

Approved 02-04-19

**VILLAGE OF DOWNERS GROVE
PLAN COMMISSION MEETING**

MINUTES FOR JANUARY 7, 2019

CALL TO ORDER:

Chairman Rickard called the January 7, 2019 meeting of the Plan Commission to order at 7:00 PM and led in reciting the Pledge of Allegiance.

ROLL CALL:

PRESENT: Ch. Rickard, Mr. Boyle, Ms. Gassen, Ms. Johnson, Mr. Kulovany,
Ms. Majauskas, Mr. Maurer, Ms. Rollins

ABSENT: Mr. Quirk, Ex. Officio Members Davenport, Livorsi & Menninga

Ch. Rickard reminded everyone present to silence any electronic devices during the meeting, and noted that copies of the agenda are available on the shelves at either side of the Chamber.

STAFF: Jason Zawila, Planning Manager
Flora Ramirez, Planner

VISITORS: Cheryl and Patrick Moran, 4922 Seeley
Laura and Jay Nicholson, 4918 Seeley
Sara Ungari, 4930 Seeley
Marshall Schmitt, 4923 Seeley
Richard DeMink, 4904 Seeley
Ron Williams, 4825 Seeley

APPROVAL OF MINUTES: Dec. 3, 2018 meeting

Ms. Gassen moved, seconded by Mr. Boyle to approve the minutes for the Dec. 3, 2018 meeting.

Ms. Gassen noted that on page 1, the first line, there was a typo for the word "Chairperson."

Ch. Rickard called for a voice vote to approve the minutes as corrected. Ms. Johnson and Ch. Rickard both abstained. The Motion passed 5:0:2.

Ch. Rickard reviewed the procedures to be followed for the meeting, and explained that the Plan Commission is a recommending body. Their decision is not final, but is strictly a recommendation to the Village Council for the Council's final decision.

Ch. Rickard explained that the Petitioner will present its case to the Plan Commission, followed by questions to the Petitioner by Commission members. The Public will then

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have an opportunity to speak before the Commission. Chairman Rickard asked that each speaker provide his or her name and address for the record. Following presentations by the Public, the Petitioner will have the opportunity to cross-examine any of the speakers. Upon completion of presentations by the Petitioner and the Public, the public hearing portion of the meeting will be closed, and Staff and the Commission will have the opportunity to ask questions of the speakers. A member of the Community Development Department will present Staff's report, followed by a Summary or Closing Statement by the Petitioner. The Plan Commission will deliberate following all testimony. A Motion will be made containing a recommendation to the Village Council regarding the case.

Ch. Rickard then asked everyone who intended to speak in the petition before the Commission to rise and be sworn in.

Ch. Rickard said the case before them tonight has many items to it. They are being asked to subdivide two lots into two configurations of the lots. There are known stormwater issues on the property. The Plan Commission does not review or approve any stormwater issues, nor does it approve the structures on the site. The Commission only concerns itself with the creation of the two lots with the exception of some relief being requested on the width of those lots. He asked that any comments keep those facts in mind.

Planning Manager Zawila reminded everyone that should this request move forward, there are other entities within the Village that will review it further to assure that the other items are addressed by various Village departments and eventually the Village Council.

PUBLIC HEARING:

18-PLC-0035: A petition seeking approval of a Final Plat of Subdivision to subdivide the existing property into two developable lots with two exceptions. The property is currently zoned R-3, Residential Detached House 3. The property is located directly northwest of the intersection of Warren Avenue and Seeley Avenue, commonly known as 4940 Seeley Avenue, Downers Grove, IL (PINs 09-07-208-041 and 09-07-208-040). 1508 Warren LLC and 4940 Seeley LLC, Owner; Sondra Barrett and James Pesavento, Petitioners.

Petitioner's Presentation:

James Pesavento, Petitioner, said he is appearing on behalf of the property owners for property at 1508 Warren and 4940 Seeley. One property fronts Seeley, and the other fronts Warren, and neither are conforming lots. The properties are not conforming and about 95% of the lots in the neighborhood run east to west. Mr. Pesavento said that there is a LPDA on the west side of the properties. Both of the lots are buildable right now, but any homes built on them now would not solve any problems the residents are experiencing. He explained that their intent is to have both lots face Seeley and be in

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conformity with the neighborhood and better control the LPDA. They want to have two lots that make sense in the neighborhood.

A question was raised as to how they are currently nonconforming. Mr. Pesavento replied that the required depth of the lots is 140' in R-3 zoning; however, neither one of the lots is 140' in depth.

Mr. Kulovany asked what hardship is that they are trying to address. Mr. Pesavento said that both lots are buildable exactly as they presently stand with 75' of frontage. They want to be able to take the far west portion and dedicate it to the LPDA to control the stormwater. Reconfiguration would have both lots fronting on Seeley and dedicate the rear area on both lots to control the stormwater. They will be able to better work with the residents to control the stormwater. He is familiar with the problems and challenges in the area because he has built homes in other areas of this part of the Village. Other properties in the area vary in width between 56' and 70', and these two lots would conform to the other lots in the area.

On June 21, 2018 the Village approved the subdivision of properties at 5527 and 5531 Fairmount splitting the lots to 71' each. A side setback was established at 7.5 feet. He asked Mr. Pesavento if they would be able to build a structure using these figures if that is what the Village Council decided. Mr. Pesavento responded that if they wanted to make the interior lot wider and the exterior lot narrower that could be done. It is still possible to build on a 45' wide lot. They originally approached this owner to see what their preference was, and the owner said they wanted to see two lots of equal size.

There being no other questions from the Commission, Ch. Rickard called upon input from the public.

Public Comments:

1. Marshall Schmitt, co-owner of the property at 4923 Seeley, said he has appeared before this body four or five times. He said that this proposal is ill conceived and not fully documented. It is not in the best interests of the neighborhood or the community as a whole. He began with statements of the petitioner. Mr. Schmitt is not aware of any effort made to comprehensively survey the neighborhood. From his understanding from the neighbors and residents this is not preferred by them. The proposal is ill conceived because it requires that this body and the Village Council as the ultimate decision maker has to ignore the rules that were passed after careful consideration. The 75' frontage rule was formulated for a good reason after careful consideration, and if this body and the Council ignore that arguing that it just makes sense to do this, they are shirking their responsibility. There has to be a hardship or good reason to do this. Staff's report clearly sets forth the reasons that can be taken into account and nowhere in any of the papers that have been filed has there been a detailed analysis under those five factors for consideration as to whether this is a good idea or not.

The first consideration is the extent to which the proposed exception impacts on the value or reasonable use of surrounding properties. He pointed out that the trend is that

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narrow lots, most of which are grandfathered in on this block, are 60' wide, and huge homes are being built almost property line to property line with minimum setbacks being used. Mr. Schmitt noted that the result is a very large home on a thin, narrow lot that destroys the integrity of the neighborhood. This area is either part of, or very near to the E.H. Prince Subdivision of Downers Grove that was one of the first subdivisions in this Village and it was created with a particular character in mind. He expressed the opinion that that character has been preserved for over 150 years of this Village. This proposal, as well as the other building that is going on in this neighborhood, is destroying that intent.

Mr. Schmitt acknowledge that the Chairman of the Commission said that it is not up to this body to consider what will be built on the property and what mitigation will be done, but it's relevant consideration because once this subdivision is done the momentum will be such that the argument won't be, "should you adjust the setoffs?" It's going to be, "ok, are you meeting the setoffs?" So the petitioner is trying to play the system here. Mr. Schmitt suggested that they review this step by step and only consider one thing at a time. Once you set to divide this lot the way they are proposing, the reality is you are going to have two big homes built on that property, and that is what they propose. If you look at the plans that they have, that's what they've proposed.

Mr. Schmitt then discussed stormwater, saying that the reason the Petitioner says the proposal is a good idea and makes sense is because they can better deal with the stormwater. But there are no details provided. There is no discussion about how that's going to be done. He said his experience on this block for the property that Mr. Schmitt refers to as the Larson home (possibly 4917 Seeley) is that the Village, for the "Larson home" property, required that they put in a dry well to deal with stormwater. That is not even mentioned in this subject proposal plan. When the dry well was built for the "Larson home" they had to dig a large hole to put the gravel in, dug out all the roots of the trees on the property, and the owner one month ago had to pay \$5,000 to remove seven trees that were over 150 years old. Looking at the aerial of the two subject properties, the homes are going to take out a good share of the trees as it's proposed, and when you put in whatever mitigation you're going to have to put in to deal with the stormwater as they proposed it, the rest of the trees are going to die too. He said if you look at a street-level view of the property in question, one of the particular characteristics of that corner of Seeley and Warren is that there is a bank of trees. So when you look from that corner back at the striking characteristic of the trees, this proposal will destroy those trees.

Mr. Schmitt said that the second factor of items that the Commission needs to look at is whether the exception is consistent with the trend of development in the area and the surrounding uses. They may argue that this petitioner has put two buildings at the end of the block. He noted if you look at those buildings, it does not improve the environment in the neighborhood. They are beautiful homes, huge homes built almost lot line to lot line and all of the trees are gone. The reason they could get away with it on that end of the block was because they built the home the long way along Prairie Avenue, but because there was a curb cut they could make the entrance on Seeley. They could get away with it there, but they can't get away with it on these lots. They

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need some relief. The trend in this neighborhood is not positive. This is not a factor that should support doing this. It's a factor that should argue against doing this.

The third factor concerns the characteristics of the property, which support or mitigate against the granting of the exception. Mr. Schmitt commented that the bank of trees that will be destroyed certainly mitigates against this exception, and if you're going to base your entire argument and say that it makes sense because of the stormwater improvements, then you need to have a detailed plan so that you know that that's going to work. But if they do that, more questions are going to be raised than answers. He said that this is an area where the Village has been dealing with stormwater for almost the entire twenty-nine years that he has lived in the neighborhood. The way this is proposed without any dry well or mitigation with regard to stormwater, will push the water down toward bigger structures that will be less able to absorb the water, with fewer trees to absorb the water, and the water will funnel right on through down to Warren. He said he couldn't estimate the number of days he's walked home from the train and has seen the Village employees out there pushing the water into the drains. This proposal isn't going to help. The way it's proposed is going to make it worse.

The fourth factor is whether the exception is in conformance with the general plan and spirit of this Chapter. Mr. Schmitt stated that the answer could not be a more resounding "no." You are taking two lots that are 80' and 60' wide and making them 56.25' wide to make them conform to the rest of the neighborhood. The other lots as set in the petition itself are 60' wide. The only lot narrower is the corner lot with the house built in the other direction. Making these lots 4' narrower than the majority of the other lots on the block is not only nonconforming, it's contrary to the intent of planning for the entire neighborhood and is inconsistent with this Chapter.

Mr. Schmitt then addressed the fifth factor, whether the exception will alter, or be consistent with, the essential character of the locality. He described the essential character of this locality as a series of nice, but not massive homes that fill up the entire lot. What the Petitioner is proposing is exactly that. This proposal is contrary to the essential character of the locality. These five factors all mitigate against the proposal, which should be rejected.

Mr. Schmitt then addressed Staff's report with the three conditions listed on page 4 of the report dated January 7, 2019. He said that condition one should be true for any lot, and it adds nothing to this proposal and poses no special requirements. Condition two requires Best Management Practices for stormwater, and condition three requires a demolition permit, which he says is no different for any petition. He asked the Commission to remember that the name of the body is a Plan Commission based upon specific rules and goals for preserving the integrity of the building. Those rules and goals have been carefully thought out since 1832. This proposal threatens to destroy the character of the neighborhood. He asked that the Commission reject this proposal in its entirety.

2. Richard DeMink of 4904 Seeley Avenue said he represents his wife as well. In his opinion this proposal boils down to allowing substantial overbuilding. He said that

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Mr. Schmitt has provided details of what the proposal is about and what the Commission is to consider. He echoed the opinion that this proposal should not be approved. There are two lots, 4940 Seeley and 1508 Warren, that have been flooded numerous times, and he doesn't see that this proposal makes any sense for the area. He thinks allowing less than 60' in width is a dangerous precedent. They will be seeing more of these monster-sized houses. He has seen the character of this Village change over 40 years and it's because of the type of houses that have been approved for construction. At the end of the block six or seven mature trees were destroyed. On the subject property there are at least six to eight mature trees on the subject site that will have to be destroyed. That doesn't help stormwater management. Trees are a valuable source of stormwater management.

3. Ron Williams of 4825 Seeley said he has lived on the block for 53 years. He moved to Downers Grove because of the trees. He said that once they make the decision to split this the way it's going to be split, the trees will be gone. He asked that they not make the decision to approve the requested proposal and allow the removal of the trees.

4. Cheri Moran of 4922 Seeley said she wanted to speak against this petition for all of the reasons already stated. Specifically, the Village has looked at the requirements and adopted a 75' width for a lot size. She said their neighborhood was part of the original Downers Grove. We need to preserve it as best as we can. No exceptions should be made to create a substandard development of the property at this site. She asked that the Commission oppose this petition.

5. Mr. Schmitt explained that a few years ago they purchased the lot next door to them, demolished the existing house on that lot because they wanted to put up a gazebo on that empty lot. The new rules were passed about the same time the 75' width was passed, and those rules said you could not put an auxiliary building on a piece of property that did not have a residence on it. He asked the neighbors about the gazebo, and by all accounts they agreed it would enhance the neighborhood. He went through a long process, had to hire a lawyer, and came before the Plan Commission to convince people that they could put a gazebo on that piece of property without joining the two properties and otherwise infringing on the value of their lot. Despite all of that the Village cut a deal and issued a Special Use Permit allowing them to put a gazebo on the property, but imposed a requirement that whoever sold that lot would have to tear down the gazebo before the deed was transferred and that the Special Use Permit had to be recorded. So he said that what the Village was saying to them was we can fix it, but if it's abused, we can still fix it. Mr. Schmitt said that once this is done, it's done. Once the houses are built lot line to lot line, it's done. There's no mitigating a mistake that is made tonight or when the Village Council ultimately considers this. He said in that spirit he asks the Plan Commission to deny the petition.

There being no further comments from the public, Ch. Rickard called upon the Petitioner to respond to the public comments.

Petitioner's Response to Public Comments:

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Mr. Pesavento said he understands the concerns of the residents. He lives in Winfield and trees are a big part of their community. He said that what must be understood is that these are two buildable lots right now, and there are going to be two homes built there no matter if this is approved. He understands wanting to preserve the community. Right now they have a nonconforming situation. He doesn't understand how the existing homes help the character of the neighborhood. He is all for preserving the community and for saving trees, and that's paramount in looking at any type of development. What exists now does not add to the character of the neighborhood. No matter what the residents think, there will be new homes built. They will save as many trees as possibly can be saved. He said that to the best of his knowledge no one has lived in those homes for many years. There will be a submission package connected to the homes that will be built. He understands stormwater and LPDA are issues. The submission packages will have stormwater requirements, which are very stringent. What is happening is a reversal and more stormwater management will be provided. If they are building a 3000 square foot home, they are not providing stormwater management for 1,000 square feet. They have to accommodate the entire structure, and are fixing the stormwater situation site by site by site throughout the Village. He challenged anyone who thinks their plan will make stormwater worse.

Mr. Kulovany read Section 20.602(c) Exceptions, as "An exception shall be recommended by the Plan Commission only if it finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the provisions of this subdivision ordinance." He believes the strict letter relates to the minimum of 75'. He asked Mr. Pesavento if there were any particular hardships that would prevent him from combining these lots and building on 112.58'x200'.

Mr. Pesavento replied that he thought if there was going to be any construction on the lots, it would be as the lots sit right now, because they are both buildable right now. They are not conforming to R-3 right now, and it certainly would not be ideal to do that, but that could be done.

Ms. Majauskas referenced the 80'x107.36' lot and asked the largest size of house that could be built on that lot. Mr. Pesavento said it could be a 3,000 square foot home. He said it would be more problematic regarding stormwater coming from the north. It would provide engineering challenges, but it could be done. It's beneficial to the entire neighborhood to have the last 30' of the lots serve as stormwater detention.

Ms. Majauskas asked if the 3,000 square foot house were built on the west lot, where would the water go. Mr. Pesavento responded that the water would have to go around it. He said there would be the typical 10% setback from the lot line to the first house. Having 8' on the left and right is not a large setback either. Mr. Pesavento said he did not know whether the property owner would be ready to sell these lots right now.

There being no additional comments at this time, Ch. Rickard called for Staff's report.

Staff Report dated 1/7/2019

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Village Planner Flora Ramirez explained that the petitioner is requesting a Final Plat of Subdivision approval to subdivide the existing property into two developable lots with exceptions with both lots having a width of 56.29 feet where 75 feet is required in an R-3 zoning designation. She displayed a map showing the exact location of the two lots. She explained that the lot depth requirement is 140'. Each lot is 200' that meets the lot depth requirement. The lot area zoning requirement for this zoning district is 10,500 square feet and the properties meet that requirement as well.

Regarding lot width for the area, Ms. Ramirez referenced Staff's report dated January 7, 2019 showing a table on page two of other properties on Seeley Avenue, five of which have a lot width of 60', and one of 56'. She noted that in her report she provided the data showing compliance with the Village's Zoning Ordinance regarding lot regulations, as well as compliance with the Subdivision Ordinance Section 20.301 for exceptions to Lot 1 and Lot 2 whose width would be reduced by 18.71 feet.

Ms. Ramirez noted that if the Plan Commission finds that the standards of approval have been met, a draft Motion has been prepared on page 4 of Staff's report.

Ms. Majauskas said the petitioner mentioned he could build up to a 3,000 square foot home on each of the two properties. Ms. Ramirez responded that the bulk requirements in a residential zoning district allow for a maximum of 32% building coverage. They would have to look at the existing plat to determine the area and whether that size of a home fits the property.

Planning Manager Zawila said it could be up to 2790 square feet. That doesn't take into consideration additional floors. Building coverage is what they determine the size by. They would have to look at building height, setbacks for the particular district, etc. Ms. Ramirez added that these are buildable lots as they stand now.

Ms. Gassen said with the exception of the setbacks, they would be able to build the entire width of the lot. She then asked what the side interior setback is for an R-3 lot. Ms. Ramirez said if the width was 75', it would be 7.5 foot setback. The existing 60' wide lots on the street would require a 6' setback. With the interior side setback requirement at 10% of the lot width or 6' (whichever is greater) the proposed lots at 56.29' would also require an interior side setback of 6'.

Ms. Majauskas asked Staff if in their conversation with other Village employees, whether anyone has expressed an opinion, positive or negative, of the reconfiguration being either a good or bad idea in relation to the drainage of the area. Mr. Zawila said that they have looked at this and it is acknowledged that there is an LPDA on half of Lot 1, and a plan would have to be submitted for both of these homes to assure that both homes are constructed per the Village's Ordinance.

Ms. Gassen said the petitioner said that the homes would have access from Seeley rather than Warren. She asked why it is ideal not to have access from Warren. Mr. Zawila asked the applicant to respond to that question.

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Mr. Pesavento said it is his understanding that with Warren being the busier street, it was more conducive to have residential traffic on the north/south street.

There being no further comments, Ch. Rickard closed the public hearing.

Commission's Deliberations:

Ms. Majauskas said she listened closely to what the homeowners said, which is important because they have to live with the final decision. However, she sees that there are two large homes that can be built no matter the decision since the lots are buildable. Looking at the LPDA, it doesn't make sense for everybody else. The LPDA is on the survey. She said if they open up the stormwater that's a good idea for everyone. No one likes change but everyone wants the water off their lots. She also looks at whether it conforms to the neighborhood, and no other homes on the street are 75'. You should look at conformity in the neighborhood. As for the trees, she doesn't know if anyone can save the trees. Building is going to come. It is not within the purview of the Plan Commission. What makes sense is to have the stormwater running off the way it should which would make sense for everyone in the neighborhood. She would vote to approve the petition.

Ms. Gassen agreed with the statement made. It is two lots that will be built on no matter how they are configured. She thinks this proposal makes more sense.

Ms. Rollins also agreed. This is the trend, people want bigger homes, and the property is in general conformance with the Village's restrictions.

Mr. Kulovany said he sees the subdivision law as put in place by the Village Council specifically to have a 75' frontage. The Plan Commission is supposed to base their decision on the Ordinance before them. Unless you have some hardship preventing you from meeting the 75' minimum, you have to follow the Ordinance. He doesn't think legally there is any other opportunity to do that. Now there is a situation where everyone else has a grandfathered in 60' lot width. If you were to build in any area of Downers Grove you'd have to have a 75' width. Being grandfathered in only reflects upon the "cards" that were dealt to the property owners. He thinks the Plan Commission is still required to follow the letter of the law. He believes 75' width is quite clear and he will vote against this.

Mr. Maurer said the two properties are smaller than what he sees on line that the company built earlier. It's a given that something will be built here, which is a good thing. On the negative side however, when something is built most of the trees will be gone. Another given is that when something is built the stormwater will be corrected by Code and by necessity. He said he fails to see the hardship, much like Mr. Kulovany. The stormwater has to be addressed. This might require a more creative solution. He's not sure as to how he'll vote.

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Ms. Johnson said she is for reconfiguring the lot, particularly with the traffic along Warren Avenue, which is primarily commercial.

Mr. Boyle said either way two homes are going to be built on those lots. The trend is that homes are maximizing the use of the lots. Looking at the aerial views and the layout of the neighborhood, it certainly makes sense for the lots to be divided with the lot lines as proposed by the applicant. If you were to leave the lots as is, the hardship could be resolved with engineering improvements along the western property line to take into account the development that's occurred over decades in this neighborhood. It is a shame to remove so many heritage trees, and he would hope what's removed would be replaced. He thinks the reconfiguration of the lots is the best opportunity to have them exit onto Seeley.

Ch. Rickard said the boundary of each lot is not changing. Whenever there is new construction, there are some problems fixed and some benefits that come with the construction. He said it looks to him like a better choice for the neighborhood with the engineering that will go into the property. He thinks it is a positive thing to do the resubdivision.

Mr. Kulovany asked from this point on, whether 56' become a standard rather than the 75'? He sees this as a precedent.

Ms. Gassen said she didn't think the Fairview lot was a fair comparison, since these lots are already two existing lots. If it was one lot converted into two nonconforming lots, she thinks her opinion would be entirely different. This is a reconfiguration.

There being no further comments, Ch. Rickard called for a Motion.

Ms. Gassen said based on the petitioner's submittal, the Staff Report and the testimony presented, she finds that the petitioner has met the standards of approval for a Plat of Subdivision as required by the Village of Downers Grove Zoning Ordinance and is in the public interest and therefore, she moves that the Plan Commission recommend to the Village Council approval of 18-PLC-0035, subject to the following conditions:

- 1. The plat of subdivision shall substantially conform to the Staff Report and the final plat of subdivision prepared by Lincolnway Engineering and Land Surveying LTD revised December 7, 2018, except as such plans may be modified to conform to the Village Codes and Ordinances.**
- 2. Post Construction and Volume Control Stormwater Best Management Practices (PCBMPs) shall be required for both lots per the Stormwater and Floodplain Ordinance.**
- 3. A demolition permit for both existing homes shall be issued prior to the Village signing the plat of subdivision.**

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Ms. Johnson seconded the Motion.

**AYES: Ms. Gassen, Ms. Johnson, Mr. Boyle, Ms. Majauskas,
Ms. Rollins, Ch. Rickard,**

**NAYS: Mr. Kulovany, Mr. Maurer
Motion passed 6:2.**

Mr. Zawila said that this case would be before the Village Council on February 12, 2019. He said to check the schedule in case there are any changes. The next meeting of the Plan Commission is scheduled for February 4, 2019.

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**Mr. Kulovany moved to adjourn the meeting, seconded by Ms. Majauskas.
The Motion carried unanimously by voice vote.**

Ch. Rickard adjourned the meeting at 8:13 PM.

Respectfully submitted,

Tonie Harrington,
Recording Secretary
(transcribed from mp3 recording)