

## **April 28<sup>th</sup>, 2015 Public Hearing for A Zoning Map Amendment Meeting Minutes**

Public Hearing Meeting for a Zoning Map Amendment called to order at the Village of Hainesville Council Chambers by Mayor Linda Soto at 7:06 p.m.

Clerk Kathy Metzler took roll call. The following Officials were present: Mayor Linda Soto, Trustees Derenoski, Kriese, Duberstein, Daley and Hein

Also present were: Village Clerk Kathy Metzler, Public Works Superintendent Jeff Gately, Village Planner Al Maiden, Chief Phil Perlini and Deputy Chief Jeff Myhra

Absent: Trustee Barrett, Treasurer Kelly Hensley, Village Attorney Jim Rock and Village Engineer Greg Gruen

### **Establishment of quorum**

#### **Agenda Approval**

Trustee Derenoski motioned to approve the agenda as presented; seconded by Trustee Duberstein.

#### **Roll Call:**

Ayes: Trustees Derenoski, Kriese, Duberstein, Daley and Hein

Absent: Trustee Barrett

All in favor, motion carried.

### **Overview of Purpose and Procedure for Public Hearing**

Al Maiden, Village Planner, stated the purpose of the public hearing is that there is an application for a zoning map amendment for the properties located on the north side of Route 134, west of Fairlawn Dr. The surrounding properties were sent a notice so that they may come in and make comments and provide public input. There is also an opportunity for others to give testimony regarding the standards for a map amendment re-zoning. The Village Board takes the public testimony and comments into consideration to make their recommendations. The Zoning Board is required to do a Findings of Fact Report that will be provided to the Village Board and is made public.

### **Notice Requirements Review**

Kathy Metzler, Village Clerk, explained that she published the notice in the Daily Herald on April 9<sup>th</sup> for one day. There were 35 letters mailed out certified and return receipt on April 9<sup>th</sup>. The Village received 28 back and 7 have not been returned yet. The Public Hearing sign was posted out front on Monday, April 20<sup>th</sup>. All requirements per the Village Ordinance for Public Hearings have been met.

### **Oath of Office for anyone who plans to testify**

Kathy Metzler, Village Clerk, administered the Oath of Office.

### **Presentation of Petitioners Testimony**

Al Maiden presented testimony on behalf of the Petitioner which is the Village. He introduced himself as the Planning Zoning Consultant. He explained that many Ordinances have standards for Special Uses or Variations but not always for changing of the map from one zoning classification to another. The Village Zoning Ordinance does not have those standards. There has been case law in Illinois on previous litigated cases and the courts have come up with 7 or 8 standards that need to be met before a change in zoning should be granted. Mr. Maiden briefly went through the standards. See attached Findings of Fact sheet.

### **Testimony of any interested party**

**Tom Seputis, 394 and 396 Main Street, Hainesville, IL** – Mr. Seputis stated that both his properties are apartments with storefronts on the bottom and front. He asked how the zoning would affect the apartments. One of the storefronts is vacant the other is a beauty shop. The Mayor stated that the key factor is that Mr. Seputis is compliant with the B1 commercial zoning as long as there is a storefront commercial property. Village Code allows apartments to be on storefront property under the B1 zoning. Mr. Maiden agreed that it is allowed. Mr. Seputis stated that there are three units in one building and two in the other building. Mr. Maiden stated that he has not looked at the lot size or parking, but even with that, once the use is conforming, improvements can be made by doing that. Mr. Maiden will check if the combination of storefront and apartment is legal. Mayor Soto stated that she looked it up in the code when Mr. Seputis spoke with Village Clerk Kathy Metzler and felt it was compliant. Mr. Maiden looked it up and stated that it is a permitted use when apartments are above ground floor and only as accessory uses connecting to a building primarily designed to use for one of the above uses and those uses are commercial uses. Therefore, apartments are allowed above the ground floor. The Mayor added that it would be correct to say that Mr. Seputis should have the B1 zoning versus the way it is now. Mr. Maiden agreed because if it stays residential then anything done on the ground floor for commercial would be non-conforming. That would also affect expansion of parking because there might be a problem between the parking for commercial and apartments and it would be non-conforming in the residential district. Trustee Daley summed it up by stating that if the Village goes to B1 the apartments are fine.

### **Presentation of Village's Testimony**

For the record, Mayor Soto noted the addresses that are affected by the amended zoning ordinance are 372 Main St, previously known as 172 Fairlawn Dr. prior to February 1<sup>st</sup> of this year, 380 Main Street, 384 Main Street, 386 Main Street, 390 Main Street, 394 Main Street, 396 Main Street and 232 Main Street. Those are the properties that are being discussed in this hearing.

### **Response of Petitioner**

The Mayor stated that there is a Findings of Fact Report. After review of the application submitted by the Petitioner and the information and testimony that was heard and discussed, the Mayor, as head of the Zoning Board of Appeals made the following Findings of Fact; that the proposed zoning map amendment to change the zoning of the subject properties as was listed on the north side of Route 134 and west of Fairlawn Drive, in the Village of Hainesville, be changed from the R2 District to B1 Commercial Business District which meets the Illinois case law standards that must be met before a zoning map may be amended; see LaSalle National Bank of Chicago vs Cook County Chapter 12, Illinois 2D40.

Trustee Daley motioned that the Zoning Board approve that a recommendation be made to change the zoning at the Regular Board Meeting following this Public Hearing; seconded by Trustee Duberstein.

**Roll Call:**

**Ayes:** Trustees Derenoski, Kriese, Duberstein, Daley and Hein

**Absent:** Trustee Barrett

Trustee Duberstein motioned to adjourn the April 28<sup>th</sup>, 2015 Public Hearing for a Zoning Map Amendment; seconded by Trustee Derenoski.

All in favor say aye, motion carried.

The April 28<sup>th</sup>, 2015 Public Hearing for a Zoning Map Amendment adjourned at 7:27 p.m.

Respectfully submitted,

Kathy Metzler,  
RMC, CMC Village Clerk

## April 28<sup>th</sup>, 2015 Regular Board Meeting Minutes

Meeting called to order at the Village of Hainesville Council Chambers by Mayor Linda Soto at 7:28 p.m.

Mayor Linda Soto led the pledge of allegiance to the flag.

Clerk Kathy Metzler took roll call. The following Officials were present: Mayor Linda Soto, Trustees Derenoski, Kriese, Duberstein, Daley, and Hein

Also present were: Village Clerk Kathy Metzler, Public Works Superintendent Jeff Gately, Village Planner Al Maiden, and Deputy Chief Jeff Myhra

Absent: Trustee Barrett, Treasurer Kelly Hensley, Village Attorney Jim Rock, Village Engineer Greg Gruen and Chief Perlini

**Establishment of quorum** The Mayor stated that Trustee Barrett would be in attendance in 15 minutes.

### **Agenda Approval:**

Trustee Kriese motioned to approve the agenda as presented; seconded by Trustee Derenoski.

### **Roll Call:**

**Ayes:** Trustees Derenoski, Kriese, Duberstein, Daley and Hein

**Absent:** Trustee Barrett

Motion carried.

**There were no public comments.**

### **Omnibus Vote Agenda**

1. A Motion to Approve the April 14<sup>th</sup>, 2015 Public Hearing on Proposed Appropriation Ordinance for May 1<sup>st</sup>, 2015 – April 30<sup>th</sup>, 2016 Meeting Minutes
2. A Motion to Approve the April 14<sup>th</sup>, 2015 Regular Board Meeting Minutes
3. A Motion to Approve the April 2015 Bills Payable for \$69,272.38

Trustee Kriese motioned to approve the Omnibus Vote Agenda as presented; seconded by Trustee Derenoski.

### **Roll Call:**

**Ayes:** Trustees Derenoski, Kriese, Duberstein, Daley and Hein

**Absent:** Trustee Barrett

Motion carried.

### **Mayor**

Mayor Soto reported that long-time resident Erland Johnson passed away. According to his wife, he will be cremated and a memorial service will be held at a later date. Mrs. Johnson published a book about reflections of the past history of Hainesville. The Village Hall has a few copies and they are also available at the library.

The Mayor stated that the County Clerk declared the final votes of the election. The winners are Dena Hein, Kevin Barrett and George Duberstein. The swearing-in ceremony will be at the Village Hall at 7:00 p.m. on May 5<sup>th</sup>. The Village will say good-bye to Trustee Wally Kriese who has served the Board very well and will be sorely missed.

The Mayor reported that she ran two classes at Career Day on careers in Municipal Government. The classes were filled to capacity. She thanked the vendors who provided her with goodies to pass out to the students.

The Mayor stated that on Monday she along with Chief Perlini, Commander Myhra, fire officials and Jeff Gately all met with Larry Denison of the Northbrook Sports Club. On June 22<sup>nd</sup> through 28<sup>th</sup> they will be hosting the U.S. Open for Skeet and Clay Shooting, which is quite an honor. Thursday, Friday and Saturday of that week will have the most activity. There will be an article in the newsletter to give people a heads up that it will be a little bit noisier those days. It is not a permanent situation and it is an honor that the U.S. Open will be held here. There will be about 1,200 participants and this brings a lot of good economic money change to our area. The Club is working very well with the Village's Police and Fire.

### **Reports of Standing Committees**

Village Clerk Kathy Metzler noted that the Village Hall will be closed Wednesday, May 13<sup>th</sup> through Friday, May 22<sup>nd</sup> due to the Software In-House training. The swearing-in will be on May 5<sup>th</sup> and there will not be a meeting on May 12<sup>th</sup>, however, there will be a meeting on May 26<sup>th</sup>. The Mayor added that the closing has been published in every newsletter as well as the website and there is a notice on the door and the drop-box. During that time, if there is an issue, residents can fill out a Request for Service on the website or leave a phone message. Public Works Emergency should call 911 immediately.

Trustee Duberstein stated that the Village Clean Up took place on Sunday. There were 7 adults and 2 children. A large amount of trash was collected including 2 tires, a table among other things. She appreciated everyone's help. The names will be in the next Newsletter. The National Honor Society students were tied up with other activities.

Trustee Duberstein also noted that the field near Deer Point along Route 120 has been vacant for several years. It was due to the fact that the herbicide that was used to get rid of the phragmites lasted longer in the soil than expected. Now it seems that the few plants that were put in have survived so numerous trees and shrubs will be planted and they will be native species.

Trustee Duberstein stated that on May 5<sup>th</sup> the Great Age Club will take a trip to Adlai Stevenson's estate in Libertyville. They will leave the Village at 10:00 a.m. by carpool. The tour is 10:30 to 11:30 and then we will lunch at Wildberry.

Trustee Kriese asked what the plan is for the area behind Avon Ball Field that was cleared of buckthorn. Trustee Duberstein explained that shrubs and trees will be planted that are native species to add to the screening. Mayor Soto added that the rest is seeding and additional cleaning will be done.

Mayor Soto added that Relay for Life had a truck outside of Public Works from 8:00 to 1:00 collecting clothing, jewelry and gently used items. They thanked the Village and were pleased with the turnout. This raised money for the Round Lake – Grayslake group.

Also Beer Bazaar celebrated their one year anniversary with a small intimate craft beer festival which took place Saturday afternoon from 1:00 to 5:00 at Union Square Park. There was an amazing turnout. 140 tickets were sold on-line and also sold tickets as walk-ups. It was organized nicely; they had an acoustic guitar player and excellent food vendor. They hope to do it again next year and the Mayor would support them.

Trustee Duberstein added that the Village Wide Garage Sale will be August 1<sup>st</sup> and 2<sup>nd</sup> from 9:00 to 3:00.

## **Business**

### **An Ordinance Amending the Village Zoning Map**

Mayor Soto noted the addresses that are effected by the amended zoning ordinance are 372 Main St, also known as 172 Fairlawn Dr. prior to February 1<sup>st</sup>, 2015, 380 Main Street, 384 Main Street, 386 Main Street, 390 Main Street, 394 Main Street, 396 Main Street and 232 Main Street.

The Mayor also noted that after review of the application submitted by the Petitioner and the information and testimony presented at the Public Hearing, the Zoning Board of Appeals made the following Findings of Fact; that the proposed zoning map amendment to change the zoning of the subject properties as was listed on the north side of Route 134, also known as Main Street and west of Fairlawn Drive, in the Village of Hainesville, from the R2 District to B1 Commercial Business District meets the Illinois case law standards that must be met before a zoning map may be amended.

Trustee Daley motioned to approve An Ordinance Amending the Village Zoning Map; seconded by Trustee Duberstein.

#### **Roll Call:**

**Ayes:** Trustees Derenoski, Kriese, Duberstein, Daley and Hein

**Absent:** Trustee Barrett

Motion carried.

Ordinance #15-4-204

### **An Ordinance Amending Chapter 2.08 of the Village Code, Eliminating Standing Committees and Creating a Committee of the Whole**

Trustee Derenoski motioned to approve an Ordinance Amending Chapter 2.08 of the Village Code, Eliminating Standing Committees and Creating a Committee of the Whole; seconded by Trustee Kriese.

#### **Roll Call:**

**Ayes:** Trustees Derenoski, Kriese, Duberstein, Daley and Hein

**Absent:** Trustee Barrett

Motion carried.

Ordinance # 15-4-205

**A Motion to Change the time of the Board Meetings from 7:00 p.m. to 6:30 p.m. effective starting June 9<sup>th</sup>, 2015**

Trustee Duberstein motioned to approve a Change the time of the Board Meetings from 7:00 p.m. to 6:30 p.m. effective starting June 9<sup>th</sup>, 2015; seconded by Trustee Derenoski.

**Roll Call:**

**Ayes:** Trustees Derenoski, Kriese, Duberstein, Daley and Hein

**Absent:** Trustee Barrett

Motion carried.

Village Clerk Kathy Metzler stated that the website will reflect the change in meeting times.

**A Motion to Accept the Bid Agreement with Chicagoland Paving Contractors, Inc. for 2015 Pavement Patching not to exceed \$75,000**

Trustee Derenoski motioned to accept the Bid Agreement with Chicagoland Paving Contractors, Inc. for 2015 Pavement Patching not to exceed \$75,000; seconded by Trustee Duberstein.

**Roll Call:**

**Ayes:** Trustees Derenoski, Kriese, Duberstein, Daley and Hein

**Absent:** Trustee Barrett

Motion carried.

Trustee Derenoski motioned to adjourn the April 28<sup>th</sup>, 2015 Regular Board Meeting; seconded by Trustee Duberstein.

All in favor say aye, motion carried.

**The April 28<sup>th</sup>, 2015 Regular Board Meeting adjourned at 7:45 p.m.**

Respectfully submitted,

Kathy Metzler, RMC, CMC  
Village Clerk

To the Mayor and Board of Trustees of the Village of Hainesville

April 28, 2015 Special Meeting of Village Board Sitting as Village's Zoning Board of Appeals for a Public Hearing for a proposed Zoning Map Amendment for the properties fronting on Route 134 (Main Street) west of Fairlawn Drive from the Village's R-2 District to the Village's B-1 COMMERCIAL/BUSINESS District

On April 28, 2015, the Zoning Board of Appeals of the Village of Hainesville held a public hearing at 7:00PM concerning an Application by the Village of Hainesville for a potential Zoning Map Amendment for the following properties:

<u>PIN</u>	<u>STREET ADDRESS (Main St. AKA Route 134)</u>
06-28-302-047	372 Main Street (AKA 172 Fairlawn Dr.)
06-28-302-046	380 Main Street
06-28-302-045	384 Main Street
06-28-302-044	386 Main Street
06-28-302-043	390 Main Street
06-28-302-042	394 Main Street
06-28-302-041	396 Main Street
06-28-302-040	232 Main Street

Notice for this Public Hearing was published on April 9, 2015 in the Daily Herald, a secular newspaper of general circulation in Hainesville and Lake County. Notification by certified mail to affected parties was sent on April 9, 2015, and Proof of Notification by mail is available from the Village Clerk. A public Notice was also posted at the Village Hall April 20, 2015

#### Presentation of Petitioner's Testimony

Al Maiden, the Village Planning and Zoning Consultant presented expert witness testimony regarding the Village's Application for the proposed Zoning Map Amendment and noted that the Village of Hainesville's Zoning Ordinance does not provide a specific format or specific standards for the Finding of Fact report related to a proposed Zoning Map Amendment; however, Illinois Case Law provides specific standards that must be met before a zoning map may be amended (See LaSalle National Bank of Chicago v. Cook County, 12 Ill.2d 40, 145 N.E.2d 65 (1957); Cosmopolitan National Bank of Chicago V. City of Chicago, 27 ILL.2d 587, 190 N.E.2d 352 (1975)). Based on the afore mentioned Case Law, the following was included in Mr. Maiden's testimony for consideration by the Zoning Board of Appeals for their Finding of Fact Report.

1. Describe the existing uses and zoning of nearby property.

Mr. Maiden testified that the subject properties fronting on the north side of Route 134 (Main Street) west of Fairlawn Drive, with the eight separate addresses and PINs, include some properties that are, or

have been used, for a variety of commercial and business uses, some properties that are vacant, and one address that according to Lake County real estate tax records is classified as residential. Mr. Maiden further noted that the properties fronting on the north side of Route 134, but east of Fairlawn Drive, also with several separate addresses and PINs, include properties that are, or have been used, for a variety of commercial and business uses as well as some properties that are currently vacant. These properties east on Fairlawn Drive are clearly shown on the most recent Village Zoning Map from 2005 as being zoned for business or commercial uses. On older Village Zoning Maps from the 1990's the scale of those maps makes it difficult to determine the boundary lines for the zoning of certain smaller properties. Mr. Maiden noted that the fact that the properties fronting the north side of Route 134 west of Fairlawn Drive have included commercial and business uses in the past raises the question as to whether the historical zoning for these properties was included in a commercial or business district classification in the past with the current Zoning Map designation possibly being a simple mapping error.

2. Describe the care with which the community has undertaken to plan its land use development.

Mr. Maiden testified that the Village of Hainesville adopted its most current Comprehensive Plan on October 26, 2010, and that adopted plan included a "Future Land Use Map" (Figure 15) that clearly shows the properties fronting the north side of Route 134 (Main Street) and west of Fairlawn Drive as being planned for commercial development. This plan was carefully prepared and included an "Existing Land Use Map" (Figure 4) that indicated the existing land uses in this subject area as being "commercial" with some of the parcels in this subject area as also being vacant at that time. In Appendix B, of the 2010 Plan there was a "Village of Hainesville Active Business List" that noted (at that time) two of the addresses in this subject area as being used for businesses.

3. Describe the extent to which property values are diminished by current zoning restrictions, and the value that will be added by the requested zoning change.

Mr. Maiden stated that he is not a real estate appraiser and as a planning and zoning consultant he looks at the potential extent that property values may be diminished from a planning and use standpoint. Mr. Maiden noted that the current residential zoning diminishes the property values in that the existing business uses are and would be considered non-conforming uses, and the residential zoning classification has limitations on improvements to these non-conforming uses. Mr. Maiden also noted that there are further restrictions on re-establishing these commercial uses if the existing

commercial structures are damaged or destroyed. From a planning and zoning standpoint the property values are not only diminished for the property owners due to these restrictions on non-conforming uses, but they are also diminished for the Village and the other local real estate taxing bodies by not providing for the continued use and further improvement of these properties for commercial purposes as shown in the Village's adopted Comprehensive Plan.

4. How does the requested change in zoning affect the health, safety, morals, or general welfare of the public as compared to the hardship imposed on the individual property?

Mr. Maiden testified that the requested zoning change, if granted, should have a positive effect on the health, safety, morals or general welfare of the public by allowing existing commercial uses and structures to receive continued improvements without the restrictions of the non-conforming use limitations of the residential zoning classification. The restrictions on the improvements of the existing commercial properties is a hardship imposed on the individual properties, and the change to the business zoning district, which will allow continuing improvements, will benefit not only the subject properties, but also the surrounding area, the Village, and other local real estate taxing bodies.

5. Describe the suitability of the subject property for the proposed use.

These subject properties front directly onto Route 134 and take their character from the Route 134 commercial corridor (AKA Main Street). The subject properties are suitable for business uses as is apparent by the current and past uses having primarily been for business uses. The subject properties are suitable for commercial uses as shown in the Village's Comprehensive Plan. Under the proposed change the newly rezoned property can continue to be used for primarily business uses.

6. Describe the public need for the proposed use.

Mr. Maiden testified that there is a public need to allow continuing improvements to the existing business uses in the subject area to assure the continued and future improvement of the subject area for commercial uses consistent with the Village's adopted Comprehensive Plan. These continuing improvements will not only benefit the public in the Village but also benefit the public within the other local real estate taxing bodies in the greater area.

7. If applicable, describe the length of time that the property has been vacant as zoned in the context of land development in the area.

The subject properties have included some vacant parcels along with some parcels being used for commercial purposes for a number of

years while zoned residential uses. Some other parcels along the Route 134 and the Route 120 roadway corridors in the Village that are zoned business have been and are vacant, but in the context of land development in the area, there has been a gradual in-filling of commercial development along these roadway corridors. This continued in-filling of commercial uses on the vacant parcels along these roadway corridors is consistent with the Village's adopted plan for the continued development of the Village.

**Public Comments:** Tom Seputis, 394 and 396 Main Street, Hainesville, IL – Mr. Seputis stated that both his properties are apartments with storefronts on the bottom and front. He asked how the zoning would affect the apartments. One of the storefronts is vacant the other is a beauty shop. The Mayor stated that the key factor is that Mr. Seputis is compliant with the B1 commercial zoning as long as there is a storefront commercial property. Village Code allows apartments to be on storefront property under the B1 zoning. Mr. Maiden agreed that it is allowed. Mr. Seputis stated that there are three units in one building and two in the other building. Mr. Maiden stated that he has not looked at the lot size or parking, but even with that, once the use is conforming improvements can be made by doing that. If it is left the way it is, it would be non-conforming and can make improvements. Mr. Maiden will check if the combination of storefront and apartment is legal. Mayor Soto stated that she looked it up in the code when Mr. Seputis spoke with Village Clerk Kathy Metzler and felt it was compliant. Mr. Maiden looked it up and stated that it is a permitted use when apartments are above ground floor and only as accessory uses connecting to building primarily designed to use for one of the above uses and those uses are commercial uses. Therefore, apartments are allowed above the ground floor. The Mayor added that it would be correct to say that Mr. Seputis should have the B1 zoning versus the way it is now. Mr. Maiden agreed because if it stays residential then anything done on the ground floor for commercial would be non-conforming. That would also affect expansion of parking because there might be a problem between the parking for commercial and apartments and would be non-conforming in the residential district. Trustee Daley summed it up by stating that if the Village goes to B1 the apartments are fine.

### **Zoning Board of Appeals Findings of Facts:**

After review of the application submitted by the petitioner, and the information and testimony presented at the public hearing, the Zoning Board of Appeals makes the following findings of fact:

That the proposed Zoning Map Amendment to change the zoning of the subject properties located on the north side of Route 134 (AKA Main Street) and west of Fairlawn Drive in the Village of Hainesville from the R-2 District to the B-1 Commercial/Business District meets the Illinois Case Law standards that must be

met before a zoning map may be amended (See LaSalle National Bank of Chicago v. Cook County, 12 Ill.2d 40, 145 N.E.2d 65 (1957); Cosmopolitan National Bank of Chicago V. City of Chicago, 27 ILL.2d 587, 190 N.E2d 352 (1975)).

Zoning Board of Appeals Recommendations:

Based on the above, the Zoning Board of Appeals, recommends that this Zoning Map Amendment be approved as presented.

Linda Soto, Chairman  
Hainesville Zoning Board of Appeals