

MINUTES OF A REGULAR MEETING OF THE BOARD OF TRUSTEES  
OF THE VILLAGE OF NORTH BARRINGTON WHICH WAS HELD MONDAY,  
JULY 28, 2003 AT THE NORTH BARRINGTON VILLAGE HALL,  
111 OLD BARRINGTON ROAD

I. Call to Order and Roll Call

At 7:30 P.M. President Pro Tem Parker called the Meeting to order. The Clerk led the Pledge of Allegiance, and then called the roll:

Present: Trustees Hjertstedt, McEnroe, Peterson, and Forman (arriving at 7:40 p.m.),  
President Pro Tem Parker

Absent: President Starkey

Also Present: Kathy Nelander, Village Clerk  
Judy Janus, Administrative Assistant

Al Stefan, Baxter & Woodman

Andrea Pracht, Baxter & Woodman

Sidney Bartlett, 499 Randolph Court

Callie Zintz, 224 Kimberly Road

Kelly Rafferty, Building & Zoning Officer

Joe Arizza, 109 W. Liberty, Wauconda Fire Department

J.W. Braithwaite, Arnstein & Lehr

Barb Potter, 285 Biltmore Drive

Bryan and Laura McGonigal, 297 Woodland

Barbara Bond, 449 E. Oxford Road

David Adolphson, 483 E. Oxford Road

Warren Nass, 107 Mohawk Drive

William Denison, 1043 Orchard, Lake Zurich

Rukmini Callimachi, Daily Herald

Dan Shultz, 260 N. 59

Ed Plagemann, 463 E. Oxford Road

Denis Taillon, 483 Brookside Road

II. Public Comment

Ed Plagemann, 463 E. Oxford Road, addressed the Board. He explained that he had been notified by the Village about the Board Meeting and the proposed changing of the Zoning Text as related to setbacks. Mr. Plagemann had questions as to why the Board was reconsidering their recent actions with regard to the zoning variance request at 226 Kimberly Road. Village Attorney Braithwaite explained that the zoning variance for the property at 226 Kimberly Road was denied, but the Ordinance itself was still pending before the Board. Mr. Plagemann expressed his concerns about allowing a house to be built at 226 Kimberly Road, and that he would no longer have a view of the lake.

David Adolphson, 483 E. Oxford Road, also had concerns and questions about the Board's

actions with regard to the setback ordinance. He said that a number of neighbors had asked him to speak on their behalf, and express their concerns about building a house not only at 226 Kimberly Road, but further building and the possible effects on Honey Lake. He asked that the Board safeguard Honey Lake.

III: Consent Agenda

Under Item A in the Consent Agenda, the Minutes of the Regular Board Meeting on 6/23/03 were removed from the agenda.

Motion: On motion of Trustee McEnroe, seconded by Trustee Peterson, the following agenda items were unanimously approved by a single omnibus vote:

- B. Approve the Treasurer's Report for the 2nd month of F/Y 2004 for file and audit
- C. Approve the July 28, 2003 Vouchers for payment of bills
- D. Extend the Idealease Temporary Occupancy Permit until August 30, 2003

Discussion: There was no discussion.

Vote on Motion

By Roll Call:	Ayes:	Trustees Hjertstedt, McEnroe, Peterson, and Forman, President Pro
	Nays:	None
	Absent:	President Starkey
	Abstain:	None

President Pro Tem Parker declared the motion approved.

Removed from the Consent Agenda for discussion and action:

- A. Approve the Minutes of the Regular Board Meeting on 6/23/03

The Minutes of the Regular Board Meeting on 6/23/03 were made available to the Board. Trustee Forman requested that a portion of text which she presented in writing, be added to the minutes. There was some discussion. Village Attorney Braithwaite said that it was up to the Board what was included in the minutes and noted that the minutes did not need to include each of the individual Trustee's comments.

Motion: Trustee Peterson moved to approve the Minutes of the Minutes of the Regular Board Meeting on 6/23/03 as amended; seconded by Trustee Hjertstedt.

Discussion: There was some discussion.

Vote on Motion:

The voice vote was unanimous in favor.

President Pro Tem Parker declared the motion approved.

IV. Appointments/Resignations

- A. Resolution appointing Bill Bishop as Member of the Plan Commission

President Pro Tem Parker said that the item would not be on the agenda for the meeting as Mr. Bishop had some work concerns to address before the consideration could take place.

B. Resolution #2281 appointing Laurie Whitmer as a Member of the Parks & Recreation Commission

The Resolution was made available to the Board.

Motion: Trustee Forman moved to approve Resolution #2281; seconded by Trustee McEnroe.

Discussion: There was no discussion.

Vote on Motion:

The voice vote was unanimous in favor.

President Pro Tem Parker declared Resolution #2281 approved and put on file.

C. Resolution #2282 appointing David Peterson as Director to SWALCO and appointing Linda Starkey as Alternate Director to SWALCO

The Resolution was made available to the Board.

Motion: Trustee Forman moved to approve Resolution #2282; seconded by Trustee McEnroe.

Discussion: There was no discussion.

Vote on Motion:

The voice vote was unanimous in favor.

President Pro Tem Parker declared Resolution #2282 approved and put on file.

V. Variations/Subdivisions/Code Amendments

A. Ordinance #1010 deleting Zoning Text ZR-8-2(B) related to setback provision

President Pro Tem Parker reminded the Board that the topic was discussed at the June Board meeting. He explained that the Ordinance was intended to eliminate the setback requirement which is based on the average of the existing setbacks of the properties within 200 feet.

President Pro Tem Parker said that the options included to maintain section ZR-8-2(B) of the Ordinance as is, adjust the section, or eliminate the section.

President Pro Tem Parker read a letter from Mr. & Mrs. James Kemper III at 471 E. Oxford, encouraging the Board to keep the Ordinance as is. In the letter, the Kempers state their opinion that a house should not be allowed to be built on the vacant lot at 226 Kimberly Road, due to the potential harm to Honey Lake and the wetlands, as well as affecting the homeowners on the south side of East Oxford Road.

Trustee Peterson said that the current section provides unusual results from the compilation of the averages of other properties within 200 feet, and said that the question for the Board was whether or not the section in the Ordinance was an inappropriate and arbitrary standard.

Trustee Forman asked why the Ordinance had never been used. Village Attorney J. W.

Braithwaite explained that this section in the Ordinance had never been utilized, by any present or prior Building Officer for the Village, as far as the research showed, and that the section had only recently had been discovered by the Building and Zoning Officer Kelly Rafferty. Village Attorney Braithwaite further explained that the current setback provision is illogical, and that the present Ordinance was in conflict with the Watershed Development Ordinance for setbacks to lakes or waterways. Attorney Braithwaite mentioned that it was difficult to legally enforce an Ordinance, when it was not uniformly applied throughout the Village.

Building and Zoning Officer Kelly Rafferty answered questions about the section of the Ordinance. He explained that with regard to setbacks from lakes or waterways, the Village historically has relied upon and enforced only the setbacks required from a stormwater management perspective, such as those required under the present Lake County and North Barrington Watershed Development Ordinances. He said that he found no records that section ZR-8-2(B) was ever applied to any properties in the Village prior to its recent discovery, although it could have applied to numerous houses throughout the Village. Mr. Rafferty said that the section in the Zoning Ordinance was a part of the original Zoning Ordinance of the Village, from 1960. Mr. Rafferty answered questions about the subdivision of the properties now known as 222, 224, and 226 Kimberly Road. Mr. Rafferty said that the property was subdivided in 1982.

Views on the subject were voiced by the Trustees. Trustee McEnroe said that if the Ordinance was not enforceable, it needed to be changed or removed. Trustee Hjertstedt agreed that the Ordinance should either be changed or removed. President Pro Tem Parker recapped that the property at 226 Kimberly was the issue that brought the section of the Ordinance to light. He explained that the lot at 226 Kimberly was conforming and that the subdivision was already approved. He said that the Ordinance did not just apply to one lot in the Village, it applied to the entire Village.

Trustee Forman asked how building the home at 226 Kimberly would affect the Honey Lake. Trustee Forman also referred to the Comprehensive Plan and its commitment to open space. Village Attorney Braithwaite explained that Honey Lake was protected under the existing County and Village Ordinances. He also noted that the section of the Ordinance was not a Comprehensive Plan issue. There was further discussion and the Board decided to discuss the matter further when in Executive Session as this matter would impact property as to which litigation was probable under existing ordinances.

B. Ordinance #1009 Zoning Variation Ordinance regarding 590 Onondaga (Schneider)  
As the Schneiders were not in the audience to address the Board, President Pro Tem Parker invited Zoning Board of Appeals Chairman Warren Nass to explain the requested variance. Chairman Nass noted that all requirements had been met by the applicant and explained the variances to the code requested by Mr. & Mrs. Michael Schneider.

ZR-5-3(A): R-3 Residential Zoning District requires that each lot have an area of at least 40,000 square feet.

The subject property (Lots 11 thru 14 in Block 4 in Unite No. 3 of Biltmore Country Estates) is approximately 27,000 square feet in area.

ZR-1-2(B) and

ZR-1-7(A,2) A non-conforming building or use shall not be expanded.

The subject property is non-conforming on account of lot size.

Chairman Nass noted that there were no objections from neighbors or Village Staff to the proposed addition. Chairman Nass explained currently there was a brick patio in the back of the existing home, but it was in disrepair, and the homeowner wanted to construct a low, wood deck which would not require any railings. He said that the bricks would be removed before construction of the treated wood deck. There were some questions from the Board.

Motion: Trustee Forman moved to adopt Ordinance #1009 allowing Mr. & Mrs. Michael Schneider to construct a wood deck onto the back of the existing home using the plans as submitted to the Zoning Board of Appeals; seconded by Trustee McEnroe.

Discussion: There was no discussion.

Vote on Motion

By Roll Call:	Ayes:	Trustees Hjertstedt, McEnroe, Peterson, and Forman, President Pro
		Tem Parker
	Nays:	None
	Absent:	President Starkey
	Abstain:	None

President Pro Tem Parker declared Ordinance #1009 approved and put on file.

C. Ordinance #1006 Annexation/Rezoning, along with the Annexation Agreement for property at 22920 N. Hwy 59 (Werd) will be deferred until the August 25, 2003 Regular Village Board Meeting

President Pro Tem Parker explained that the Annexation Agreement and Rezoning Ordinance would be considered at next month's meeting. Village Attorney Braithwaite said that an Annexation Agreement would have to be drafted and prepared with Mr. Werd's attorney, and then would be presented to the full Board at the August Board meeting.

D. Discussion regarding the Vacation of a portion of Iroquois Drive

President Pro Tem Parker explained that this issue involved property and possible compensation and should be handled in closed session, and asked that this topic also be addressed at the next, regularly scheduled meeting.

Trustee Forman asked that information be provided to the Board regarding previous or pending vacations, as well as pricing for these parcels, for the next meeting.

A. Building Department Report (Kelly Rafferty - Rafferty Architects)

The Building and Zoning Department Activity Report was made available to the Board.

B. Engineering Project Status Report (Al Stefan - Baxter & Woodman)

The Engineering Project Status Report was made available to the Board.

C. Health & Sanitation Report (Natalie Karney - Land Technology)

The Health & Sanitation Monthly Report was made available to the Board.

D. Plan Commission Meeting Minutes from 7/14/03.

The Minutes of the Meeting were made available to the Board.

E. Zoning Board of Appeals Meeting Minutes from 7/8/03.

The Minutes of the Meeting were made available to the Board.

F. Parks Commission Meeting Minutes from 7/7/03.

The Minutes of the Meeting were made available to the Board.

G. Environmental Commission Meeting Minutes from 7/17/03.

The Minutes of the Meeting were made available to the Board.

H. Staff Meeting Minutes from 7/22/03.

The Minutes of the Meeting were made available to the Board.

VI. ADMINISTRATION

A. President's report

The Report was made available to the Board.

B. Award contract for the FY2004 Road Program

President Pro Tem Parker explained that bids were opened earlier in the day for the Village's road work program. President Pro Tem Parker reminded the Board that at last month's meeting, the Board approved \$225,000 to be utilized from MFT funds to use on roads. Village Engineer Al Stefan explained that the bid was solicited via the IDOT Bulletin and that out of 7 firms that submitted for plans, 6 of those returned with bids. Mr. Stefan stated that Arrow Road Construction Co., Mt. Prospect, Illinois was the lowest bidder. Bids received were:

* Arrow Road Construction Co.	\$193,344.94
* Geske & Sons, Inc.	\$196,260.70
* J.A. Johnson Paving Company	\$204,452.20
* Peter Baker & Son Co.	\$231,414.55
* Callahan Paving, Inc.	\$246,001.30
* Curran Contracting Company	\$253,112.90

Mr. Stefan said their pre-bid opinion of the probable cost for the project was \$213,875.00, and that they would recommend that the Village proceed with the contract using Arrow Road Construction Co. Mr. Stefan said that when using State funds, the low bidder had to be used and that Arrow Road Construction Co. had just finished a job for the Village of Itasca, and that they were very happy with the work performed. Mr. Stefan said that the construction should begin within three to four weeks with a completion date of September 30, 2003.

Motion: Trustee Peterson moved to accept the bid from Arrow Road Construction Co. and award the contract for \$193,344.94, using MFT funds, subject to execution and review of a written contract; seconded by Trustee Forman.

Discussion: There was some discussion.

Vote on Motion

By Roll Call: Ayes: Trustees Hjertstedt, McEnroe, Peterson, and Forman, President Pro  
Pro Tem Parker  
Nays: None  
Absent: President Starkey  
Abstain: None

President Pro Tem Parker declared the motion approved.

C. North Barrington/Barrington Intergovernmental Boundary Agreement (tabled)  
President Pro Tem Parker explained that the Agreement has not been approved by counsels on both sides, and that there were many questions about the Agreement from the Village Board in Barrington, primarily because they have several new trustees. Village Attorney Braithwaite explained that the Village of Barrington has a particular issue pending, which has nothing to do with North Barrington, but would impact this Agreement, and that is why the Agreement continued to be tabled.

VIII. Reports by Board of Trustees

A. Trustee Craig Parker

President Pro Tem Parker reported that the current five year cable agreement with Comcast was set to expire in the spring of 2004. President Pro Tem Parker said that he would be reviewing and renegotiating the contract and that if there were any comments or concerns from the Board that those be forwarded to him via email or the Village Hall.

B. Trustee Fred Hjertstedt

Trustee Hjertstedt reported the camps run at Eton Park by the Foglia YMCA were well underway and at the end of the summer he would have reports on how many children did participate in the programs. He said that this year was the first year these activities were taking place, with last years Ricky Raccoon camp program more of a "pilate" program with the YMCA.

Trustee Hjertstedt discussed the Run Through the Woods race director and the funding of the Director's salary. He reminded the Board that at last month's meeting, the Board decided to tie the proceeds from the event to the salary for the race director, that the salary would be considered a race expense, to put a cap on the salary at \$5000.00 and negotiate to bring that amount lower. Trustee Hjertstedt said that he discussed the salary with race director Marilyn McAlester, and she said she would accept an hourly rate of \$18 per hour, starting June 1, 2003 through October 18, 2003 in order to try to reduce the cost to about \$3000-\$3500. Trustee Hjertstedt said that the Parks Commission felt that the money paid to the race director should come directly out of Race's budget verses the proceeds from the Race, as it could be viewed as a conflict to pay a salary from money donated from sponsors. Trustee Hjertstedt also noted that some of the major sponsors from previous races were not spending as much which further complicated the race's situation; he noted that there were about \$2000 in contributions thus far. Trustee Hjertstedt asked if the Board wanted to continue with the Race. He said that for the Village to proceed with the Race, it would cost the Village approximately \$11,000, which

included the Race Director's pay. There was some discussion as to how to cut costs for the race. The consensus of the Board was to continue to support the Race for year 2003, and if the proceeds exceeded the expenditures, they would be able to contribute those proceeds to Citizens for Conservation.

C. Trustee Kimberly Forman

Trustee Forman reported that she was going to host a coffee to introduce herself to the both the Wauconda and Lake Zurich Fire Departments and the Lake County Sheriff's Department.

D. Trustee Dave Peterson

Trustee Peterson reported that a representative from the DNR would be at the August Village Board meeting to talk about controlling the Village's deer population. Trustee Peterson also reported that the Environmental Commission was looking into the road salt issue and had some feedback from residents. He asked that this information be passed on to the next snow plow contractor or that the topic be discussed when accepting bids.

Trustee Peterson said that the Environmental Commission had approved expenditures for three stormwater management issues in the Village. The recommended improvements as per Al Stefan's report include:

436 Brookmont Lane- Field verify invert elevations to verify if culvert has shifted. Estimate \$250.

627 Signal Hill Road - Field investigate the drainage direction, to determine the location of obstruction. This would include verifying the invert elevations of the exposed pipes. Estimate \$400.

211 Biltmore Drive - Check the culvert inverts to confirm that the culvert is not back pitched. Estimate \$250.

Motion: Trustee Peterson moved to approve the expenditure of up to \$900 for Baxter and Woodman to investigate stormwater issues at 436 Brookmont Lane, 627 Signal Hill Road, and 211 Biltmore Drive; seconded by Trustee McEnroe.

Discussion: There was some discussion.

Vote on Motion

By Roll Call:	Ayes:	Trustees Hjertstedt, McEnroe, Peterson, and Forman, President
Pro		Tem Parker
	Nays:	None
	Absent:	President Starkey
	Abstain:	None

President Pro Tem Parker declared the motion approved.

Trustee Peterson said that Environmental Commission member Barb Potter would address the Board regarding the Swano property. Barb Potter said that the Environmental Commission had recommended hiring Ted Gray and Associates to look into the stormwater problem at 404 and 405 Concord Lane. Ms. Potter gave some background information and summarized that there

was water in the back yard of Mrs. Swano's property at 405 Concord Lane for many years, with the water coming into the yard from many directions. Ms. Potter explained that both Ted Gray and Associates and Baxter & Woodman had submitted proposals to investigate solutions for the stormwater problems at the site and that Ted Gray and Assoc.'s bid was lower; the amount of the bid totaling \$10,750.

Village Engineer Al Stefan answered some questions from the Board regarding the water problems at 405 Concord Lane. He said that studies of the property have been performed in the past, and there were many causes for the water problems. He said that the two property owners most affected by the water were Pat Ryan at 404 Concord Lane and Julie Swano at 405 Concord Lane.

Ms. Potter said that since the problem had gone on for so long and the property owners disagreed with solutions previously recommended, the Commission was asking for another opinion, in the form of Ted Gray and Associates. There were questions from the Board about the bids for the study. It was determined that the Board would receive all pertinent information regarding the bids, including previous work performed at Concord Lane, for further discussion at the August Board meeting.

Trustee Peterson explained that there was a plan in place to address Flint Creek's flooding issues. He explained that the Environmental Commission decided that, given the size and scope of the project, to have an outside expert, Ted Gray and Associates look at the plan submitted by Baxter and Woodman. Trustee Peterson reported that it would cost \$6500 for Ted Gray and Associates to review the plan. The Board asked for references for Ted Gray and Associates. Barb Potter said that Environmental Commission member Pat Ryan had checked the references, and that those materials could be provided to the Board.

Village Engineer Al Stefan answered questions from the Board and explained that Baxter and Woodman completed the first phase of the Flint Creek plan by generating a computer model for the Creek in coordination with the Lake County Stormwater Management Commission and the Federal Emergency Management Association. He explained that Phase 2 of the project includes the recommended plan of construction, including replacing culverts.

There was lengthy discussion amongst the Board. It was determined that the Board would review materials that would be provided regarding references and work to be performed from Ted Gray and Associates, for further discussion at the August Board meeting.

E. Trustee Jack McEnroe

Trustee McEnroe reported that the Finance Committee had met and one of the Committee's projects was to develop a draft an investment policy. He said that the Village has been limited to some short term investments in the past, and that the Committee had asked for some legal guidance in terms of what the approach should be. He also reported that the Committee was researching other Village's investment policies, including Inverness. Also, the Committee was

going to work on an ethics ordinance.

IX. CLOSED SESSION: MOTION that a portion of the meeting be closed to the public, effective immediately as permitted by 5 ILCS 120/3(C) (11), to discuss litigation against, affecting, or on behalf of the Village which has been filed and is pending in a court or administrative tribunal or which is probable or imminent.

The Board went into Closed Session at 9:12 p.m.

#### RECONVENE OF OPEN SESSION

President Pro Tem Parker reconvened open session at 9:48 p.m.

#### X. OLD BUSINESS

Ordinance #1010 deleting Zoning Text ZR-8-2(B) related to setback provision  
Trustee Peterson said that as not only a homeowner on Honey Lake, but a big proponent of protecting Honey Lake, he finds the decision regarding the deletion of the Ordinance very difficult. He said after all the considerations were taken into place, the Ordinance not fair in its application, didn't make sense, and the Village would be better served by the deletion of the section.

Trustee McEnroe said that he agreed with Trustee Peterson in that it was difficult to enforce an ordinance with so many contradictions. He said it would be hard to enforce it equitably or defend it legally.

Trustee Hjertstedt said that the present ordinance was in direct conflict with the Lake County and North Barrington Watershed Development Ordinance, and by eliminating the section from the Ordinance, the Village would eliminate the conflicts.

Trustee Forman said that while some of the members of the Board felt that the Ordinance was unenforceable, she did not feel that this was accurate.

Motion: Trustee Hjertstedt moved to adopt Ordinance #1010 deleting Zoning Text ZR-8-2(B); seconded by Trustee McEnroe.

Discussion: There was some discussion.

Vote on Motion

By Roll Call:	Ayes:	Trustees Hjertstedt, McEnroe, Peterson, and President Pro Tem Parker
	Nays:	Trustee Forman
	Absent:	President Starkey
	Abstain:	None

President Pro Tem Parker declared the motion approved.

XI. NEW BUSINESS

There was no new business to discuss.

XII. ADJOURNMENT

There being no further business to come before the Board, Trustee Peterson moved to adjourn the meeting; seconded by Trustee Forman.

The voice vote was unanimous in favor.

At 9:57 p.m. President Pro Tem Parker declared the meeting adjourned.

These Minutes were approved by the Board at a meeting held August 25, 2003.

Attest: \_\_\_\_\_

Kathy Nelander, Village Clerk

7/28/03 - Page 10 of 10