

MEMORANDUM

TO: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP, Director of Community Development

DATE: November 20, 2003

SUBJECT: DuPage County Public Hearing 4977-03 – Resolution of Objection

DuPage County has received a filing for a public hearing for a variation pursuant to Section 37-7.4-3(b)(1) of the DuPage County Zoning Ordinance to reduce the required minimum lot width from 125 feet to approximately 90 feet for the purposes of constructing a single family residence with a private well and septic field at 21W117 Meadow Avenue (the last tract of land on the south side of Meadow Av. east of Interstate 355).

As the proposed development is within 1.5 miles of the Village Boundaries, as well as being contiguous to the Village, the Village does have extra-territorial planning authority as defined within the State Statutes. Therefore, staff has reviewed the petition and offers the following comments regarding the development proposal:

History of Subject Property

As the petitioner's exhibit shows, the petitioner's lot is 53,095 square feet in size. As the Board will remember, this tract of land was previously owned by the Illinois State Toll Highway Authority (ISTHA). In 2002, ISTHA deemed the tract of land as surplus and auctioned the property. The petitioner acquired the property for approximately \$50,000.

Prior to the start of the auction, Village staff announced that the property was within the Village's ultimate municipal boundaries and that if the eventual property owner were to seek to develop the property and connect to public utilities, the Village would require annexation. Staff also noted that the proposed lot width is less than that which is required by DuPage County for purposes of constructing a single family residence in the County's R-4 District. As such, if the property sought to develop the site under County regulations, the property owner would need to apply for and receive a variation from the County. As the Village does not allow for wells and septic fields, the Village would object to the requested relief.

This summer, the property owner applied for and received approval from DuPage County to allow for the construction of a single-family residence on the property. DuPage County issued the permit and the property owner began to prepare the site for development by clearing trees and preparing a foundation for the site. Village staff was surprised to find that a permit had been issued for the property and informed the County staff of their regulations. Upon further review

by the County, they concurred with Village staff and found that the permit should not have been issued and that a variation would be needed in order to develop the property. Therefore, the property owner is now filing for relief to allow for the house construction to continue.

At this time, staff offers the following information to the Village Board and the County relative to the petitioner's request.

Standards for Variations

For a variance to be granted by the County, a finding must be made that they meet the standards for variations. In consideration of this petition, staff finds that the property does not meet this standard in the following respects:

... that the granting of a variation is in harmony with the general purpose and intent of the Ordinance...

The construction of a single-family residence on a well and septic system on this property is not in keeping with the intent of the County Ordinance. If the intent of the regulation is to ensure that Health Department concerns are adequately addressed, this regulation would reside exclusively within the purview of the Health Department's codes and regulations. However, as the regulation is also included within the Zoning Ordinance, it must be assumed that there are also land use and site design implications as well.

If one assumes that if a property is constructed with a well and septic field, it should be designed on a property of sufficient width to support both the well and septic fields and be in keeping with a built environment that is typically characteristic of properties that have well and septic fields (i.e., rural lots). Given the location of this property immediately abutting a newly constructed subdivision of greater density than the petitioner's lot (and with public utilities), this property should also be constructed of similar design standards as neighboring lots and should also be connected to public utilities. Therefore, if the intent of the Ordinance is to have a greater lot width for lots served by well and septic, then it must be found that the well/septic option should only be available for lots that do not have available public utilities.

...detrimental to public welfare...

The Village has both public water and sanitary sewer service lines within close proximity to the subject property. The Village obtained a copy of the DuPage County Health Department's well and septic system permit documents through the Freedom of Information Act. The Department's Site Evaluation Checklist dated August 12, 2003, denoted as Exhibit A, omits a finding as to whether hookups to public sewer and water are feasible. This should have been checked "Yes" since the Village of Lombard has both sewer and watermain in the Meadow Avenue right-of-way immediately east of the lot. Connection to these utilities would require the property owner to extend the 8" ductile iron watermain by only 50 feet and the 8" PVC sanitary sewer by only 62 feet. The Village prepared the attached plan and preliminary cost estimate, denoted as Exhibits B and C, respectively.

In consideration of these exhibits, it must be assumed that the petitioner is proposing to use a well and septic system only as a matter of personal convenience rather than connecting to the public utility system. The Village further argues that the DuPage County Health Department must find the connection to public systems more desirable. Otherwise, they would not ask applicants if public utility connections are feasible. Therefore, the request is detrimental to public welfare as the requested relief encourages development on substandard lot and can create a negative precedent for other unincorporated properties in the area.

... will not be injurious to the neighborhood...

Development on this property is not in keeping with the development trends in the neighborhood and would be injurious to the neighborhood. Over the past five years, every property along the south side of Meadow Avenue has connected to a public utility system. The petitioner's property would be the sole exception if approved. Therefore, as the Village requires all development to be connected to public utilities, we must find that deviations to this standard are undesirable and could have a negative impact on neighboring properties.

While the property is currently unincorporated, the Village Board has given direction to staff to annex unincorporated properties within the Village's ultimate boundaries. The Village does intend to annex the subject property within the near future. Should the Village annex the property, Village Code Section 51.01 & 51.02 will require the property owner to connect to the public sewer and water and abandon the septic system and well.

To ensure that the property is developed consistent to the standards of the neighboring properties, Village staff previously informed the property owner that annexation to the Village would entail extension of these utilities as well as improvements to the road pavement, curb, sidewalks and lighting. The Village's preliminary cost estimate (Exhibit B) indicates that the total improvements, including the requisite sewer and watermain work, would be less than \$50,000. The Village is willing to accept a cash contribution for the Village to install the pavement, curb, sidewalks and lighting improvements on the behalf of the property owner.

..or conflict with the County's Comprehensive Plan for development.

As the property was previously owned by the ISTHA, the County's 1990 Unincorporated Plan may be silent on this issue. However, the Village believes that development should occur in a manner consistent with sound planning principles, consistent with established codes and policies of the Village and variations as a matter of convenience should be avoided.

FINDINGS AND RECOMMENDATION

Based upon the concerns noted above, staff recommends that the Village Board adopt a Resolution of Objection for DuPage County ZBA Case 4977-03.