

Village of Lemont
Planning and Zoning Commission
Regular Meeting of April 21, 2010

A meeting of the Planning and Zoning Commission of the Village of Lemont was held at 6:30 p.m. on Wednesday, April 21, 2010 in the second floor Board Room of the Village Hall, 418 Main Street, Lemont, Illinois.

I. CALL TO ORDER

A. Pledge of Allegiance

Chairman Schubert led the Pledge of Allegiance. Chairman Schubert asked everyone to continue standing and to raise his or her right hand. He then administered the oath.

B. Verify Quorum

Upon roll call the following were:

Present: O'Malley, Armijo, Murphy, Erber, Spinelli, Maher, Schubert

Absent: None

Village Planner Charity Jones was also present.

C. Approve Minutes

Commissioner Erber made a motion, seconded by Commissioner Murphy to approve the minutes of March 17, 2010 with no changes. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

II. CHAIRMAN COMMENTS

Chairman Schubert welcomed Mr. O'Malley to the Board.

III. OLD BUSINESS

A. Case #10-01: Heritage Quarries Rezoning & Special Use.

Approve findings of fact for Case 10-01.

Mrs. Jones stated that last month there was some confusion in regards to the findings of fact for Case #10-01. She stated that based on the minutes from last month, the Village Attorney and herself drew up the findings for that Case. One sheet of the findings is for the rezoning to B-4. The other is for the special use for camping and scuba diving. Mrs. Jones stated that the rezoning was voted and it was recommended for approval. The camping and scuba diving did not receive the majority to recommend approval.

Chairman Schubert said that they would do the rezoning first. Based on the evidence and testimony presented at the public hearing on March 17, 2010 the Planning and Zoning Commission finds the following:

1. The proposed rezoning is consistent with the Comprehensive Plan guidance for this area.
2. The proposed rezoning is consistent with zoning of adjacent property.
3. The proposed rezoning is consistent with adjacent existing land uses.

Chairman Schubert stated that at the March meeting the Board voted 5-1 in favor of the rezoning.

Commissioner Maher made a motion, seconded by Commissioner Erber to approve that these were the findings of fact. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Chairman Schubert said that the special use was for camping and scuba diving. Based upon the evidence and testimony presented at the March 17, 2010 public hearing the Planning and Zoning Commission finds the following:

1. Applicant failed to present evidence that the special use was so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected. Concerns were raised regarding safety in the lake areas under the ownership of the Village, emergency access, the potential for after hour trespass onto adjoining public property, the lack of a parking plan, limited property available for the activity, increased impact on a non-standard roadway, and potential traffic conflicts with industrial and rail traffic.
2. Applicant failed to present evidence that the special use would not create excessive demands on Village service or impair the ability of the Village to maintain the peace and provide adequate protection for its citizens (see reasons set forth in #1 above).
3. Through careful wording of the special use approval for scuba diving, off-site traffic and parking impacts can be limited to an acceptable level.
4. The proposed special use is consistent with the purpose and intent of the B-4 zoning district.

Commissioner Schubert stated that at the March meeting the Board voted 4-2 for not recommending approval of the proposed special use.

Commissioner Maher made a motion, seconded by Commissioner Erber to approve that these were the findings of fact. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

IV. NEW BUSINESS

A. Case #10-02: Township Highway Department Variation.

Public hearing for variation request to permit a fence in a front yard at the Township Highway Department facility, 12750 Archer Ave.

Commissioner Armijo made a motion, seconded by Commissioner Spinelli to open the public hearing for Case #10-02. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Mrs. Jones provided a power point presentation, which showed sight photos of the subject property. She stated that fences are not allowed in front yards as part of the UDO. Normally there is not outdoor storage of this type in the front yard of a property. She said it does exist because the Township property is an existing non-conforming use with regards to the outdoor storage presently on site. Mrs. Jones said that staff does recommend approval. The fence would improve the site for surrounding property owners. She said that the only condition staff has is that the Township add some landscaping in front of the fence. This should help soften the hard look of the fence.

Al Rugienius, 930 Oldfield Rd, Downers Grove, stated that he is an agent for the Lemont Township Highway Department. He stated that the landscaping would not be an issue for the Township.

Chairman Schubert asked about the Fire Marshal's comments about a secondary access.

Mr. Rugienius stated that the secondary access would be through the Police Department. He also said that he thought the Fire Marshal's comments were in regards to a fire hydrant that was close to the building. The fence will not be near that hydrant so it does not apply.

Commissioner Spinelli recommended moving the fence ten feet off of the property line and then corner clip the southwest corner.

Mr. Rugienius stated that he would not be able to do that because of the salt trucks coming in there. He said that it would all depend on where they place the sidewalk.

Mrs. Jones said that the landscaping would be between the sidewalk and the fence.

Commissioner Murphy stated that the plantings would have to be able to tolerate the salt.

Commissioner Erber verified that the fence color would be tan. Mr. Rugienius agreed.

Commissioner Murphy made a motion, seconded by Commissioner Maher to close the public hearing for Case #10-02. A voice vote was taken:

Ayes: All

Nays: None

Motion carried

Commissioner Murphy made a motion, seconded by Commissioner Maher to recommend approval of Case #10-02 with the following conditions:

1. Landscaping should be added to the front of the fence and the landscaping should be reviewed by Village Arborist.

Chairman Schubert then read the findings of fact.

1. The variation is consistent with general purpose and intent of the Unified Development Ordinance in that it will not injure the public health, safety, and general welfare, and will improve the attractiveness of a commercial area.
2. The proposed variation will lead to an aesthetic improvement on the site; this will be a benefit to nearby properties.

All Commissioners responded yes.

A roll call vote was taken:

Ayes: Armijo, Erber, Maher, Murphy, Spinelli, O'Malley, Schubert

Nays: None

Motion passed

B. Case #10-03: 10990 S. Archer – Ratkovich Special Use.

Public hearing for a special use request to allow outdoor storage at 10990 S. Archer Ave.

Commissioner Erber made a motion, seconded by Commissioner Armijo to open the public hearing for Case #10-03. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Mrs. Jones provided a few photos and description of the subject property by power point. She said that the applicant received special approval from the Village to temporarily store materials on-site while he was pursuing the special use approval. Mrs. Jones briefly went through the special use criteria for the audience. She said that the special use has no impact on the public at large. The property will be secured by fence and locked gate. The public will not have access to the site; therefore it will not cause any threat to the public. She said that it would be non-hazardous material. She said that the surrounding neighborhood is already light industrial except for one home so it should not cause substantial injury to the value of other property. Mrs. Jones stated that this property is within the Village's gateway TIF district. The plans are that this area will not stay as it currently is, as light industrial area with outdoor storage. In the future,

the special use may be incompatible with the character of the area. Mrs. Jones stated there should be no excessive demand on Village services due to the fact that there are no combustible materials on the property. As long as there are no violations of the special use approval, staff does not foresee any demand on Village services. She said the other two special use criteria are not applicable. The staff's recommendation is that the special use be approved with the following conditions:

1. A fence or some other type of screening is added to the east property line. The screening should be at least as opaque as the screening on the south property line.
2. The screening on the south property line should remain in place.
3. The height of the outdoor storage should not exceed the height of the screening.
4. The special use approval is set to expire at the end of a set term. Prior to the expiration, Village staff will review the special use to determine compatibility with the surrounding area. So long as the special use is compatible with surrounding area, the Village Board can extend the special use approval. If it is not compatible anymore, the special use approval will not be extended.

Chairman Schubert asked if these were the same owners that have been down there the past couple of years.

Mrs. Jones stated that current owner just purchased the property in November.

Commissioner Spinelli asked when the special use is set to expire does the Village give them notice. Also, if it deemed to be revoked do they have a grace period to get rid of the outdoor storage?

Mrs. Jones stated that a grace period could be written into the ordinance. She said that in the past the burden is up to the property owner to request the extension when it comes due. She said that staff would most likely send a reminder, but the burden is on the owner.

Chairman Schubert asked the applicant to please step up to the podium.

Jeff Ratkovich, 737 W. Washington Boulevard, Chicago, stated that he was planning on using the current space that was there on the property, up to the height of the existing fence. He said that it would be mostly ladders, scaffolding, and nothing combustible. Mr. Ratkovich stated that he had to relocate some of their construction materials from where it is currently located to this property.

Chairman Schubert asked how full would the storage yard get using a percentage.

Mr. Ratkovich responded less than half. He said that there is a huge parking lot surrounding the building. He said that there would be nothing constructed new and he did not have a problem with adding additional fencing. Mr. Ratkovich did not see a problem having to follow up on the special use extension.

Commissioner Murphy asked if he only planned on being there two to three years.

Mr. Ratkovich said that the material they store would be used within that time and what isn't used he would make sure that he is in accordance with the special use.

Commissioner Murphy asked if the special use runs the two or three years and not with a property owner transfer.

Mrs. Jones stated that it would transfer with owners. The special use would be written for the types of materials that would be stored on site. If someone purchased it from Mr. Ratkovich and wanted to store hazardous materials on the site they wouldn't be allowed.

Commissioner Erber asked if the material stored would be limited to ladders and scaffolding.

Mr. Ratkovich stated yes, and that there would be some wood, but no hazardous material.

Commissioner Erber said it mentions in the report that there could be doors and ceiling tiles.

Mr. Ratkovich stated that it would not be stored outside. Anything that needs to be protected from the elements would be stored inside the building that is there already.

Commissioner Erber asked if the building would be used for some storage and offices for the company. He also asked if any trucks parked there would be only his and that he would not be renting out space for people to park there.

Mr. Ratkovich responded that he was correct as far as the building, and that at the most there would only be five vehicles there at one time. They do not plan to rent parking.

Commissioner Murphy asked in three or six years down the road what kind of criteria would there be to be denied.

Mrs. Jones said any complaints about the special use that was registered with the code enforcement officer and any changes with the surrounding land uses.

Chairman Schubert asked if anyone in the audience would like to speak in regards to this case. None responded.

Commissioner Spinelli made a motion, seconded by Commissioner Murphy to close the public hearing for Case #10-03. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Chairman Schubert then read the Findings of Fact:

1. The proposed special use does not involve any combustible or hazardous material and therefore will not create any excessive demands on Village services.
2. The proposed special use is consistent with the existing land uses on surrounding property.

All Commissioners responded yes.

Commissioner Maher made a motion, seconded by Commissioner Armijo to recommend approval of Case #10-03 with the following conditions:

1. A fence or other form of screening shall be added to the east property line. The screening provided shall be at least as opaque as the screening presently provided by the fence along the south property line. Upkeep shall be maintained on all fences.
2. The screening provided along the south property line must remain in place.
3. The height of the outdoor storage may not exceed the height of the screening
4. The special use approval shall expire at the end of two years. If the special use remains compatible with the surrounding area the Village Board shall extend the special use approval for another set term.
5. No gas, petroleum or hazardous material shall be stored on the property.

A roll call vote was taken:

Ayes: Armijo, Erber, Maher, Murphy, Spinelli, O'Malley, Schubert

Nays: None

Motion passed

C. Case #10-04: 1100 Hermes Variation.

Public hearing for a variation request to allow a 20' tall detached garage at 1100 Hermes Ave.

Commissioner Erber made a motion, seconded by Commissioner Maher to open the public hearing for Case #10-04. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Mrs. Jones provided photos of the site, which included an aerial photo of the property. Included in the power point were two drawings, one garage that was 15 feet and the proposed garage that is 20 feet. She briefly went through the standards of variation. The first standard is that the variation is in harmony with the general purpose of the UDO. Mrs. Jones stated that the UDO has eight components and four are not applicable to this variation request. One applicable standard is promoting and protecting the general health, safety and welfare. Staff feels that it would not harm the general health, safety and welfare. Another is assuring adequate natural light, air, privacy, and access to the property. She said staff feels that the additional five feet of height would have a

minimal impact to the property. This is not a densely developed area; the site is over three and half acres. The next would be protecting the character of established residential neighborhoods. Mrs. Jones stated that this piece a property is somewhat of an anomaly within the larger context of the Village. It is in the R-4 zoning and near the R-4A, which has the smallest lots of anywhere in the Village. It is hard to compare the consistence of the site with the surrounding properties. There is an adjacent lot that is 1.87 acres. She said that the impact of the requested variation on nearby properties is mitigated by the proposed placement of the structure and the topography of the site. At the proposed garage site the elevation is 714 to 716 feet. The homes to the west and south are at 724 to 730 feet in elevation. The property to the east slopes down and the garage would not be visible from these lots because of the house. She said the largest impact would be to the home that is northwest of the subject site. However, this impact is mitigated because there is 150 feet that separates the proposed garage and the home. Mrs. Jones stated the third element of the general purpose of the UDO is conserving the value of land and buildings throughout the Village. The proposed height variation would not have an impact of value on land and buildings throughout the Village.

Mrs. Jones stated that the second criteria are that the plight of the owner is due to unique circumstances. Staff would need more information from the applicant for this criteria. She said that the applicant suggests that the unique circumstances are a loss of privacy due to the recent development that has happened around them. She said that she doesn't see how the additional five feet gives them more privacy.

The third criterion is that the variation will not alter the essential character of the locality and will not be a substantial deterrent to adjacent property. She said that the five-foot variation would not have an impact on the essential character of the Village at large. She said that the Village Engineer and Fire Marshall had no concerns. Staff feels that it could be recommended for approval, if the applicant can show that the plight of the owner is due to unique circumstances.

Commissioner Spinelli asked if this was going to be a secondary garage.

Mrs. Jones stated that he was correct. They are doing an addition and the addition has an attached garage and this would be a secondary garage.

Chairman Schubert asked if anyone in the audience was here to speak on behalf of this case.

Ken McClafferty, 16540 Pasture Drive, stated he was there on behalf of the owner. He said that the architect drew pictures with the garage attached and detached. If they kept it attached they could go as high as 35 feet. He said the reason why the owner is doing this is because the owner owns a boat and it requires a ten-foot door. The picture with the slant roof (15 foot height garage) would not work because of the header. Mr. McClafferty said that if they do not get approval, the applicant could actually attach it to the existing home making the home shaped like a horsehoe. Then they can go higher, however, the owners would like to make it look like a farmhouse.

Commissioner Murphy asked if the building materials were the same whether it is detached or attached.

Mr. McClafferty responded yes.

Commissioner Erber stated that he saw steel siding. He said that the Board has denied steel buildings in commercial zoning.

Mr. McClafferty stated that it is corrugated.

Commissioner Spinelli asked if he knew the height of the roof peak on the existing house.

Mr. McClafferty said that it is 32 feet. He said that it is in the process of getting permits. He stated that the addition is much lower than the existing house.

Commissioner Erber stated that he drove by and the house looks in disrepair.

Mr. McClafferty stated that the owner moved out last month. The owner took off the brick and is waiting for permits. He said that this would be an extensive remodeling project. Mr. McClafferty said that the corrugated is more for design rather than function. He stated that the Village did not have any opposition with it.

Chairman Schubert stated that he was surprised that the building department would allow corrugated metal on exterior façade.

Mrs. Jones stated that the metal restrictions do not apply to single-family detached or single-family attached construction. Mrs. Jones stated that she has seen the building permit plans and it appears the owner was going for a country look.

Mr. McClafferty explained that it is not commercial and that the siding was expensive.

Commissioner Armijo asked if he had the overall plan with him.

Mr. McClafferty provided a copy of the planned addition to the Board.

Commissioner Erber stated that he would like to see the type of material he was planning on using.

Mrs. Jones stated she would encourage the Board to focus on the variation criteria that is outlined in the staff report. What they should look at is whether the variation request, which is not the material but rather the height, is justified or not.

Commissioner Armijo stated that he thinks that the owner is not proposing industrial siding. He said that a lot of money is going into this addition, and does not feel the owner is looking to go cheap.

Commissioner Murphy asked if the color scheme is the same.

Mr. McClafferty responded yes.

Chairman Schubert asked if anyone else from the audience would like to come up and speak in regards to this case.

Jim Nicholson, 96 Rose Court, Lemont, stated that his house is directly west of the proposed property. He said that his concerns are that the construction material and the height combined would essentially lower his property value. Mr. Nicholson stated that constructing a 20-foot high 30' by 30' garage would change the character of the neighborhood. He stated that if the applicant had privacy concerns, those concerns could be met with some well-placed trees. He said he is asking the Board to reject the variance.

Ed Andrysiak, 98 Rose Court, showed on the overhead where his property was located, adjacent to the petitioner. He also passed out a written statement to the Board with attached copies of photos. He also provided a copy to the secretary. He said that Mr. Whittingham based his petition for a variance solely on the notion that it would help with their privacy. He stated that he and other neighbors are opposed to this variation. Mr. Andrysiak stated that in regards to the subdivision, the Whittinghams had knowledge of it before they bought their property.

Mr. Andrysiak attached photographs taken from what would be Whittingham's front door after the remodel. In the photo showing the property immediately south (Exhibit A), there is a seven acre wooded parcel that is vacant. He said it would probably remain vacant because of the creeks that run through it. To the southwest (Exhibit B) is a private home. Both of these properties are about a football field away. He stated that the home to the southwest is a newer home, uphill from the Whittingham's property by some eight feet. This new home has large windows. However, they offer little view of the Whittingham property as they are for lighting in a room with a cathedral ceiling with no stairs or balconies from which to peer out. A five-foot berm and 12 foot evergreen trees also limit the view. (Exhibit C1, C2, C3)

He stated that his home is almost a football field away from the Whittingham's. (Exhibit D) With the proposed addition, which will protrude some thirty feet to the west, they will not see his house or him theirs.

He said they do not make a compelling case for this variance on the basis that they suffer undue hardship; therefore they should be turned down. Mr. Andrysiak stated that a 20-foot high 30' by 30' corrugated metal building in the midst of a park like neighborhood would reduce the neighboring property values. It will also destroy the

character of the neighborhood with an architecturally unpleasing accessory structure. A structure designed for a boathouse has no impact on the utility or necessity to make the home livable or property usable as is required by the UDO. He said the UDO itself is clear in intent in both letter and spirit of the ordinance and challenges a petitioner to prove undue and exceptional hardship. It challenges them to prove the unique circumstance, the existence of special and unusual conditions, and finally that the variance will not alter the character of adjacent property. Mr. Andrysiak stated that the petitioner has not met the criteria in the ordinance, therefore they should be denied.

Mr. Andrysiak said in addition to asking for denial of the variance, he points out and ask for consideration on another facet of this application. Approval of the variance does, in fact, approve the permit to build the accessory building itself. He said this raises another issue tied to this application, which is that an accessory building can only, by ordinance be built in the rear or side yard of a property. He said that this building is in the front yard and the entire application should be denied on that basis alone. Mr. Andrysiak stated that the Whittingham's remodel is extensive and they have reversed the home. In the process, they have made the front yard the back yard. This building cannot and should not be allowed in the front yard. He said that the front of a house is not necessarily determined by the location of the "front" door but rather by the function of the living space and it's impact and use of the property. The Whittingham home will have a kitchen, family room and screened patio facing east, which is the rear yard. He said a review of the floor plan would certainly reveal that the east facing elevation of the house has been transformed into the rear and therefore back yard.

Mr. Andrysiak said that the west elevation show a door and entrance way into a foyer which is indicative of a front door. The flow of the house makes it obvious that the house has been flipped on the lot and faces another direction. He said the floor plan must be the deciding factor here.

Mr. Andrysiak said that he has spoken with Mrs. Jones, who stated that side of the property attaching to the street from which ingress and egress is obtained trumps and determines front and rear yards. He said the Whittingham property does access to Hermes Street but it is a flag lot with minimal frontage on the street. This does not meet the ordinance for enough front footage to be able to use that as a deciding factor. Additionally, front and rear yards are often decided by the placement of accessory buildings and other preexisting building criteria. He said if the building was there first it would determine then that was the backyard. Mr. Andrysiak said that the 30' by 30', 20-foot high corrugated metal building would be in their front yard, which is not allowed by the UDO.

Mr. Andrysiak said that finally, some common sense should prevail here. In a neighborhood with near million dollar homes set in a park like atmosphere...do you really think finding a way around the rules, which he believes is happening, serves anyone well? He stated that not only should the variance petition be denied but also the entire accessory building permit should be voided.

Mr. Andrysiak stated that the architect could come up here and based on his credentials argue on this case. He said nobody has talked about how huge this building is going to be. He said as far as his opinion on the blueprints, he has spent half of his life as an engineer, and he knows how to read a blueprint. He said that the Board is hearing a request for a variance, and he is asking for denial on the whole building.

Mrs. Jones said that the UDO defines a rear yard as a yard extending across the full length of the rear lot line between the side lot lines, and between the rear lot lines and the primary building on the lot. Except on corner lots where the rear yard's width extends from the interior side lot line to the line extending from the corners of the building nearest the street and continuing to the rear lot line. She said this is not really informative in making a determination in this case, so one has to look at the definition of a front yard. The UDO defines a front yard as a yard extending across the full length of the front lot line between a front lot line and the façade of the primary structure on the lot and the side lot line. She said it comes down to what is the façade of the primary structure. The façade is defined in the UDO as the exterior side of a building that faces and is most closely parallel to a public or private street.

Commissioner Spinelli asked if the structure was addressed off of Hermes.

Mrs. Jones stated that it was.

Mr. Andrysiak stated that the boat is never stored at the house. He said that they could argue front and back. If you look at the elevation and the floor plan, any judge would determine that the front is where UPS delivers. The building would be in the wrong yard. Mr. Andrysiak said that the architect could put one more bay on the garage and even extend it 10 feet to fit the boat. He said that the issue is strong enough with some of the neighbors and property values are so much in question that this could end up being litigated. He said he would like to hear Mr. Whittingham say that he is ready to do something else or that he'll scrap the building.

Commissioner Erber thanked Mr. Andrysiak and stated that he was very informative.

Rich Whittingham, 1100 Hermes Ave., Lemont, stated that the only reasons why they are doing the detached garage are for aesthetics. He stated that they could add another bay and make it a four-door attached garage, but it would look obnoxious. He said that the cost for storing the boat at their cottage in Michigan is astronomical. He did not want to store the boat in the yard, this way it is not an eyesore for people in the neighborhood. Mr. Whittingham stated that the Village has approved the building materials and all he is asking for is the variance to the maximum height.

Commissioner Erber asked if they could lower the pitch on the garage.

Mr. McClafferty said it would still require a variance.

Commissioner Murphy asked Mrs. Jones if there were any issues with building a structure of this size at the location. She said that it meets the other requirements of the code and it is just the height that they are essentially looking at.

Mr. Whittingham stated that the material they would be using is very nice and top quality material.

Chairman Schubert reminded everyone that they are hearing a case for a height variance.

He asked if anyone else in the audience wanted to comment on this case. None responded.

Chairman Schubert stated that there is a big difference between the five-foot variance and going up to 30 feet if attached.

Commissioner Erber stated that he didn't really think if it wasn't approved that the owner would go that high with an attached garage.

Chairman Schubert asked if there were any other questions.

Commissioner Maher made a motion, seconded by Commissioner Spinelli to close the public hearing for Case #10-04. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Commissioner Maher made a motion, seconded by Commissioner Armijo to recommend approval of Case #10-04.

Chairman Schubert then read the Findings of Fact.

1. The requested variation will have no impact to the Village as a whole and the impact to the adjacent properties will be minimized by the size of the subject site, the topography of the area, and the proposed placement of the garage structure in relationship to the existing home on the subject site.
2. The variation request will not injure the public health, safety, and general welfare.

All Commissioners responded yes.

A roll call vote was taken:

Ayes: Armijo, Erber, Maher, Murphy, Spinelli, O'Malley, Schubert

Nays: None

Motion passed

D. Case #10-05: Woodglen PUD Amendment.

Public hearing for a requested amendment to the approved Woodglen PUD to allow reduced side yard setbacks for lots 10, 13, and 16.

Commissioner Murphy made a motion, seconded by Commissioner O'Malley to open the public hearing for Case #10-05. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Mrs. Jones showed the three lots and how they were irregularly shaped. She said that the original application for Woodglen included a lot of side yard variations. Through the public hearing process the applicant removed all those variation requests. She said that they are only asking for three side yard variations. Mrs. Jones said that this is a planned unit development so this will just be an amendment to the PUD and not subject to the stricter variation standards. She stated that what they want to look at is whether the requested deviations are consistent with the PUD. She stated that staff feels the applicant has minimized the impact to their requested deviations. They are only asking for three lots out of forty-five and it is due to the shape of the lots. It will only affect the front part of the homes. Mrs. Jones said that the applicant stated that the Ashton model is the one that was used to achieve the required side yard setbacks, but nobody wants to buy the Ashton model. Buyers want the Berkshire model, according to the applicant. Mrs. Jones stated that staff feels the impact would be minimal for the setbacks. She said that the rear lots would not be affected.

Chairman Schubert said that he noticed also that it was only the front and minimal. He said that if it does have to do with a better show of home then he is not really opposed. He said the Berkshire model is a preferable model of home because it doesn't have the "snout" look that the Ashton does. He then asked the applicant to please come forward.

Don Stevens, developer of the Woodglen subdivision, stated that he is running out of walkout suitable lots. He said that the people wanting these lots want the larger model, which is the Berkshire model. He said that these lots are pie shaped. He said in most cases they have more than 30 feet between buildings as an average. So this is an unfortunate technicality that they are limited. He said that grading is very critical on these lots for walkouts and they cannot move the house back. Mr. Stevens stated that they have some contracts pending dependent on the outcome of the amendment.

Chairman Schubert asked if these are the only lots that he sees for having this issue.

Mr. Stevens said correct. He said that they went through and checked the other lots and they were okay on them.

Commissioner Maher asked how many lots were left.

Mr. Stevens said out of the 45 lots, approximately one third were sold.

Chairman Schubert asked if anyone from the audience would like to come up and speak in regards to this case.

Robert Browne, 540 Keepataw Dr., Lemont, stated that he lived below lot 10. He stated that he has a letter that is signed by 12 of his neighbors. He then read the letter.

We are some of the recipients of the registered letter regarding the petition for a variance for three lots on Woodglen Lane. As we understand it, the developer is requesting a change to the side yard from 15 feet to “not less than 12 feet”. Upon talking to Mrs. Jones of your office, we understand the developer wants to do this due to the fact that the proposed structure for those smaller pie-shaped lots are not selling well. They want to put a larger model in those spaces that had been intended for the smaller dwelling. We feel, that the developer should be held to the original layout of their subdivision. The layout that this commission approved.

If allowed to build the structures closer together, we feel the aesthetic of our yards would be compromised due to the dense compacting of homes on the ridge above our homes. Homes, we would add, that have been in existence for 25 to 30 years. Additionally, we have some serious concerns in regard to water runoff from these properties. Even in the unfinished state of that subdivision, the creek that runs between our properties now swells well past its boundaries in anything more than a light, short rain. One of our properties has, in the past, sustained quite a lot of damage due to water runoff from the lots above on the ridge. Our fear is, the more land covered with cement and home, the greater the probability of future problems and damage.

Mr. Browne then stated that it was his home that has suffered quite a lot of damage.

Chairman Schubert asked if he had called the Village at that time to report the damage.

Mr. Browne stated that he did, and that Mr. Donovan has been very helpful in correcting concerns and addressing issues. He said that he has had a retaining wall twice on his property fail. He said his major concern, due to the elevation of the property, is the runoff. It rushes towards his property. There is a potential for another failure.

Commissioner Murphy asked in what year was the failure of the retaining wall.

Mr. Browne stated that it was in 2008.

Mr. Stevens stated that he receives the water runoff of their property because he is at the bottom of a hill.

Mr. Browne stated that the pictures that the Board has clearly shows water running down the other property into his from a ruptured wall.

Mrs. Jones stated that in regards to storm water runoff issues, these things come up often when there is a development that is in some stage of buildout. She stated that the variation has no relationship to storm water runoff. The model is 200 square feet more, however, what dictates the amount of impervious surface that is allowed on a lot is the

zoning. She said in a R-4 zoning district any model of the homes could be expanded toward the rear lot line, if the developer chose to do so. The PUD approved the typical elevations and building materials, not building footprints. If the developers wanted to expand a home without necessitating the variation, they still could do so.

Chairman Schubert stated that on the back of the properties they are not reducing the setback.

Commissioner Murphy asked if he had ever received water there before.

Mr. Browne stated that he did not. He said that he does not object to what Mr. Stevens does and he has a right to develop that property. The issues are the side yards and the water coming down from there. He said the closer the homes are together the tighter the stream of water.

Mrs. Jones stated that the lots they are requesting a variation for are not adjacent to one another.

Mr. Browne stated that the neighbors that have signed his letter also have problems or concerns with the aesthetics that they have to look at from down below. It changes the sight lines of their property and how their property is looked at for future sales.

Mrs. Jones stated that she does not know if the neighbors have seen the plans, but in the rear the setbacks are about 45 feet.

Mr. Browne said that what we look up at are large homes.

Commissioner Erber stated that he sympathizes about the water issue. However, one of the things that could be adding to it is that the final grading has not been done.

Mr. Browne said that the final grading is going to raise it up higher, which will put a steeper pitch going down to their property.

Commissioner Erber stated that it should be engineered so you don't have that problem. He said the problems are because the final grading is not done.

Chairman Schubert said that this development has not reached its final engineering. He said when the hydro seeding is done is should hopefully it would make it better. He was glad that Mr. Stevens has been helpful.

Mr. Browne stated that Mr. Stevens has been nothing but helpful.

Renae Vesconte, 1095 Berkley Lane, Lemont, stated that she was behind lot 10. She asked if the building that was not approved was not a walkout and is he asking for a walkout.

Mrs. Jones explained how a development is approved, and that the PUD did not approve specific lots for walkouts or not.

Mr. Stevens stated that the lots have always been a walkout and any one of those homes would be a walkout.

Mrs. Vesconte verified that two of these homes would not be next to each other.

Mrs. Jones stated that they would not.

Mrs. Vesconte was then given a plat of survey to look at. Discussion continued on the different lot sizes.

Marlene Gillespie, 870 Woodglen Lane, Lemont, stated that some of the questions she had were answered already. The one question she had was the walking path that was in the plan, how is that affected?

Mrs. Jones stated that it straddles the property line, so the house will be 10 feet away.

Commissioner Maher asked when talking about the two floor plans the only difference is the Berkshire's front is moved out more.

Mr. Stevens said that they are the same width.

Commissioner Maher asked on lots 13 and 16, the variance being requested goes back half the house, so he would have had to ask for a variance whether if it was the Ashton or the Berkshire.

Commissioner Spinelli stated that on lots 13 and sideline of 14, 80% of that side of the building encroaches into the 15-foot side yard. So it doesn't matter which model, because they are the same width. He said that there were numerous meetings on this. Initially it was suppose to be reduced side yards to get cluster, but no building would be closer than 30-feet. Then the Village Board had more meetings with you and you agreed to take out all side yard variation requests. Commissioner Spinelli said that it makes him question if the surveyor screwed something up because neither one of the buildings actually work. He said it is not just the front corner of the homes, on lots 13 and 16 it is both sides and the close to the entire length.

Mr. Stevens stated that maybe they had another model that might of worked.

Commissioner Spinelli stated that the staff report in the one paragraph was a little misguiding. It states that only the front corners of the homes are affected. He asked if there was any model that would fit on this lot.

Mr. Stevens said yes they do and it is not selling.

Commissioner Spinelli asked if these were the only lots he would be asking for.

Mr. Stevens stated yes it would. He said on some of the standard basement lots they could move the building back, but he doesn't think they need to.

Commissioner Spinelli asked if his surveyor has checked that for him. Putting the Berkshire model on the remaining lots to make sure that it works. He said that he doesn't want to see him come back in three months asking for another variation.

Chairman Schubert stated that he asked Mr. Stevens if these were the only three lots and he stated it was.

Rose Toth, 7000 Foster Place, Downers Grove, stated that she was under contract for lot 10 currently. She asked which side is the variance being requested for or is it being split between the two.

Commissioner Spinelli stated that it would be to the right as you were facing the building.

Stan Supanski, Berkley Lane, Lemont asked if there was any photos showing an aerial view of how the lots are changing.

Commissioner Spinelli gave him his drawing.

Commissioner Erber stated that the lots are not going to shuffle.

Chairman Schubert asked if anyone else wanted to speak in regards to this case. None responded.

Commissioner Murphy made a motion, seconded by Commissioner Maher to close the public hearing for Case #10-05. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Commissioner Murphy made a motion, seconded by Commissioner O'Malley to recommend approval of Case #10-05.

Chairman Schubert then read the Findings of Fact:

1. The proposed amendment will have minimal impacts on the development and therefore will not alter the overall character of the approved PUD.
2. The proposed amendment is consistent with the general intent the original PUD approval.

Commissioners responded yes.

A roll call vote was taken:

Ayes: Armijo, Erber, Murphy, O'Malley, Schubert
Nays: Maher, Spinelli
Motion passed

E. Case #10-06: Prairie Ridge Rezoning and PUD Amendment.

Public hearing for a requested amendment to the approved Prairie Ridge PUD to rezone the property from R-4 Single-Family Detached Residential District to R-5 Single-Family Attached Residential District for a 21-unit townhome development.

Commissioner Erber made a motion, seconded by Commissioner O'Malley to open the public hearing on Case #10-06. A voice vote was taken:

Ayes: All
Nays: None
Motion passed

Mrs. Jones presented photos of the subject site via power point. She stated that in 2005 the application came in for a 24-unit townhouse development. It was changed to ten single-family homes, and approved, but that approval had expired. She said that the applicant reapplied and was approved again for ten single-family homes, which has expired as well. The applicant has come back again and would like to go back to townhouses. Instead of 24 units though, he has changed it to 21 units with a similar site design. Mrs. Jones stated that the Village Engineer noted that the engineering plans are generally the same as were approved for the ten single-family homes and he has no objections at this time. The fire district involved is the Northwest Homer Fire District and they had no concerns. The landscape plan submitted is from the previous 24 unit plan proposal and the arborist is satisfied with the plan. Mrs. Jones stated that the real issue is of land use and whether single-family attached residential development is appropriate for this area. The Comprehensive Plan states that Archer Avenue should be the division area for townhomes and for areas that are restricted for single family. She said that this townhouse development falls on the wrong side on the Comprehensive Plans recommendation. The Plan shows the area as low density residential and has a conservation design overlay. She said that there are no other townhome developments in the area. The property south and adjacent to the subject property is rural in character. Mrs. Jones stated that staff does not support this development based on the Comprehensive Plan recommendation for the area and the existing uniform land use of single family homes in the area.

Chairman Schubert stated that this came before the Planning and Zoning a while ago and never got a favorable response for townhomes. He asked if the applicant was given some kind of direction that this might be something that could work in that area now.

Mrs. Jones stated that the Community Development Director took a straw poll, not specific to this property, and just asking in general about townhouse development along Archer Avenue. She said anyone has the legal right to come and request something.

Chairman Schubert asked if the applicant could please step up to the podium.

Bob Hansen, 53 Brookside Drive, stated that his wish was to build townhomes on this property for a number of reasons. He said it was opposed and he agreed to design and market it for single-family home sites. In the last four years there has been no interest in it. He stated he spoke with Jim Brown about the townhomes because of the downfall in the economy and people wanting to downsize their home. This would provide something for empty nesters that don't want a lot of stairs and the bother of taking care of a yard. He said he asked Mr. Brown to take the poll because the sales for townhouses have been picking up in Lemont compared to single-family homes. He said Mr. Brown gave him a fairly positive response that the Board would be open to reconsidering it. He did not say that it was overwhelmingly positive. Mr. Hansen stated that the plans the Board is looking at are not finished plans. They are just to give an idea what it could look like. He said that the Comprehensive Plan is from 2002 and a lot has happened since then. He hopes that the Board would be open to looking at this type of product.

Commissioner Erber asked how long he has owned the property.

Mr. Hansen stated five years.

Chairman Schubert asked Mrs. Jones or Mr. Hansen what did the straw poll vote.

Mrs. Jones stated that it wasn't to this specific property. Mr. Brown asked the Board individually how they felt about townhome development. She said it was more of a general question. Mrs. Jones stated that she did not know what they said exactly.

Chairman Schubert stated that there is a letter Mrs. Jones received that he would like her to read in regards to this case. Then they would have anyone else from the audience come up and speak.

Mrs. Jones stated that the letter is from John Antonopoulos, Attorney. He states that he represents Christian and Leah Vande Velde who are the adjoining property owners to the east of the proposed rezoning above described. The Vande Velde respectfully request that the Board take into consideration the following comments in their deliberation.

1. Lemont has diversity in housing ranging from large lots and open space to multi-story condominiums. The development of townhouses at the proposed site is in a rural area and would have negative impact on the adjoining property values. The surrounding uses are all single-family and to allow multi-family townhouse development would constitute spot zoning.
2. The Comprehensive Plan clearly targets the area as rural low density. The clear trend of development is for large lots, open space and a rural development.
3. There is no need in the community for more townhouses or multi-family. The Village has approved 745 multiply family units and approximately 494 remain un-built. There is an obvious over supply of multi-family units in Lemont and to add additional townhouse would contribute to the over supply and affect the existing market for new as well as existing townhouse sales.

He apologized for not being available for the hearing, but requested that the Board consider his comments in connection with their decision.

Chairman Schubert stated that it reflects a 66% of multi-family units that remain un-built. He stated that the housing market is terrible right now for any market.

Mr. Hansen stated that there are currently 43 townhouses on the market this week, six are currently under contract, and 33 are within the price range of the townhouses he wants to build. The price range for the townhouses he wants to build is \$400,000. He said on the south side of Archer you do have the Steeples townhomes and it is only a half a mile away.

Chairman Schubert asked if anyone else would like to come up and speak.

Carroll Cunningham, 13251 Oak Lane, Lemont passed out information regarding the properties that are surrounding the subject site. He said that what Mr. Hansen is trying to do is test the waters again. He said the homeowners didn't agree with the ten single-family homes. He said the proposal is way out of character for the area. He said four homes on that property is something the neighbors could live with, but not a 21-unit townhome development. He stated with all the concrete there would be no place for the water to go but downhill. The property on the south will be washed away. The sump pumps from the homes will be dumping into the adjacent ravines, which are on both sides. Mr. Cunningham said the elevation from the front to the back of the property drops 35 feet. There is then another 35 foot drop from Mr. Stoop's property to his. There is already flooding problems and he is worried about the retention pond being able to hold the water. Mr. Cunningham stated that he was sorry Mr. Hansen did not make a good decision with this property. He said that the surrounding property is all unincorporated Cook County. He said that Mr. Hansen would also lose some property when Archer Avenue is widened to two lanes. Mr. Cunningham stated that he spoke with Mr. Hansen about how someone is using his property for a garbage dump and hopes that Mr. Hansen will take care of it.

John Stoops, 13241 Oak Lane, Lemont, stated that Mr. Cunningham has said it all and he agrees that a townhome development does not fit with the character of the area.

Jill Lieberstein, 13231 Oak Lane, Lemont, said that she finds it hard to believe that they are here again. She said that the original proposal was turned down and they all felt that ten homes was a lot to put on that property. She said that it is true that housing and the economy is down, but this would hurt them more. The creek that backs up to his property would affect everyone with all the runoff. Mrs. Lieberstein stated that it does not fit the area. She said when the builder makes a mistake he can request a variance, but how does it affect the people that are living around it. She stated that there are not many rural areas in Lemont, and it would be a shame to see something like this go up and affect the town. She hopes that the Board would vote against this.

Mr. Cunningham stated that at the last meeting with the Trustees, Mayor Reeves personally guaranteed him that the retention pond for the ten single-family homes would never fail. He said he thinks it was a statement that he should have never made.

Larry Johnson, 13207 Archer Avenue, Lemont, stated that he is also concerned with the proposal. He said if the applicant let the time lapse, then they are out of the picture. He said you could put two very nice upscale homes on that property. Mr. Johnson said that this property could not support this many townhouses. He said even the ten homes do not belong in that area.

Mr. Cunningham asked if the projection of the ten homes gone.

Mrs. Jones stated that yes it has expired. She said the planned unit development had expired, but there is still an annexation agreement for ten homes on this site.

Mr. Cunningham stated with false information they approved an annexation.

Mrs. Jones stated that she doesn't think that the annexation makes any reference to the adjoining property. The annexation agreement is between the Village and the property owner.

Mr. Cunningham stated that it could be judicially challenged if the surrounding property owners stand to lose money on their property values by something being built on this property. He said that he feels that the neighbors would put up the money to challenge it.

Mrs. Jones stated that the false information in regards to the property to the south was corrected in the public hearing process. So when the Board made their approval they made it with full knowledge of the surrounding property.

Mr. Cunningham stated that they are not always informed.

Chairman Schubert stated that there was complete acknowledgement of all the surrounding properties, especially to the south. He said there have been at least four meetings and the people to the south have been here for those meetings. He also stated that the Planning and Zoning Board have never disregarded anybody.

Chairman Schubert asked if the Board had any questions or comments.

Commissioner Erber stated that the proposal does not fit into the surrounding area. Even when the economy picks back up, it would not fit in the area. He said that he does not feel that the Board should sacrifice good planning for a downturn in the economy.

Commissioner Armijo stated that the projection picture is not bad and asked about storm water.

Mr. Hansen stated that the stormwater management would not change. He said they would put basins in the back of every other lot and discharge through the retention basin.

He said that this whole area is surrounded by woods which are dense and secluded so it won't be seen from the road. He said as far as the argument about it not fitting into the neighborhood, because of the physical character of the property it stands alone.

Mrs. Lieberstein stated that from her house she could see all the garbage that has been dumped. There was a tent and you could see the flap blowing open and closed. She said that she has seen people walking around on the property. She stated that if ten homes get built on this property it would be like a wall was built. It does not fit in with the area. Mrs. Lieberstein stated that of course there would be something built on the property, because that is progress. She said that Mr. Hansen keeps letting this proposal lapse and then comes back and proposes more. She stated that it is public record what he paid for the property, and that he is trying to make his money back. However, everyone doesn't have to suffer from it. Mrs. Lieberstein stated that the property isn't that secluded. All the neighbors can see it.

Mr. Cunningham stated that there would be increased traffic that would have to pull out onto Archer Avenue and it would be very dangerous. He said the least amount of traffic that has to pull out of that property the better.

Commissioner Maher stated that he was open to townhomes on Archer Avenue. He stated that this location, however, is not suited at this time for townhomes.

Commissioner Murphy said that she agreed with Commissioner Maher. She stated that it is their job to be open and to consider everything.

Commissioner Spinelli stated that he did not like townhomes in 2005 and still does not like townhomes for this area.

Commissioner O'Malley stated that he concurs and the site is suitable for single-family homes.

Chairman Schubert asked if anyone else would like to make a comment. None responded.

Commissioner Erber made a motion, seconded by Commissioner Spinelli to close the public hearing for Case #10-06. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Commissioner Murphy made a motion, seconded by Commissioner Erber to recommend approval of Case #10-06.

Chairman Schubert said based upon the evidence and testimony presented in the public hearing the Planning and Zoning Commission finds the following:

1. The density is too great for area.
2. The proposed development contradicts the Comprehensive Plan for area.
3. The proposed development is out of character for the surrounding area.
4. The proposed development is lacking in design quality.

All Commissioners agreed.

A roll call vote was taken:

Ayes: None

Nays: Armijo, Erber, Maher, Murphy, Spinelli, O'Malley, Schubert

Motion denied

V. GENERAL DISCUSSION

Chairman Schubert stated that he would like everyone to try to be at next month's meeting for some training.

VI. ADJOURNMENT

Commissioner Erber made a motion, seconded by Commissioner O'Malley to adjourn meeting. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Minutes prepared by Peggy Halper