD APPROVAL OF PETITION 06-030 REQUEST FOR A VARIANCE TO ALLOW A SINGLE-FAMILY LOT WITH A LOT COVERAGE OF 58% INSTEAD OF THE MAXIMUM ALLOWED OF 45%.**

**BENESCH SECONDED THE MOTION.**

**ROLL CALL VOTE ON THE MOTION:**

**AYES: REULAND**

**NAYS: BENESCH, DRAY, ECKERT, MANZANARES,  
OCHSENSCHLAGER**

**ABSENT: NONE**

**RECUSED: SALOGA**

**MOTION FAILED.**

The Petitioner's request for a variance in lot coverage would be moved forward to the Village Board with a negative recommendation.

**DRAY MADE A MOTION THAT THE PLAN COMMISSION/ZBA RECOMMEND TO THE VILLAGE BOARD APPROVAL OF PETITION 06-030 REQUESTS FOR ALL VARIANCES RELATED TO ENCROACHMENTS INTO DRAINAGE UTILITY EASEMENTS**

**HAVING MET THE SUGAR GROVE ZONING ORDINANCE  
STANDARDS FOR APPROVAL.**

**BENESCH SECONDED THE MOTION.**

**ROLL CALL VOTE ON THE MOTION.**

**AYES: NONE**

**NAYS: BENESCH, DRAY, ECKERT, MANZANARES,  
OCHSENSCHLAGER, REULAND**

**ABSENT: NONE**

**RECUSED: SALOGA**

The Petitioner's request for variances would be moved forward to the Village Board with a negative recommendation.

\*Note: Reuland indicated that he would have preferred to recommend approval of all the variances requested except the brick stairwall encroachment.

**PUBLIC HEARING**

**c. PETITION 06-028: PRAIRIE GLEN OFFICE PARK  
MAJOR PUD AMENDMENT, FINAL PUD, PRELIMINARY AND  
FINAL PLAT**

(The Windham Group, Inc. Petitioner)

**Public Hearing Opening**

Chairman Ochsenschlager opened the public hearing on Petition 06-028 at 8:09 P.M. A quorum of Plan Commission/ZBA was present as at roll call. Ochsenschlager swore in those intending to give testimony.

**Petitioner's Requests**

A Major PUD Amendment for changes to the plan, pursuant to Prairie Glen PUD Ordinance 2005-0920A.

A Final PUD for a proposed multiple office building development

Preliminary and Final Plat to subdivide the lot into 5 office building lots and 1 common lot.

**Introduction**

Ferencak explained that the site location is at the southeast corner of Municipal Drive and Bastian Drive and is 3.31 acres in size. It is the eastern part of the B-2 zoned portion of the Prairie Glen development. The Petitioner submitted a proposal for the development of the site on October 25, 2006. Staff provided a list of missing items that would make the submittal complete. The developer has met with Staff, the Architectural Review Committee and the Plan Council. Teska and Associates and EEI have provided a review of the proposed development. A combined comment list was not as yet created. The Petitioner just wanted at this time to have the plans reviewed by the Plan Commission/ZBA and to have the public hearing opened with the understanding the hearing would be left open to

the January meeting of the Plan Commission/ZBA when a full review and recommendation would be provided. Public testimony would be taken at the hearing.

### **Petitioner's Presentation**

James White, Attorney representing the Petitioner spoke to the requests applied for. The approved PUD for the development called for a required front yard building setback along Municipal Drive of 50' and the required front yard pavement setback is 45'. The Petitioner is requesting a front yard building setback of 30' and a front yard pavement setback of 24'. White said because of the changes made to the configuration of Municipal Drive by the Village, the subject development lost 20' of setback allowance. The 30' setback being requested is similar to the setbacks up and down Municipal Drive with the homes.

They are asking for a variance on the parking as well, for it would encroach into the required setbacks.

The main issue the Petitioner wishes the Plan Commission/ZBA to consider at this time is the setbacks. The remainder of the exceptions requested involve individual lots that otherwise would have no setback or landscape requirements, those being incorporated into the overall lot.

White said another issue is that the Staff believes the site is overcrowded. A tax impact analysis was submitted to the Village. The density of this site under that analysis had a Floor Area Ratio (FAR) of .2. That is exactly what there is on the plans, a FAR of .2. They would like specific feedback from the Plan Commission/ZBA on the density. The whole point is to maximize the property.

White realized there were many other issues to be dealt with regarding the development and hopefully could be resolved before the next Plan Commission/ZBA meeting.

### **Public Input**

Joanne Crawford of 356 Bastian Drive, expressed concern about the fallout of lighting from the proposed development. She also said the original plan called for the development being 40' away from her property. She did not think it was right for the developer to come in with this type of development which she felt would lower her property value. She was in opposition to the Petition.

Mr. Keith of 340 Bastain Drive, was opposed to the Petition. He had concern about what kind of businesses would come into the subject site, the dumpster locations on the site, and the noise that would occur when they were emptied. He didn't want to look out his windows and view office buildings. It was his belief when he purchased his home that a golf course would be developed in that area.

Kelly Knierim of the Windham Group explained that the subject property had always been designed as a business use. They tried to make the use one that would be transitional next to residential homes. The heights of the proposed buildings are approximately 21', possibly shorter than a residential home. Traffic coming into the site would be during working hours.

Steve Brown of 308 Snow Street, expressed his opinion that neighboring residents were not given enough information about the Petitioner's development and petition for amendments. He was unhappy about not knowing the Public Hearing would be continued until an hour after the meeting began. Ferencak explained the procedure and how it was being followed. He invited anyone who had an interest in reviewing details about the Petition to contact him and come to the Village Hall where the information would be readily available to them. Buening said when a hearing is continued, it usually becomes the first item on that next agenda.

Brown did say, in regard to the use of the subject property, he was in favor of it. Every property owner should have the right to develop that property. He hoped some concession could be made regarding protection of lighting fall out on neighboring property and that the Village and developer would work closely with the neighbors to be certain the development isn't going to affect their properties.

Ellen Keith of 340 Bastian Street asked if public input was still relevant at this time. She was assured by Ochsenschlager that it was and he explained the process the Petition would go through before being finalized.

With no further comments, questions or testimony, Ochsenschlager indicated a motion was in order.

**BENESCH MADE A MOTION THAT THE PUBLIC HEARING ON PETITION 06-028 BE CONTINUED TO 7:00 P.M. AT THE JANUARY 17, 2007 PLAN COMMISSION/ZBA MEETING.  
REULAND SECONDED THE MOTION.  
THE MOTION CARRIED UNANIMOUSLY BY VOICE VOTE.**

There were further comments some of the Plan Commission/ZBA members wished to make, but the decision was to express them at the continued hearing.

**7. PLAN COMMISSION/ZBA COMMENTS, PROJECT UPDATES & MISCELLANEOUS**

- a. Ferencak reported that the matters of 549 Heartland Drive, Sugar Grove Center Lot 13 and the Harter Road School Site were all scheduled for the January 9, 2007 Village Board Committee of the Whole meeting.

- b. On behalf of the Plan Commission/ZBA members, Chairman Ochsenschlager thanked the Village for hosting the Christmas dinner where fellowship and fine food were shared.
- c. Ochsenschlager initiated wishes for a Merry Christmas to all present.

**8. ADJOURNMENT**

**BENESCH MADE A MOTION TO ADJOURN THE MEETING, WHICH WAS  
SECONDED BY REULAND.  
THE MOTION CARRIED UNANIMOUSLY BY VOICE VOTE.**

The meeting was adjourned at 8:44 P.M.

Respectfully submitted,

Nancy Zak  
Recording Secretary