

**MINUTES OF A MEETING OF THE PLAN COMMISSION OF THE VILLAGE OF  
NORTH BARRINGTON HELD MONDAY MARCH 14, 2011,  
AT 7:30 P.M. AT THE NORTH BARRINGTON VILLAGE HALL,  
111 OLD BARRINGTON ROAD,  
IN SAID VILLAGE**

**1. Call to Order & Roll Call**

At 7:35 P.M. Vice Chairman Wilford called the Meeting to order and the Deputy Village Clerk called the roll:

Present in Person:	David Wilford, Janis Menges, Martin Pais, Denis Taillon
Absent:	Bill Bishop
Also Present:	Village Attorney J.W. Braithwaite Kelly Rafferty, Village Building and Zoning Officer Mark Kolar, Village Trustee Kris Lennon, Deputy Village Clerk Nicole Keiter, Deputy Village Clerk John Cifonelli, ZBA W. Gene McAlester, ZBA Bryan McGonigal, ZBA Paru Thondavadi, ZBA Janice Faulkner, 28272 West Savannah, Lake Barrington John Rackow, 4207 Farmington Lane, Johnsburg Mr. & Mrs. David Dastur, 513 Larkins Lane Nick Capaccio, 640 Masland Court

**2. Approve Minutes from the September 13, 2010 Meeting**

The Minutes of the September 13, 2010 Meeting were made available to the Board.

Vice Chairman David Wilford asked the Commission if there were any revisions to the Minutes. There was a spelling error to be corrected.

Motion: Janis Menges moved that the Minutes of the September 13, 2010 Meeting be approved as amended; seconded by Martin Pais.

Discussion: There was no discussion.

Vote on Motion:

The voice vote was unanimous in favor.

Vice Chairman Wilford declared the Minutes of the September 13, 2010 Meeting approved as amended and put on file.

## Legal Notice

Vice Chair Cifonelli requested that a copy of the published notice of the public hearing be incorporated into record. Village Attorney J. W. Braithwaite asked if there were any new audience members from the previously public hearing meeting who had not been sworn in order that they may speak during any portion of the public hearing. It was noted that there was no one in new in the audience.

### **3. John Rackow and Janice Faulkner, petitioners, request rezoning from the R-1 District to the R-2 District and approval of preliminary plat of subdivision**

Village Attorney J.W. Braithwaite explained that the Plan Commission officially closed their meeting at the September 13, 2010 joint Plan Commission/ZBA meeting however; the ZBA did not close their public hearing since a recommendation from the Plan Commission had not been provided due to remaining issues with surrounding property owners.

Attorney Braithwaite suggested that it would be appropriate to begin with the Plan Commission in an effort to obtain any updates. Attorney Braithwaite additionally thought that it would benefit both commissions to review the petitioner's request and to briefly allow audience members to address the Board in the event they had questions or concerns.

Vice Chairman Wilford asked the petitioners to address the Board.

Mrs. Janice Faulkner, 28272 West Savannah, Lake Barrington, and Mr. Jack Rackow, 4207 Farmington Lane, Johnsburg, (heirs) addressed the Board. Mrs. Faulkner stated that she met with Nick Capaccio, 640 Masland Court, and David Dastur, 513 Larkins Lane, at the Barrington Area Library on October 3, 2010 in order to discuss their intentions. It was noted that all residents who resided within a 250 foot radius of 195 Rainbow Road were invited to attend the meeting. Mrs. Faulkner explained that they reviewed their proposal, provided a plat of survey, and discussed proposed covenants, conditions & restrictions (CC&R's) as drawn up by their attorney. Mrs. Faulkner stated that during the meeting she informed the residents that they would agree to apply all of the CC&R's of the Pennington Ponds Subdivision with exception of those that were not applicable. Certain covenants did not apply such as vehicular access to Rainbow Road and pond restrictions.

Mrs. Faulkner stated that an unsolicited offer was made to purchase their property by Mr. John Busse in November of 2010 however explained that she and her siblings are not in the position to suffer a loss on the property. She noted that her family has not been able to provide the proper care and attention the property requires and would like to see someone purchase the property and be able to provide the care it requires.

Vice Chairman Wilford asked Mrs. Faulkner why she wants to subdivide the property and if she had consulted with a realtor about the difficulty of selling the property as a full parcel. Mrs. Faulkner stated that she had consulted realtors and understood that there is a greater economic gain if the property is subdivided.

Mr. Rackow added that a tenant is currently living in the house on the property however; the condition of the house has deteriorated making it difficult to sell. It was noted that the house was built in 1934.

Vice Chairman Wilford asked the petitioners if they had anything else to add. Mrs. Faulkner stated that their intentions to subdivide the property have not changed and would like to pursue the matter.

Ms. Menges asked the petitioners if they would develop the lots themselves. Mrs. Faulkner stated that her family plans to sell the lots and not develop them. Due to a tenant living on Lot 1 where the existing home is, their plan is to sell Lot 2 and wait until the real estate market improves to sell Lot 1.

Mrs. Faulkner added that during the residents' meeting at the library, there was concern whether Lot 1 would be able to support a 3,000 sq. ft. one-story home or a 3,800 sq. ft. two-story home, in the event that the current house was demolished. Mrs. Faulkner stated that Village Building and Zoning Officer Kelly Rafferty provided information that supports the construction of a one story 3,000 sq. ft. home and a 3,800 two-story sq. ft. home on Lot 1.

Attorney Braithwaite asked the petitioners to re-explain why they are seeking a zoning variation.

Mrs. Faulkner explained that they are seeking a zoning variation in order to permit (2) lot sizes of 1.94 acres and 1.93 acres. The total acreage is currently 4.5 acres. Zoning would be changed from an R-1 to an R-2 and they would deed the remainder acreage to the Village right of way.

Mr. Taillon asked if the petitioners anticipated a future sale.

Mr. Rackow stated that they've consulted with realtors, who felt that the property currently falls below market price; however, have not had the property appraised. Mrs. Faulkner additionally added that it is not their intention to sell the property as one lot.

Attorney Braithwaite noted that one of the standards for re-zoning is that property cannot yield a reasonable return under the present zoning, which comes across in the petitioner's statements. A further standard includes the nature of surrounding land uses and whether there would be any significant injuries to neighboring properties from re-zoning, if granted.

There was discussion about the square footage of the surrounding property owner's homes.

Mr. Pais asked Attorney Braithwaite to clarify the Plan Commission's role in regards to the zoning matter. Attorney Braithwaite stated that the Plan Commission's role is to review the preliminary plat and either grant or deny the re-zoning matter. He added that the petitioners' request requires the Plan Commission to consider the proposed CC&R's because they are significant due to the neighbor's concerns. It was noted that CC&R's can be added to a final document such as the variation ordinance which is recorded with the county.

Nick Cappaccio, 640 Masland Court, addressed the Commission and stated that the petitioners agreed to meeting all of the CC&R's of the Pennington Ponds Subdivision at the 10/3/10 residents' meeting; however, Mr. Cappaccio explained that the petitioners left out certain covenants within the

Pennington Ponds CC&R's. Specifically #3, Restrictions to Use, "That there shall be no access for driveways on Rainbow Road" and; that according to the Pennington Ponds CC&R's, an owner may not build on the 2<sup>nd</sup> lot, if a lot is subdivided. Therefore, the petitioners would not be able to build on a 2<sup>nd</sup> lot. Mr. Cappaccio agreed that the pond restrictions were not an applicable covenant as the property is not located on a pond.

Mr. Cappaccio commented that the appraised value for the reconstruction of his home is \$2 million and has concerns about what goes in his back yard. Mr. Cappaccio stated there has been no official documentation submitted on the value of the property located at 195 Rainbow Road.

Mr. Cappaccio questioned whether the Plan Commission or ZBA had a copy of the Pennington Ponds Subdivision CC&R's in order to compare to the proposed CC&R's. Mr. Cappaccio requested that the Plan Commission and ZBA gather all the facts in order to make an informed decision including an appraisal of the property.

It was noted that the approximate size of Mr. Cappaccio's lot is 2.48 acres.

Attorney Braithwaite explained that if relief is granted, it would be subject to covenants being placed on the land that are substantially compatible to the Pennington Ponds CC&R's. Attorney Braithwaite additionally explained that it is not the role of the Plan Commission to answer his questions, but to hear his concerns.

Ms. Menges inquired about the circulated petitions objecting to the proposed request. It was noted that the petitions were dated October 2010.

Vice Chairman Wilford summarized Mr. Cappaccio's concern noting that Mr. Cappaccio is concerned that if the property is subdivided, less than adequate buildings would be constructed. Mr. Cappaccio concurred and used Kaitlin's Way as an example of a property that was not completed by the developer.

Vice Chairman Wilford thanked Mr. Cappaccio for his comments.

Dave Dastur, 513 Larkins Lane addressed the Commission. Mr. Dastur stated that he lives at the property directly north of 195 Rainbow Road and noted that he has "probably" the most unobstructed view.

Mr. Dastur stated that they purchased their house approximately 10 months ago with knowledge that the property located south of them could one day get developed; however, they purchased the property on the premise that it would remain one lot. Mr. Dastur noted that they preferred the lot to stay as one lot either as an R-1 (with a special use permit for the 4 acres) or as an R-2 (as a single lot).

It was noted that Mr. Dastur's lot size is approximately 2.46 acres.

Attorney Braithwaite asked Mr. Dastur if there was landscaping on his property. Mr. Dastur stated that he does not have landscaping on the south base of the property and prefers the clear view across the back of his property.

Attorney Braithwaite asked Mr. Dastur, if the Plan Commission and ZBA chose to recommend the request to the Village Board, would a requirement of landscaping be helpful. Mr. Dastur noted that the landscaping would need to be approximately 20 feet high as his home is two-story. Mr. Dastur subsequently noted that there is an approximate 3 to 4 foot drop from the driveway to the property line.

Mrs. David Dastur addressed the Board. She stated that she did not want to be able to look into someone else's windows if a new house is constructed. Mr. Dastur noted that their neighbors had a similar issue in that a house was built close to the property line of their neighbor's house. He explained that he has concerns that a house would be built close in proximity due to the location of the property's septic system and existing trees.

Mr. Cappaccio noted that he has a two story house as well, and has a view of the property from his 2<sup>nd</sup> story window.

Mr. Dastur presented a photograph of the view from his house via his lap top computer.

Vice Chairman Wilford asked Village Building and Zoning Officer Kelly Rafferty to answer questions about the plat of survey, road access and house citing on the lots.

Village Building and Zoning Officer Kelly Rafferty addressed the Commission and explained that preliminary engineering plans showing possible driveway locations to the proposed vacant Lot 2 were submitted to Village staff. In particular, the Village Engineer had no objections to the proposed location of the driveway as shown on the plans.

Village Building and Zoning Officer Kelly Rafferty added that in the event the existing home is removed from Lot 1 it can support the construction a one story 3,000 sq. ft. home and a 3,800 two-story sq. ft. home, easily.

Village Building and Zoning Officer Kelly Rafferty noted that the septic system serving the existing farm house was installed within the last decade.

There was further discussion between the Plan Commission and Mr. Cappaccio about the possibility of a shared driveway.

Mrs. Faulkner noted that it was her understanding that the issue surrounding driveway access was discussed at the resident meeting held 10/3/10 and that the proposed covenant applicable to the driveway issue was crossed off of the proposed CC&R's.

Attorney Braithwaite stated that as a matter of law and in interpreting what transpired at the resident meeting held 10/3/10, where the parties may have agreed to follow the Pennington Pond's CC&R's, the proposed covenants would legally apply to "those covenants which would applicable". Attorney

Braithwaite noted that from a legal viewpoint, it would be difficult to apply the “no access for driveways on Rainbow Road” from the Pennington Pond’s CC&R’s to this particular parcel.

Mr. Dastur stated that the circulated objection petitions were initiated October 3, 2010.

There were a few questions by the Plan Commission addressed by Attorney Braithwaite.

Vice Chairman Wilford noted his concern about approving the request in relation to the Village’s Comprehensive Plan and setting a precedent.

Mr. Pais noted his concern about the type of homes that could be built with potential developer issues. Mr. Pais stated that he is in favor of adding CC&R’s to the final document.

There were questions about the Village Comprehensive Plan addressed by Village Building and Zoning Officer Kelly Rafferty who noted that “The Village Code provides that subdivision of lands shall substantially conform to the official Comprehensive Plan of the Village. The subject property is located within Planning Unit Four of the North Barrington Comprehensive Plan. The stated Goals-Objectives for this area include that the established residential uses and permitted densities of one unit per two or more acres should be preserved”.

Ms. Menges noted that there is a potential risk of not knowing what kind of homes would be built including the materials used.

Village Building and Zoning Officer Kelly Rafferty noted that there is a minimum house size requirement within the Village Code.

Motion: Martin Pais moved that Commission recommend the approval to grant the request rezoning from the R-1 District to the R-2 District and approval of the preliminary plat of subdivision subject to the grant of a variation after recommendation by the Zoning Board of Appeals and subject to covenants being placed on the property that are substantially similar to Pennington Ponds CCR’s; seconded by Denis Taillon.

Discussion: There was lengthy discussion.

<u>Vote on Motion:</u>	<u>Ayes:</u>	Martin Pais, Denis Taillon, David Wilford, and Janis Menges
	<u>Nays:</u>	None
	<u>Abstain:</u>	None
	<u>Absent:</u>	Chairman Bill Bishop

Vice Chairman David Wilford declared the motion approved.

Ms. Menges noted that Plan Commission is in need of additional members.

**4. Adjournment**

Motion: Martin Pais moved the meeting be adjourned; seconded by Janis Menges.

Discussion: There was no discussion

Vote on Motion: The voice vote was unanimous in favor.

At 8:55 pm, Vice Chairman David Wilford declared the meeting adjourned.

These Minutes were approved at the Plan Commission Meeting held November 7, 2011.

Attest: \_\_\_\_\_  
Nicole Keiter , Deputy Village Clerk