

**MINUTES
ZONING BOARD OF APPEALS
REGULAR MEETING
WEDNESDAY, DECEMBER 19, 2012, 3:00 P.M.
COUNCIL CHAMBERS, CITY HALL
109 E. OLIVE ST., BLOOMINGTON, IL**

Members present: Mr. Dick Briggs, Mr. Mike Ireland, Mr. Robert Kearney, Mr. Steve Parker, Mr. Bill Zimmerman

Members absent: Mrs. Barbara Meek

Also Present: Mr. Kevin Kothe, City Engineer
Mr. Mark Woolard, Acting Secretary

Mr. Woolard called the meeting to order at 3:01 p.m. and called the roll. A quorum was present.

The Board reviewed the minutes from November 21, 2012. The Board but had no corrections to the minutes. The minutes were accepted as printed.

Chairman Ireland explained the meeting procedures. Mr. Woolard stated that the cases had been published.

SP-08-12 Public Hearing and Review on the petition submitted by Milestones Early Learning Center & Preschool requesting approval of a special use permit for a day care center for the property located at 1207 Six Points Road. Zoned R-3A, Multiple-Family Residence District.

Chairman Ireland introduced the special use case and asked for anyone who would like to speak in favor of the petition to come forward. Derek McPherson, 3021 Wild Horse St., Normal was sworn in and stated their intent is to provide a new facility for Milestones Early Learning Center. They have done a lot of due diligence in finding a sight that meets their educational requirements and with a natural environment. They intend to maintain the integrity of the site and the neighborhood. Throughout the design process they have made every effort to minimize neighborhood impacts by placing the building on the east side of the lot, maintain a buffer from McKay Drive and have all traffic access be off Six Points Road. They intend to follow the natural drainage pattern. The detention and drainage is not 100 percent calculated.

Mike Sewell, of Shive Hattery and 2103 Eastland Drive, was sworn in and stated the only unique characteristic about this site there is quite a bit of fall from east to west. The grades are not quite as severe on the east side shelve of the property. He explained the design, how the creek is a good location for detention and that it will meet code. They fully intend to meet city requirements for detention and water will not back up stream. Mr. Briggs asked if it will be a private creek, who will be responsible and what is the long term plan for erosion control. Mr. Sewell stated the intention is to prevent erosion and they will collect all of the storm water that lands in the development and reduce the water velocity. They will create a settling basin that

should improve up stream erosion. He said there will be some maintenance responsibilities of the property owner and there should not be any off site impacts.

Dana David, the daycare director and of 315 N. Stillwell St. was sworn in and thanked the neighbors for coming and it means a lot to see neighbors. She said they will operate 6 am to 5:30 Monday through Friday and anticipate serving 129 children with the bulk of the traffic in early morning and later afternoon. This will be 70 – 80 families and do not anticipate a huge increase in traffic. They are thrilled to have a parking lot as their current facility does not have such. Meeting city codes and ample parking is desirable for them. They intend to retain as many trees as possible. She said they will look to the schools to transport children from the schools with about 2-3 buses.

Chairman Ireland asked for anyone else who would like to speak in favor of the petition and no one spoke.

Chairman Ireland asked for anyone who would like to speak in opposition to the petition. Thomas Hilton, of 1703 McKay, was sworn in and stated he also owns a parcel at 1704 McKay which is almost adjacent to the site. He questioned if the triangular piece of land was part of their plans. He has lived there since 1983 and referred to their due diligence and he can give a lot of due diligence on how the water goes though there and how there is an enormous amount of water comes through there which is on almost virgin forest land. With a 15,000 square foot building and a 58 space parking lot it will add a lot of water to the creek and the detention basin and what they do will have enormous impact on the people to the north plus the park. He stated they need to do a little bit more figuring and this is the first he heard about the run over the top so if it doesn't affect the people up stream and when it fills up so much that it goes over the top he asked what do you think it will do to the people downstream? He said they are not having access to McKay which is fine. The building and fenced in area will be closer to the west than they will lead us to believe. He stated his concern is the due diligence needs to be done very thoroughly and the city needs to double check everything. If they approve this and they put in a "Mickey Mouse" detention basin it is going affect everyone up stream and their property values. He said right now a one inch rain will put the water in the street and that is with no new building. He provided a photograph. The city just spent a bunch of money because the creek blew out a neighbor's driveway.

Mr. Sewell stated there are two issues, one run off attributable to the development and then preexisting conditions. As far as their development if they follow the code and size the structures according to the code there will not be any additional water from their development. The burden to improve the preexisting drainage needs to be a separate issue. The water's velocity from the parking lot will be reduced through rip rap. There should be careful analysis to minimize impacts to the neighboring properties.

Mr. Kearney questioned Mr. Sewell, now that he has heard concerns from the neighbor, is he comfortable with the due diligence or does he need to revisit it. Mr. Sewell said he has all the confidence in the world that they will make sure the run off from their site will not make negative impacts on downstream properties. Doing anything special with the property to slow down water to assist properties downstream is something requiring more thought because it

will be quite a task to understand what is happening downstream and decide what is just for this owner to do for water coming from upstream properties. Their plan will not exasperate what happens to downstream properties. He does not see the situation being worse than now.

Mr. McPherson stated the slope is such that the parking lot will be sloped east to west and there will be curbs which will be slowing down some of the water. He said as for the parking lot and building it could happen tomorrow for another development and there will not be anything “Mickey Mouse” about what they do. They are professionals and have to follow the codes.

William Skeen of 1802 McKay Dr. was sworn in and stated the creek goes straight through his back yard and cannot handle any more water. He proved photographs of the creek. His concern is for the run off from the parking lot and every year there is a little more erosion.

Mr. Hilton said he heard the same story where they said there would be no impact when Goose Creek was built and the one foot wide stream became three foot and four feet deep. This is the same thing and if the city goes along, it probably will happen again although it will be seven feet deep and nine feet wide. His concern is for the existing home owners and will his lot become unbuildable. He has actually had water up on his driveway. It needs fixed and if that means a new detention basin, then fine.

Ms. David asked if any of this was addressed with the reworking of Six Points Road.

Chairman Ireland asked for anyone who would like to speak in opposition to the petition and no one spoke.

Mr. Woolard explained the proposed location of the day care on the site is good in comparison to other potential day cares as it is farther away from the homes. The access selected is a good location and impacts on Six Points should be minimal as opposed to traffic coming onto McKay. The use appears to be compatible to other nearby properties. Trees should be able to remain especially on the northwest part of the site. He stated that staff supports the request. He also noted the Board had received a letter from Nate Ewing.

Mr. Kothe stated the Engineering Department has not received plans but they do have other areas where basins are in the drainage way. There are concerns he will need to address in his design and they will need to make sure there are not impacts to up and down stream properties. Part of this area was developed when it was outside the city and that is why they do not have detentions.

There was discussion on the detention requirements, when plans should be provided and making an independent assessment and determination on the drainage and its impacts. Mr. Kothe said the basin will help slow down the water. The Board discussed this special use with other possible uses and the ordinance standard number four for special use reviews.

Mr. Hilton said he knows this is driven by tax dollars but the Goose Creek Apartments deemed this site unbuildable or would have built apartments there. He said he would like this petitioner

to explain how much dirt they are going to have to put in there to make it level and that will affect it also.

Chairman Ireland stated other departments review the technical requirements and we need to review this and recommend if a special use is appropriate on this site.

Mr. Kearney prefaced his vote by saying he is a little concerned about the drainage issue but also is concerned that you may get the impression that you came to the wrong place to raise your concerns about the drainage issue and you did not. It is in the finding of fact number four and is important and he does not want you to leave with the impression that you went to the wrong department or board. You came to the right place. He has to rely on the city engineer's answer to his question as yes that there will be adequate drainage facilities provided if all they did was to live up to the minimum of the code based on all he heard. Notwithstanding all of that he said he is generally in favor of day care centers and this was flagged as a drainage issue.

Mr. Briggs prefaced his vote by saying he concurs with Mr. Kearney's comments and there is a two prong problem. One is with how the current facility is going to impact the drainage and also the engineering staff in the report to city council needs to address both what impact this proposal is having but what impact or situation is already there. The city council needs to be aware of it before going into the hearing and get surprised from hearing the neighbors concerned about flooding of a preexisting condition.

Chairman Ireland prefaced his vote by saying the record will be provided to the Council before they make their vote. They will be fully aware of this and water issues throughout the city are on their agenda all the time so they will be fully aware of not only potential new water issues here but the fact that it was brought up that there had been existing water issues in this area and it raises the concern from the neighbors that possibly developing the site may bring on new issues. He said he does not see water retention by itself as a reason to deny the use of a day care center/learning center in an R-3A district.

The vote on the special use was approved with five (5) voting in favor and zero (0) against.

Public Comment: None.

Other Business:

The Board reminded each other about the required training on the Open Meetings Act.

New Business: None

Adjournment was at 4:24.

Respectfully;

Mark Woolard
Acting Secretary