

**REGULAR MEETING OF THE BOARD OF TRUSTEES
OF THE
DOWNERS GROVE PUBLIC LIBRARY
September 9, 2009**

MINUTES

ROLL CALL

President Daniels called the meeting to order in the Library Meeting Room at 7:30 p.m. Trustees present: DiCola, Eblen, Greene, Humphreys, Read, and Daniels. Trustees absent: none. Also present: Library Director Bowen, Assistant Library Director Carlson. Visitors: none.

APPROVAL OF MINUTES

The Board reviewed the minutes of the regular meeting of August 26, 2009. It was moved by Greene and seconded by Eblen **THAT THE MINUTES OF THE REGULAR MEETING OF AUGUST 26, 2009 BE APPROVED AS WRITTEN.** Ayes: Eblen, Greene, Humphreys, Read, Daniels. Abstentions: DiCola. Nays: none. Motion carried.

PAYMENT OF INVOICES

The Board reviewed the list of invoices submitted for payment. It was moved by Humphreys and seconded by Read **TO APPROVE PAYMENT OF OPERATING INVOICES FOR AUGUST 26, 2009 TOTALING \$31,621.00, TO APPROVE A BUDGET JOURNAL ENTRY TRANSFER FOR STAFF PARKING TOTALING \$1,950.00, AND TO ACKNOWLEDGE PAYROLLS FOR AUGUST 2009 TOTALING \$172,189.50.** Ayes: DiCola, Eblen, Greene, Humphreys, Read, Daniels. Abstentions: none. Nays: none. Motion carried.

OPPORTUNITY FOR PUBLIC COMMENT ON AGENDA ITEMS

None.

NEW BUSINESS

- Review and approval of the FY2010 Illinois Public Library Per Capita Grant Application

A copy of the Per Capita Grant application was included in the Board packet. The application is a combination application for both the Per Capita Grant and the Equalization Aid Grant. The library does not qualify for the Equalization Aid so the sections relating to the Equalization Aid Grant were left blank.

The Per Capita and Equalization Aid Grants are not competitive grants; every library that meets the qualifications will receive them. The library has heard that this 2010 grant will be funded, though it will be cut 16.5%. That still means almost \$50,000 for Downers Grove, so it is worth

the effort to comply with the grant requirements. The 2009 grant amount received by the library was \$58,946. This check is usually received in May or June, but this year the library received it in September.

It was moved by DiCola and seconded by Greene **TO APPROVE THE FY2010 ILLINOIS PUBLIC LIBRARY PER CAPITA GRANT APPLICATION AND DIRECT THE LIBRARY DIRECTOR TO SUBMIT THE APPLICATION TO THE ILLINOIS STATE LIBRARY.** Ayes: DiCola, Eblen, Greene, Humphreys, Read, Daniels. Abstentions: none. Nays: none. Motion carried.

- Discussion of preparations for dealing with a possible H1N1 flu pandemic

The library is working on guidelines for the library in anticipation of this winter's flu season. The Village offers an employee health screening each fall that includes the option of a regular flu shot. The Village Human Resources staff is also talking with Wellness Inc., the agency that does the health screening, about also providing the H1N1 vaccine when it becomes available. At this time the library does not have any information on the cost of the vaccine, and news reports indicate that the release of the H1N1 vaccine may be delayed. Bowen would like to encourage library staff to get the vaccine shot when it becomes available so that the library can remain open, at least on a limited basis if the flu outbreak turns out to be serious. Maintaining library services depends on having enough staff not only healthy, but also willing to work. Bowen asked the Board to consider reimbursing staff for the cost of the H1N1 vaccine.

Trustee Read asked that Bowen ask the library attorneys if the library has any legal responsibility if it covers the cost of the swine flu vaccine for staff and someone is harmed by the vaccine. Trustee Humphreys noted that news reports indicate that the distribution of the H1 N1 vaccine will be controlled and may not be available for all staff. President Daniels suggested that perhaps the Library Foundation could provide support for the vaccine if it becomes available for staff. Staff would be encouraged, not required to have the H1N1 vaccine. If it is a problem for staff to pay, Trustee Humphreys suggested at least partially if not fully reimbursing staff. He also mentioned that Walgreens or other services may offer to administer the vaccine on site at businesses. The Board will wait to see what becomes available.

OLD BUSINESS

None.

REPORT FROM THE ADMINISTRATION

Financial reports for August were handed out. The Village installed an upgrade to the finance system in July. As often happens, the upgrade solved some existing problems, but caused a few new ones. The Revenue and Expenditure by Object reports that Bowen normally gives to the Board each month no longer work properly. He provided another report that gives the same information broken out into individual departments, but does not have the very useful grand total summary for each budget line portion that the Report by Object provided. However, at the end of the report there is one grand total for the entire budget.

The library has received 51.2% of its projected revenue. At this time last year the library had received 55% of its projected revenue. Last year that included the \$60,000 Per Capita grant for

2008. The 2009 Per Capita grant check finally appeared last week, so that revenue will appear on the September statement. The library's revenue through August is actually a little better than expected. Similarly there is grand total of all expenditures at the end of the expenditure report. It shows that the library has expended 60.4% of its annual budget. The library's target is to have expended not more than 63.4%, so the library is in good shape.

Bowen and Carlson attended the MLS and SWAN Quarterly Administrators' Meetings last week. The main item discussed at the MLS meeting was the Metropolitan Library System Proposed Plan of Service. This is the MLS proposed plan to cope with the 16.5% cut in funding, and it is currently being discussed with member libraries in a series of focus groups. While MLS is open to member ideas on how this plan might be modified, the final plan will have to be implemented by a reduced staff. This means that the caveat for anyone that urges that some service be retained is to suggest another service that can be eliminated in order to provide the time and resources for the added service. Bowen thinks the MLS staff and Board did an excellent job with this proposal, and, while some administrators were unhappy that some pet service was cut, Bowen would be surprised if there is much of a consensus on making changes to the document. A copy of the plan of service was included in the board packet because Bowen thought it was a good way for the Board to see a snapshot of what the system does for member libraries and patrons.

The SWAN Administrators Meeting was mostly housekeeping matters, but Bowen did want to let the Board know that there has been considerable discussion about placing limits on the total number of items that a patron can have on hold at one time. This came out of discussions on the massive increases in the number of items that are being delivered between libraries. The library is seeing some patrons who place large numbers of holds and when they come to pick them up they may have 50 or more items on the hold shelf, many of them sent from other libraries. The patron looks through the pile of items on the shelves, picks out a dozen or so that they actually want to check out, and says "I don't want the rest, you can send them back." This is very frustrating for Circulation staff. Although when Bowen has asked how many patrons are actually serious abusers, the library seems to have only a few.

Each SWAN library can set a maximum number of holds for its cardholders. The system default is 999 and many libraries use that default. While no one needs 999 holds, there may be a good reason that a patron has a fairly large number. Bowen suspects that what will happen is that the SWAN Council will request member libraries to try a limit on their patrons' total holds for six months, to discover whether or not it causes problems for patrons. There is a report that libraries can run to see how many items each cardholder currently has on hold, sorted by the number of items. The library may try this, though with 30,000 cardholders it will be a very long report. It would help the library determine a limit that would be above the number of items that the majority of residents have on hold.

On a similar subject, SWAN staff are testing "patron cancelled holds." This is a feature that would allow patrons to cancel their own holds, if they no longer need the item. Currently patrons have to tell the library that they no longer want an item. This usually doesn't happen, until the patron gets the notice that their reserve is being held for pickup. With this new feature, patrons can look at their account in SWAN and not only see the items that they currently have on hold, but would be able to cancel holds that they no longer want.

Trustee DiCola asked Bowen to find out what percentage of materials are put on hold and are picked up, and Trustee Humphreys asked for the percentage of Interlibrary Loans that are audiovisual items.

TRUSTEE ANNOUNCEMENTS AND REQUESTS FOR INFORMATION

Trustee DiCola thanked the Board and Administration for their expressions of sympathy on the passing of her father, and for the beautiful flowers.

OPPORTUNITY FOR PUBLIC COMMENT

None.

ADJOURNMENT

The meeting was adjourned at 8:11 p.m.

VILLAGE OF DOWNERS GROVE
PLAN COMMISSION MEETING
AUGUST 3, 2009, 7:00 P.M.

Chairman Jirik called the August 3, 2009 meeting of the Plan Commission to order at 7:00 p.m. and asked for a roll call:

PRESENT: Chairman Jirik, Mr. Beggs, Mrs. Hamernik, Mr. Matejczyk, Mr. Quirk,
Mrs. Rabatah, Mr. Waechtler, Mr. Webster (arrives 7:05 p.m.)

ABSENT: Mr. Cozzo

STAFF PRESENT: Mr. Jeff O'Brien, Planning Manager; Ms. Alice Dornan, Community Development Secretary

VISITORS: Mr. Kevin Nystedt, 4500 Lee Ave., Downers Grove; Mr. Mark Thoman, 1109 61st St.; Downers Grove; Mr. David Murray, 4501 Lee Ave., Downers Grove petitioner; Mr. James F. Russ, Jr., attorney for petitioner, 4915 Main St., Downers Grove

Chairman Jirik led the Plan Commissioners in the recital of the Pledge of Allegiance.

Chairman Jirik thanked Alice Dornan for her many years of service to the Plan Commission and the Village of Downers Grove.

JULY 6, 2009 MEETING MINUTES - MR. WAECHTLER MADE A MOTION TO APPROVE THE MINUTES, AS PREPARED, SECONDED BY MR. QUIRK. MOTION CARRIED BY VOICE VOTE OF 7-0.

An explanation of the meeting's protocol followed.

PC-16-09 A petition seeking a vacation of the 33-foot wide by 402.6 foot long south half of Grant Street right-of-way located on the east side of Lee Avenue, immediately north of 4501 Lee Avenue, Downers Grove, IL (PIN -09-06-312-001); James F. Russ, Jr., Attorney; Petitioner; David Murray, Owner.

Chairman Jirik swore in those individuals who would be speaking on behalf of PC-16-09.

Mr. Jeff O'Brien, Planning Manager (Mr. Webster arrives at 7:05 p.m.) for the Village, summarized that the petition seeks to vacate the south 33 feet of the Grant Street (mostly unimproved) right-of-way immediately east of Lee Avenue. The property at 4501 Lee is 113 feet wide and just over an acre. The property to be vacated is 33 feet wide contains an approximately 12-foot x 150-foot asphalt driveway. Another vacated property to the east was pointed out on the overhead, and it was noted that the Village maintained a 10-foot walking path easement from Downers Drive into Lee Grant Park. Per staff, the petitioner was seeking to construct a new home on 4501 Lee Avenue and was proposing to acquire the right-of-way.

With the acquisition of the right-of-way, the size of the property will increase to 146 feet x 402 feet or 1.3 acres. The Village does plan to retain easements on the site with a 10-foot easement along the north property line for public utilities and to have a walking path. Another 10-foot easement will be retained along the east property line for public utilities and drainage. Other taxing districts and utilities were contacted, and ComEd has made the Village aware of a utility pole in the Lee Avenue right-of-way; however, the supporting cables are within the Grant Street right-of-way. ComEd feels the 10 ft. easement the Village is retaining on the north half of the right-of-way will be appropriate to maintain their utility pole.

Mr. O'Brien advised no permits for the proposed home have been submitted. The setbacks will remain at 40 feet for the north and west property lines. A 20 ft. setback will be maintained in the rear yard, and a 10 feet setback will be maintained from the south property line, all as required by Code. Currently, the Park District is not participating in vacating the northern half of the right-of-way. They have indicated that they would like to vacate the right-of-way in the future. Per staff, the proposed right-of-way does meet the requirements of Resolution 2003-58, and staff recommends compensation as discussed in staff's report (page 4). However, the final decision rests with the Village Council. Staff recommended approval subject to staff's conditions in its report.

Commissioner comments followed.

Mr. Matejczyk asked if the Park District maintained the walking path that leads from Downers Drive to Lee-Grant Park. Mr. O'Brien confirmed that the walking path is maintained by the Village and will continue as such. When the path is extended to the west, the Village and Park District would likely have to discuss maintenance of the new path; however, the Village would continue to maintain the eastern leg. Mr. O'Brien explained some of the options that were being discussed for extending the walking path through the park to the sidewalk on Lee Avenue, noting the Village and the Park District have made a commitment to maintain the access from Downers Drive into the park.

Ms. Hamernik asked for clarification that if the Park District would have vacated their portion, the right-of-way would no longer exist and the northern setback for 4501 Lee Avenue would be reduced from 40 feet to 10 feet. Mr. O'Brien explained the setback would be reduced if the northern half of the right-of-way was vacated.

Mr. James Russ, Jr., attorney for the petitioner and property owner, David Murray, believed the request made sense given the street to the east had already been vacated. The vacation will add land to the owner's property and offers an opportunity for future development of a nicer property. He and his client was disappointed the Park District chose not to vacate its portion. Mr. Russ confirmed that the current home on the property is vacant and will be razed.

Chairman Jirik opened up the matter to public comment.

Mr. Kevin Nystedt, 4500 Lee Avenue, asked that the path continue to be maintained due to the amount of pedestrian traffic using the path; i.e., grade school children and high school students. He believed a more formal walkway was necessary, however. Chairman Jirik indicated the Park District and the Village would have to work out the final details regarding extending the path.

There being no more public comment, Chairman Jirik closed the matter to public comment.

No further comments followed from the commissioners or the petitioner.

Mr. Waechtler commented the debris to the east of the existing garage should be removed soon, wherein Mr. Russ explained demolition was set within the next month.

WITH RESPECT TO PC-16-09, MRS. RABATAH MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL FOR THE APPROVAL OF THE RIGHT-OF-WAY VACATION, SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. THE VACATION SHALL SUBSTANTIALLY CONFORM TO THE STAFF REPORT DATED AUGUST 3, 2009.**
- 2. PRIOR TO FINAL VILLAGE COUNCIL CONSIDERATION, THE PETITIONER SHALL SUBMIT A MYLAR COPY OF THE FINAL PLAT OF VACATION INDICATING THE TEN-FOOT WIDE PUBLIC UTILITY AND ACCESS EASEMENT ALONG THE NEW NORTH PROPERTY LINE AND A TEN-FOOT WIDE PUBLIC UTILITY EASEMENT ALONG THE REAR (EAST) PROPERTY LINE OF 4501 LEE AVENUE.**
- 3. PRIOR TO EXECUTION OF THE PLAT, THE PETITIONER SHALL PAY THE VILLAGE A TOTAL OF \$28,106.37.**
- 4. ANY PORTION OF THE REMAINING GRANT STREET EXTENSION DAMAGED OR DEMOLISHED DURING CONSTRUCTION OF THE NEW RESIDENCE SHALL BE FULLY RESTORED WITH GRASS.**

SECONDED BY MR. MATEJCZYK.

ROLL CALL:

AYE: MRS. RABATAH, MR. MATEJCZYK, MR. BEGGS, MRS. HAMERNICK, MR. QUIRK, MR. WAECHTLER, MR. WEBSTER, CHAIRMAN JIRIK

NAY: NONE

MOTION CARRIED. VOTE: 8-0

Staff noted that there was nothing on the September agenda to date.

MRS. HAMERNICK MOVED TO ADJOURN THE MEETING. MR. MATEJCZYK SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

THE MEETING WAS ADJOURNED AT 7:28 P.M.

/s/ Celeste K. Weilandt
Celeste K. Weilandt
(As transcribed by MP-3 audio)

**VILLAGE OF DOWNERS GROVE -
Stormwater and Flood Plain Oversight Committee Meeting
May 7, 2009, 7:00 p.m.**

**Downers Grove Public Works Facility
5101 Walnut Avenue, Downers Grove, Illinois**

Call to Order

Chairman Eckmann called the meeting to order at 7:00 p.m. A roll call followed and a quorum was established.

Members Present: Chairman Eckmann, Mr. Crilly, Mr. Gorman, Mr. Ruyle

Absent: Mr. Scacco

Staff Present: Village Engineer, Mike Millette; Lori Godlewski, Recording Secretary

Others Present: Mr. Jeff Williams, 5200 Main Street, Suite 200, Downers Grove;
Mr. Daniel Schoenberg, 5236 Carpenter Street, Downers Grove

APPROVAL OF OCTOBER 23, 2008 MINUTES

The following changes were noted: Page 2, fourth line, remove the word "ordinance" and replace it with the word "variance". **Mr. Gorman moved to approve the minutes with noted change, seconded by Mr. Crilly. Motion carried by voice vote of 4-0.**

PUBLIC COMMENTS - No comments.

NEW BUSINESS

Chairman Eckmann referenced a list of tentative meeting dates for the remainder of 2009. **Mr. Ruyle made a motion to adopt the tentative meeting schedule, seconded by Mr. Gorman. Motion carried by voice vote of 4-0.**

OLD BUSINESS

Stormwater Master Plan Improvement Status - Mr. Millette referenced the Stormwater Master Plan Improvement Status Sheet for members, stating the Village was making progress with two of the 10 goals achieved. A review of each of the various stormwater programs and their progress followed. Mr. Millette noted that this was the first year that the office was fully staffed with the equipment lined up well. He suggested that by year's end it may be necessary to revisit the list of items, given the current staffing level and whether the goals are achievable. Per a question, Mr. Millette reported that inspections of the storage facilities are done by staff and not by consultants. Mr. Millette discussed that he wanted to ensure that the underground systems were not silting up faster than anticipated and to ensure that those systems that were installed before the current BMP ordinance was in place, which many were. Per a question, the conveyance impact fee goal was reviewed back in 2008 but the Village, as an entity was reviewing all fees to date. The first set of fees to be restructured was Community Development.

Mr. Gorman emphasized it was important that the committee keep its eye on the funding for maintenance in order to maintain the Village's current infrastructure in the least expensive way. Chairman Eckmann criticized the Village for being lax in its maintenance steps. Mr. Millette recalled the two-cent property levy increase was to go toward maintenance while the nine cents was to

address capital. He recalled in a previous report that there was to be diverted resources from the Street Sweeping program. Asked if the figures in the list could increase closer to the goal this year or if funding was an issue, Mr. Millette responded that he did not foresee staff hitting every target because he believed funding issues and a manpower issue still existed. On certain items he stated he had to speak with Assistant Dir. Stan Balicki regarding achievable numbers with current staffing.

Mr. Ruyle discussed the large amount of roadside ditches on the south side of town and whether it was cost effective for the Village to work with independent contractors given the large amount of work to be done. Mr. Millette believed Asst. Dir. Balicki was reviewing that idea but pointed out that not having the equipment to do the work was limiting for the Village.

Chairman Eckmann suggested corresponding to the Village Manager noting that the maintenance goals were not being met and that steps be taken to meet them. He recalled this committee sent the initial list to the Village Council. Mr. Gorman discussed how the list of recommendations fell under the Stormwater Master Plan that was accepted by the Village Council which he presumed the Village Council would expect to be completed. He agreed a memo to the Village Manager could address the issue and that the topic should remain upfront. Mr. Gorman would draft a letter to the Village Manager for review by the chairman. **Mr. Gorman made a motion stating he would draft a letter to the Village manager, under the chairman's signature, discussing same, seconded by Mr. Ruyle. Motion carried by voice vote of 4-0.**

Discussion followed that a two-month update on the list should follow. Asst. Dir. Millette stated the monthly statistical report was available on the Village's web site and adding to it would not be an issue.

A. WIIP Update - Staff referenced the March 16, 2009 Report for the Public Services Subcommittee. The report clarified the 15 priority projects within 16 high priority areas. Per Mr. Millette, half of the six remaining projects have begun and engineering proposals are coming in for the remainder of those projects (Page 4 of Report). Mr. Millette called attention to the fact that one of the high priority areas has been eliminated, i.e., Warren Avenue at Lee Street and Warren Avenue at Northcott. The intersection has not flooded during any rain events.

Referring to his memo, Mr. Millette discussed that the report was delayed to this committee because staff wanted to present some scopes for concurrence and direction on South St. Joseph Sub-J and Lake Lacey Sub-E. However, after considering the recommendations in the master plan, and re-reviewing the priority issues, staff felt it was appropriate to alert the committee on how it wanted to spend the bond issuance to fully complete a watershed or repair the Village's right-of-way infrastructure and have the homeowner connect to the Village's infrastructure. Concern was raised by a member that assisting in drainage issues which were not the Village's problem initially could be an issue and the Village was now taking on the responsibility of all flooding problems for the Village, including the private owners. Home owners had to take on their own responsibility.

Staff acknowledged the concern as well. Chairman Eckmann supported the Village using funds outside of the bond issuance to provide the Stormwater Cost-Share Program. Contrarily, the premise was raised that if the collection of water was still forming on residents' property after the Village spent its money for a spine, but water was still setting, the member questioned whether it was money well spent. Comments followed that the Cost-Share program would continue separately from the bond fund. Details of that program followed by Village Engineer, Mike Millette.

Mr. Millette called attention that 11 owners participated in the Stormwater Cost-Share Program during 2008 and another 11 owners were interested for 2009. He referenced the Public/Private Partnerships Guidelines sheet that is distributed to interested residents. Staff was

concerned, specifically, about the “qualifying” language under the existing policy under the “Village Council Policy Maintenance of Storm Water Control Structures and Creek Channels”, i.e., ponding issues must exist on more than one property but only one property can apply to the Village. Mr. Millette stated he preferred to be user-friendly and believed the existing policy was too cumbersome. He was considering writing and recommending to the Village Council a cost-share policy and to explore the positives of residents partnering.

Comments followed that staff was on the right track but that the policy should be optional, that it must be a decision of the majority of the owners, and that the Village provide the most economical choice for the project. Mr. Gorman felt the Village’s \$1000 contribution is too low to assist property owners, especially if only a small number of residents had to pay. An increase in the cost-share amount was warranted. Mr. Ruyle asked if the Village could provide the work through bonding so that the work could be controlled by the Village and a lien be placed on the property in order to pay for the work completed. His concern was that the same issues would be remaining five years from now. Dialog followed on special assessments to pay off the projects as well as creating special service areas. A suggestion was to make the program an incentive to participate as opposed to something punitive.

Mr. Millette reviewed those high-priority construction projects that were behind schedule including SW-033 (Sterling North) due to additional soil sampling. Additionally, he reported the Village developed an intergovernmental agreement with the park district for the projects along St. Joseph Creek which delayed that project. The budget was also increased slightly due to the previous projects. Alternatives for the SW-007 project (Watershed Improvements - LA-G Retaining Wall Replacement) have been considered and a permit was applied for under the Army Corp of Engineers. A grant was also being reviewed regarding same. Another delayed project included DR-001 (maintenance project for Brooke Drive and Centre Circle) which will have to be re-evaluated. Other updates on the two lists followed. Mr. Millette intends to review the first set of watersheds to determine whether it wants to pursue them as part of the sub-watersheds (nuisance portion) or not.

B. Recent Storm Events - Mr. Millette reported that staff is reviewing those areas that flooded since Christmas 2008 to see if they flooded legitimately or if something was missed by field staff. Chairman Eckmann shared that it was important to be sympathetic to the residents’ concerns.

Discussion returned back to equitable solutions for the cost-share program for both owner and the Village and the fact that the work for installation of water mains could be done simultaneously with other tear down work versus having to tear up an area a year later to fix the flooding. Mr. Millette was open to the idea.

On another matter, Mr. Millette announced that the Village is trying to go paperless with as many activities as possible, and, therefore, future committee packets will be forwarded to members as .pdf files. Members were welcome to bring their laptop computers to future meetings since the meeting room was wired with Wi-Fi technology. A question was raised on where one could locate information from the TCD-3 Workshop on the Village’s web site. Mr. Millette suggested contacting Brandon Dieter at the Village.

Mr. Millette distributed information on the results of the digitalization of the storm sewer network.

Resident Mr. Jeff Williams, 5200 Main Street, Ste. 210, Downers Grove, raised a question regarding a storm sewer going to a private yard but the water traveling from the private yard to the low spot in the public right-of-way and whether it would be considered differently as it relates to

being Village-funded versus cost-share. He referenced project SW-036 as an example. The chairman thought such a project could be considered under the Public Benefit Fund as a third option. Mr. Gorman cautioned that whatever the project, the Village Council should not view it as a typical project and cautioned precedent-setting. Other options and alternatives were mentioned.

Resident, Mr. Dan Schoenburg, 5236 Carpenter, Downers Grove, shared that most communities do not participate financially but offer free technical expertise to homeowners so that groups of residents can agree on a concept. He only knew of the Village of Elmhurst which offered a \$1000 match for a project and spoke of its successful program. Hinsdale was also mentioned as having a successful special service area (SSA) program with an 80% private and 20% public benefit. Mr. Schoenberg also stated that no legal guidelines existed for determining the split between public and private benefit in either an SSA or a Special Assessment. However, one constant in all of the programs was that it retains private ownership.

ADJOURN

**Mr. Crilly made a motion to adjourn the meeting at 8:55 p.m. Seconded by Mr. Ruyle.
Motion carried by voice vote of 4-0**

Respectfully submitted,
(as transcribed by tape)

/s/ Celeste K. Weilandt
Celeste K. Weilandt, Recording Secretary

**VILLAGE OF DOWNERS GROVE
ZONING BOARD OF APPEALS
MINUTES OF AUGUST 26, 2009 MEETING**

Call to Order

Chairman White called the meeting to order at 7:30 PM.

Roll Call

Present: Mr. Benes, Mr. Domijan, Ms. Earl, Mr. Isacson, Mr. LaMantia, Ms. Majauskas, Ch. White

Absent: None

A quorum was established.

Staff: Jeff O'Brien, Planning Manager, Stan Popovich, Planner, Damir Latinovic, Planner

Minutes of June 24, 2009

Mr. Domijan moved to approve the minutes of the June 24, 2009 Zoning Board of Appeals meeting as presented. Ms. Earl seconded the Motion.

AYES: Mr. Domijan, Ms. Earl, Mr. Isacson, Mr. LaMantia, Ms. Majauskas, Ch. White

NAYS: None

ABSTAIN: Mr. Benes

The Motion passed 6:0:1 to approve the minutes.

Meeting Procedures

Chairman White said there were two items to be heard on the Agenda. He reviewed the procedures to be followed during the public hearings, and called upon anyone intending to speak before the Board to rise and be sworn in. Chairman White explained that there are seven members on the Zoning Board of Appeals and for a requested variation to be approved there must be a majority of four votes in favor of approval. He added that the Zoning Board of Appeals has authority to grant the petition, without further action by the Village Council.

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ZBA-10-09 A petition seeking setback variations for an accessory structure on property located on the west side of Douglas Road, approximately 75 feet south of Wilson Street, commonly known as 4832 Douglas Road, Downers Grove, IL (PIN 09-08-215-032); Brian and Julie Skeen, Petitioners/Owners.

Petitioner's Presentation:

Mr. and Mrs. Brian and Julie Skeen of 4832 Douglas Road are the petitioners. Mrs. Skeen explained that on June 19th during a storm, a tree fell on their detached garage and damaged the garage beyond repair. Mrs. Skeen said they wish to replace the garage in the same general location, although they will have to move the garage four inches to meet the Village maximum allowable variance. She noted they are requesting the variation so as not to further diminish the size of their small yard, or destroy existing landscaping including a tree.

Mr. Benes asked what part of the garage was damaged by the tree. Mrs. Skeen said the roof was damaged, and the hip bracket was cut. She said there was a large tree on the corner which took out the roof, gutter and power line, and that has since been removed from the site.

Mr. Domijan said he noticed on the application that they are reversing the structure on the lot. Mrs. Skeen said the current access point is from the front with the driveway along the entire length of the property. They are looking to remove a part of the concrete, and want to use the alleyway to access the garage. Mr. Domijan asked what the notes meant by "improving the alleyway." Mrs. Skeen said they would be paving it with asphalt to the property line.

Staff's Presentation:

Mr. Stan Popovich, Planner with the Village of Downers Grove, explained the petition before the Board, stating the petition is requesting a 2'-6" setback from the side property line, and a 4'-9-1/2' setback from the rear property line. Section 28.1300(c)(4) of the Zoning Ordinance requires a five-foot setback from the rear and side property lines for new detached garages. The petitioner plans to reorient the garage and improve the alleyway to the west. The curb cut from Douglas Road will most likely be required to be removed. Mr. Popovich stated that Staff finds no unique circumstances associated with the property that warrants granting the requested variation since there is no physical hardship or practical difficulty associated with the petition, the petitioner is able to construct a detached garage that would meet the setback requirements, and granting the requested variation could be construed to be applicable to all residential lots in the Village where no unique circumstances exist. Staff recommends denial of the petition. Mr. Popovich then reviewed the standards for granting variations as shown in Staff's report dated August 26, 2009, ZBA-10-09, pages 3 and 4. He asked that if the Board finds in favor of granting the variations, that it includes the three conditions in Staff's report, page 4 in making its Motion.

Mr. Benes asked the reason for having the garage 2'-6" from the property line. Mr. Popovich said they would be placing the garage basically on the same foundation, with a change in the placement of the apron to face west. He said that the petitioner has indicated that keeping the placement 2'-6" from the property line would prevent them from losing space in their yard area.

Mr. Domijan asked whose responsibility it would be to clear and maintain the alleyway. Mr. Popovich responded that it would remain a public right-of-way, but it would be the petitioner's responsibility to remove the snow.

Chairman White asked if there was any contact from the neighboring homeowners. Mr. Popovich said no neighbors expressed any concerns, and a nearby religious institution also indicated that they had no problem with the request.

Ms. Majauskas said it was her understanding that the garage would remain on the same foundation, but would simply be reoriented so the garage door would face the alleyway. Mr. Popovich said the orientation of the garage door does not matter, nor does the repaving of the alley. They are asking to place the garage in virtually the same place. Ms. Majauskas asked why they can't rebuild on the same foundation in the same place. Mr. Popovich said when a structure is torn down and rebuilt; it is required to meet the existing Ordinance requirements.

In response to Chairman White, Mr. Popovich said there is a 50% rule that states that nonconforming structures can only be improved up to 50% of its value without coming into conformance with bulk regulations.

Chairman White asked whether the Village has made any determination that the garage is beyond repair. Mr. Popovich said the Village has made no such determination.

Mr. Benes inquired whether the curb cut on Douglas must be removed as part of the variation. Mr. Popovich said the curb cut is under the Building Permit and is not the purview of this Board, as is the paving of the alleyway. Certain paving standards must be met for the alleyway.

There being no further questions from the Board, Chairman White called for anyone who wished to speak either in favor of or in opposition to the petition. There being none, he called upon the petitioner for any further comments.

Mrs. Skeen responded to Chairman White that they have not spoken to their neighbor to the north as that property has been vacant for some time. They did speak with other neighbors, including the owner of the property to the south of the unimproved alley, and had no negative opinions.

Ms. Earl asked for confirmation that a new foundation would be poured. Mrs. Skeen said it would be a new foundation. She also noted the existing driveway between the garage and the side entrance of the house would be removed and replaced with grass. She indicated that this was the first she heard about removal of the Douglas Road curb cut.

Ms. Majauskas said she still did not understand which half of the concrete on the side they are keeping. Mrs. Skeen said they would be keeping the side closer to the street. She showed a photograph of the site saying they would be putting grass in a portion of that area.

Ms. Majauskas then asked about removal of a tree if the garage was to meet the setback requirements. Mrs. Skeen said there is a small tree to the north of the garage that will be removed. In an effort to preserve the landscaping they would like to leave the garage where it is.

Mrs. Skeen said when they purchased the house they were told by the home inspector that the garage was old and would need to be replaced in the near future. The fallen tree from this past summer caused structural damage and they believe the garage must be replaced.

There being no further questions, Chairman White closed the opportunity for further public input.

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Board's Deliberation

Mr. Isacson said that he thought it was somewhat of a unique circumstance because of the tree falling into the garage.

Ms. Majauskas said she didn't understand the reason for not putting the garage five feet away from the property line, rather than placing it 2'-6". Mr. Isacson said the reason given by the petitioner was that they wished to preserve the landscaping and the open space of the yard. Ms. Majauskas said that would be true of every 50' wide lot in Downers Grove. She doesn't see the idea of green space as a good argument because they would have more black-top than before if they improve the alley.

Mr. Benes responded that the alley and garage area are not part of the variation, and has nothing to do with it. Ms. Majauskas said that their plans are to remove green space rather than keeping existing green space.

Mr. Benes also said he thought they should place it in the correct space as long as they are building a new garage.

Chairman White said he also saw no compelling reason for the variation.

Mr. Isacson said he would agree with the petitioners if the existing foundation were used for financial purposes; but they are replacing the foundation.

There being no further discussion, Chairman White called for a Motion.

MOTION:

Ms. Majauskas made a motion to deny the side and rear yard setback variations associated with case ZBA-10-09 as presented. Ms. Earl seconded the motion.

AYES: Ms. Majauskas, Ms. Earl, Mr. Benes, Mr. Domijan, Mr. Isacson, Mr. LaMantia, Chairman White

NAYS: None

The Motion to deny the requested variations passed unanimously.

ZBA-11-09 A petition seeking: 1) a zoning variation to allow construction of an accessory structure in the front yard, and 2) a maximum height variation for an accessory structure for the property located at the Northwest corner of Middaugh Avenue and Blanchard Street, commonly known as 1312 Blanchard Street, Downers Grove, IL (PIN 09-18-202-038); Donald Jankowski Petitioner; Donald and Becky Jankowski Owners.

Petitioner’s Presentation:

Mr. Donald Jankowski of 1312 Blanchard Street stated he is requesting a variation to construct an outdoor room addition and storage facility east of their property. The structure is contiguous to the existing home and the terrace and is located at the northeast corner of the existing foundation. Mr. Jankowski said that they believe the Village staff has misapplied the Zoning Ordinance, and believes there are sufficient grounds to grant the request. He provided a history of the home built in 2007, explaining that the previous structure was similarly situated on the lot. Mr. Jankowski noted that they chose to build a two-car garage, although a three-car garage would have matched the scale and expense of the parcel, in order to preserve a 100-year old clump oak tree situated to the east of the structure. He explained that the original owners of the property were known for their legendary gardens, which fell into disrepair with the subsequent owners. The house also was uninhabitable and was demolished. Mr. and Mrs. Jankowski created the plans for their house intending to recreate the gardens originally developed and maintained by the original owners. They engaged a premier architect to design the home and gardens.

Mr. Jankowski said that staff told them that the accessory structure could not be built as designed because the gazebo roof is not contiguous with the house roof and as such it is considered an accessory structure. In addition, the Staff considers the area facing Middaugh Avenue as a front yard. Accessory structures are not allowed in front yards. Mr. Jankowski said that despite his requests, Village staff has not provided them with specific documentation references in the Village Zoning Ordinance or associated building codes that support their assertion that a structure attached to the foundation without a contiguous roof, means that the structure is an accessory structure. He pointed out that they built their foundation wall with the idea of building an outdoor room. The proposed structure would be attached to the main structure at the foundation. Mr. Jankowski said there is nothing in the ordinance that says the roof must be attached to the main house. He pointed out that his architects are well known in Downers Grove and have worked in the community before. Mr. Jankowski said they believe that the staff is interpreting the Zoning Ordinance incorrectly. He said even if staff were correct, the petitioners believe that their appeal has merit in as much as they cannot site their gazebo anywhere else that makes landscape architectural sense on the property. The setback rules have severely and arbitrarily limited their “backyard” space on this particular lot.

Mr. Jankowski said they realize that if they built a “McMansion” with a three car garage, it would solve their storage issues and expand their ordinance-defined “back yard.” He referred to a case before the Board in November, 2006 for property located at 4000 Sterling. He showed an overhead of that site which depicted a shed in the front yard of the corner lot of the property. No one from Village Staff challenged the structure, which was a free-standing structure in the front yard. He described the property on Sterling, saying that the 8x14 shed in the front yard was not challenged by this Board or Staff.

Chairman White said he did not believe that the property on Sterling came before this Board. This Board grants variations. He said this Board did not vote on the examples Mr. Jankowski is discussing. Chairman White said this was not under their jurisdiction. Mr. Jankowski said he read the minutes of the meeting and it did come under the Zoning Board of Appeals.

Mr. Latinovic confirmed that 4000 Sterling Road indeed was presented to the Board in 2006.

Mr. Benes said that the Sterling property was a corner lot. The owner built a unit, covered it with a canvas, and then came for a variation. He said they would have to review why this was granted since the structure was not in the right location.

Mr. Jankowski said he is simply trying to understand if the Board is going to stick to the letter of the law. He thought the structure on Sterling was a reasonable example.

Chairman White explained that the ordinance under which the Board operates has nine standards and conditions that are used for evaluation. Mr. Jankowski said he was aware of them and would review those. He said that he didn't want to get into semantics, and said if it is called a pergola or a gazebo it doesn't matter. The question is what is its functionality. He noted that the sign placed on their property mentioned “rezoning”, rather than zoning variance at first, but was later corrected to read a “zoning variation request”. His neighbors came to them to ask if they were putting in a dog kennel and requested a zoning change. He wanted the record to show that his wife trains their own dogs as therapy dogs that are used at Good Samaritan Hospital, Hines Veterans Hospital, etc. The dogs are trained in the yard.

Mr. Jankowski then reviewed the nine points, referring to the definition of an accessory structure. His house has both indoor and outdoor living. He showed photographs of what the original owners (the Johnsons) had developed in the garden area. He indicated that their outdoor living space is as important as the indoor space. He showed photographs of the house and explained how they chose to include additional storage space, which Staff is referring to as a gazebo.

Chairman White said there are two issues here. The first is the front yard gazebo, and the second is the 23'-9" height variance. He asked how important the nine inches is, and Mr. Jankowski said he would give up on the nine inches.

Mr. Jankowski responded to standard #1 that this property would not yield a reasonable return because without the additional room they will not get their money back. They paid \$450,000 for the property and additional outdoor space is needed for this type of property. The code would

allow him to cut down the clump oak tree and put in a third car garage and then he would not need the variation.

Mr. Jankowski said that with regard to standard #2, he did not put the oak tree in that location. It is a unique tree with two different varieties growing into one tree. He showed photos of the property and how the addition would sit on the site. He believes there are unique circumstances given the existence of the tree.

With regard to standard #3 he agrees with staff that it would not alter the essential character of the locality.

Mr. Jankowski said that with standard #4, staff's suggestion to construct a front porch on the east side of the house would not fit with the character of the house and he would have to remove more trees. He said there is no room in the back of the house because of the setback rules. Putting it on the side they have chosen balances the house.

Mr. Jankowski said that they have a foundation wall, are located 134 feet from the street and 112 feet from the sidewalk in the front yard. He doesn't think many people have that type of topography in the Village. They believed this was in their backyard.

He agrees with staff with regard to standards 6, 7 and 8. He does not believe any special privilege would be granted to the owner as stated in standard #9. He doesn't believe this is an accessory structure, but it is a room on a house. Chairman White said that the Board does not have the authority to make the decision as to the definition of whether it is an accessory structure or not. The Board has authority to determine whether it can be placed in the front yard. They are only allowed to vote as to whether they can make an exception to the rules that apply to accessory structures. The Board must treat it as if it is an accessory structure.

Mr. Jankowski said he and his wife have lived in Downers Grove for all of their lives and do volunteer work in the Village. He thanked the Board for their attention.

Staff's Presentation:

Mr. Damir Latinovic, Planner for the Village, described the property as a 30,000 plus square foot lot at the northwest corner of Blanchard Street and Middaugh Avenue. The existing house was constructed in 2007. The petitioner is requested two zoning variations. One would be to construct an accessory structure within the east front yard, 107 feet from the east front property line. They are also requesting a variation for the maximum height of 23.9 feet where maximum height of 23 feet is permitted by code. Mr. Latinovic said that a gazebo (accessory structure) cannot be permitted in the front yard even when there is extra yard provided. He then described the front yards of the property as a corner site.

Mr. Latinovic said that the ordinance allows a maximum height of 23 feet, while the petitioner is requesting 23.9 feet. Chairman White clarified that the petitioner is basically saying that the addition is not an accessory structure, so the rules should not apply, and Mr. Latinovic said that was correct.

Mr. Latinovic said the petitioner has applied for a building permit for the gazebo, and that permit has failed when it was explained to the petitioner that a gazebo is not allowed in a front yard. He then addressed some issues regarding the gazebo, saying that it is a two-level gazebo, with the main level accessible from the patio, and the lower level used as storage. If there were no gazebo, the petitioner would be allowed to build the storage space by expanding the patio with no gazebo above. It would be an expansion of the above grade patio.

Mr. Latinovic said that to be classified as an addition to the house, an accessory structure has to be connected to the principal residence through both the foundation and roof structure.

Staff's analysis of the two requests based on the nine standards is that there is no physical hardship or unique circumstance associated with the property. He then reviewed staff's review of the nine standards as stated in the report dated August 26, 2009, pages 3 and 4. Staff recommends denial of the request. He requested that if the Board finds in favor of granting the requests, they consider adding the condition on page 5 of staff's report into their motion.

Mr. Benes asked about the east wall of the building, questioning where the front yard stops and starts. Mr. Latinovic showed the location of the front yard on an overhead projection. Mr. Benes referred to the elevated deck or platform on the building, and asked whether it was part of the front yard. Mr. Latinovic said it is attached to the wall of the structure and is part of the house. Mr. Benes said he wanted to know where the front yard stops, and the back yard starts. Mr. Latinovic then pointed out the location of the front yard, side yards and back yards on another overhead projection.

Mr. Benes asked for the location in the Zoning Ordinance where "accessory building" is defined. Mr. Latinovic said it would be in the definitions section, and Mr. Benes said it is not in the definitions. Mr. Latinovic specified the Section 28.201, page 22, under "S" for structures. He then read the definition of "accessory structure" as shown on that page. Mr. Benes clarified that those are the rules that apply to gazebo, shed, etc. Because this structure is in the specific location shown, it falls under these rules of an "accessory structure."

Chairman White noted that the Board has the authority to grant a variation to allow an accessory structure in the front yard. He asked if the petitioner could build a third-car garage on the parcel and thereby make the proposed gazebo legally in the side yard. Mr. Latinovic said he did not know how wide the third-car garage would be, and that might require redesigning the gazebo so it does not extend beyond the garage. This is an R-4 zoning district. Chairman White said because of the lot size, he could probably create a new lot at the corner and put the structure in legally because it would now be in the side yard, although he recommended the petitioner not do that. If a variation were granted to allow a front yard accessory structure with a setback of 107', he didn't think that would apply to very many lots in the Village. Mr. Latinovic said not in the R-4 district, but there might be areas in other districts.

Mr. Benes referred to cases before the Board some time ago, one of which was on Belmont where the petitioner wanted to put in a garage on a large vacant lot but it was an accessory structure. The second was on Seeley where a person wanted to put a gazebo in a lot next to his

house and could not do it. He asked what happened in that case as it went before the Village Council. He understood the Belmont lot was re-subdivided and the structure was allowed. Mr. Latinovic clarified a request was made for a text amendment before the Plan Commission, which then went to the Village Council to allow an accessory structure on an adjacent vacant lot as a special use. The Village Council ultimately approved a Special Use request. He said it still followed the definition of accessory structure.

Chairman White stated the Board does have the authority to grant a variation for the front yard, but it does not have the authority to grant a variation in an adjacent lot situation.

Mr. Jeff O'Brien, Planning Manager, clarified that in the cases referred to by Mr. Benes, the provision in the code that was challenged was that an accessory building cannot go onto a vacant lot which does not contain a principal building. The text amendment requested allowed an owner with two adjacent side-by-side lots to apply for a special use for the accessory structure to be placed on the vacant lot. However, in this case, on any corner lot in the Village there are two front yards. The Zoning Ordinance provides that if the front yard remains between the front wall of the house and the required setback (25 feet in this instance) no accessory buildings can go in that space. There is a provision in the code under authorized variations which allows accessory structure to go in the excess space provided they come before the Zoning Board of Appeals and receive a variance.

There being no further questions from the Board, Chairman White called upon anyone in the audience who wished to speak either in favor of or in opposition to the petition.

Mr. David Matthies, 4417 Downers Drive, said he was the owner of Matthies Builders who built the original house. He said the Board is right in its interpretation about the difference between an addition and an accessory structure. Mr. Matthies said one of the hardships they are dealing with is that Staff is enforcing this as an accessory structure. He said there is a way to do this without a variation, but it would look foolish. The whole purpose here was to protect the trees, and as a result they are unable to pursue their addition. Mr. Matthies added that there are no definitions for "addition" in the Village Code. However, the IRC defines definition as the extension of floor area or height of a structure, and Mr. Matthies said they consider the attached gazebo as the extension of the floor area.

There being no further discussion, Chairman White closed the opportunity for further public comment.

Board's Deliberation

Ms. Majauskas commented that there are a lot of ways to skin a cat. The most logical is to come in for a variation; yet, there are ways to work around the rules. She said that the worst thing they could do would be to split the lot, because it makes no sense and would not preserve the beauty of the lot. Secondly, she doesn't see a lot of space to put the gazebo anyplace else. She is in favor of this. She thinks they are going form over structure, and it makes no sense not to grant the variance.

Mr. Benes said in the testimony of the petitioner, the word third garage came up so many times he thought the petitioner was an antique car collector. If it is used for storage it should be called an accessory structure, and not a garage. The house was built in 2007, and the architects worked on this a long time before it was built. If they couldn't think of a third garage then, they're not going to think of it now. There is a back yard to the west of the building where they can put up a gazebo. It should not go into the front yard according to the definition of accessory structure.

Mr. LaMantia asked if Mr. Benes was saying they should have planned for this when they built the house.

Mr. Benes said he felt if the petitioner doesn't like the regulation they should make a request to change the Code, not come for a variation.

Chairman White said petitioners have to meet certain standards. He thought the petitioner articulated rather well how they should apply reasonable return in Downers Grove. He is content that the trees in the situation create a unique circumstance. If they grant the variation for 107 feet, he is not worried that would start a precedent because there are not a lot of lots that can handle that size of setback. The Motion if made would have to be consistent with the plan as submitted tonight at this meeting. He is persuaded by the fact that they could put in a new lot and make this a side yard.

Mr. LaMantia said they are applying the front yard rules to a 50'x150' lot as they do to a 300'x150' lot.

Chairman White said he believes that each variation has to be looked at one by one to make sure the request is in harmony with the general interest of the Zoning Ordinance. Strict adherence to the rules does not necessarily advance the goals established when they established the Zoning Ordinance. He does not believe accessory structures should be allowed in the front yard unless the petitioner makes his plea and the Board agrees with it. Chairman White said that the question of whether or not it is an accessory structure confuses the decision making process. That is not within the purview of the Board. The Board has to make a judgment call as to whether the request adds to the character of the town. He clarified that he does believe it is an accessory structure.

Ms. Earl asked about the 9" requested height variation.

Chairman White said he is torn about that and would be torn about them having to build it at a different angle. He said the petitioner backed away from it.

Ms. Majauskas asked about the finial, and whether it is part of the height. Mr. Latinovic said the Zoning Ordinance allows for the finial not to be part of the height. The grade change and the slope of the roof affect the height.

MOTION #1:

Ms. Majauskas made a motion to approve the requested variation for an accessory structure to be built in the front yard 107 feet from the east property line associated with case ZBA-11-09 as shown on the site plan with the following condition:

- 1. The proposed gazebo shall substantially conform to the Architectural Plan prepared by Parsons Architects, dated June 9, 2009 and the Final Grading Survey, prepared by Landmark Engineers and Surveyors, dated September 18, 2007, last revised July 22, 2009 attached to the staff report dated August 26, 2009 except as such drawings may be changed to conform to Village codes, ordinances and policies.**

Ms. Earl seconded the Motion.

AYES: Ms. Majauskas, Ms. Earl, Mr. Domijan, Mr. Isacson, Mr. LaMantia, Chairman White

NAYS: Mr. Benes

The Motion to approve was approved with a vote of 6:1.

MOTION #2:

Mr. Domijan made a motion to deny the requested height variation associated with case ZBA-11-09. Mr. Isacson seconded the Motion.

AYES: Mr. Domijan, Mr. Isacson, Mr. Benes, Ms. Earl, Mr. LaMantia, Chairman White

NAYS: Ms. Majauskas

The Motion to deny was approved with a vote of 6:1.

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Mr. Jeff O'Brien said that Alice Dornan, secretary for the Board, retired. Staff will try to get packets and minutes to the Board in the same manner as Alice did. There is one application for next month's meeting.

There being no further business, Chairman White adjourned the meeting at 9:10 PM.

Respectfully submitted,

Tonie Harrington
Recording Secretary