

**VILLAGE OF NORTH UTICA**

801 South Clark Street

North Utica, IL 61373

Planning Commission

Public Hearing

October 28, 2015

[www.utica-il.gov](http://www.utica-il.gov)

**AGENDA**

- I. 6:30 p.m. Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. Public Hearing: Petition of Daniel M. Burke and Debra A. Burke Owners of Real Estate located at 3241 E. 8<sup>th</sup> Rd. and 3233 E. 8<sup>th</sup> Rd., Utica, IL; Waltham Township, Section 20, Township 34 North, Range 2 East.
  - 1.) Petition seeking A-1 Agriculture Zoning of the property.
  - 2.) Petition seeking variances from Section 6.1 to allow buildings to a height not exceeding 35-feet and to allow side and rear yard setbacks of not less than 10-feet for all existing buildings as shown on the Plat of Survey and not less than 20-feet for any and all newly constructed buildings
  - 3.) Petition seeking such other relief as may be necessary to allow the intended operations.
- V. Discussion and Possible Recommendations of the Planning Commission
- VI. Consideration of Approval of Minutes: 10-14-15; 10-19-15
- VII. Adjournment

POSTED 10-26-15

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### MINUTES

At 6:37 pm the meeting was called to Order by Planning Commission Chairman Tom Guttilla who then led the Pledge of Allegiance. Planning Commission members present included Doug Gift, Dennis Hamilton, Roy Chapman and Warren Munson. Members Fry and Matt Cetwinski were absent.

Mayor Matt Jereb was also seated for this meeting along with Trustees John Schweickert, Dave Stewart, Ron Pawlak, Joe Bernardoni, John Pappas and Kevin Stewart.

Village Clerk Laurie Gbur, Village Attorney Herb Klein and Village Engineer Kevin Heitz were also present.

Chairman Tom Guttilla began by asking for a Moment of Silence to honor and remember former Planning Commission Member Gene Drzewiecki who had recently passed away. Mr. Drzewiecki had been appointed to the Planning Commission in July 2009 and had participated until January 2014.

Attorney Klein indicated that a Court Reporter was present for the Hearing and then presented the Rules of Procedure that would govern the Hearing. It was motioned by Member Munson, seconded by Member Chapman to adopt the Rules of Procedure as distributed.

All in favor

Motion Carried

Attorney Klein provided a summary of the legal notice that was published in the paper on 10-13-15 and it was entered into the Record as Village Exhibit #1.

Attorney Klein then provided a summary of the Petition(s) and they were entered into the Record as Village Exhibit #2.

An affidavit signed by Zoning Enforcement Officer Curt Spayer indicating that the property had been posted was then entered into the Record as Village Exhibit #3.

Notices to LaSalle County, Utica Fire Protection District, Waltham School, Waltham Twp., and the Road Commissioner were entered into the Record as Village Exhibit #4.

U.S. Postal receipts and returned signature cards, along with one being returned as not claimed, were then entered into the Record as Village Exhibit #5.

There were no objections to entering the Exhibits into the Record as evidence.

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At 6:47 pm, Petitioner Dan Burke was sworn in by the Court Reporter.

Mr. Burke stated that he was petitioning to pre-annex into Utica because he has 23 acres of property and he would like to sell a house and the original homestead. He stated that he will not be developing a subdivision and there will be no mining of the property.

Attorney Klein restated the address of the property and Mr. Burke answered that he lives at 3241 E. 8<sup>th</sup> Road, in Waltham Twp.

Chairman Guttilla asked Mr. Burke why he had not petitioned the County.

Mr. Burke stated that there are three lots and he thought the property would probably become contiguous before 20 years and it made sense to come to Utica. He also stated that he would like A1 zoning of the property and height and setback variances to allow for the new owner to put up a storage barn.

Member Gift asked how far away the property is from the surrounding neighbors.

Mr. Burke answered approx. 1/8 mile.

Attorney Klein then summarized the proposed pre-annexation agreement.

The property would be annexed upon becoming contiguous within 20 years. Mr. Burke paid all filing fees to bring the matter before the Planning Commission and the Board. The Village waives the right to an impact fee on the property because there will not be a need for water and sewer infrastructure and there will be no road maintenance as no additional roads will be created. There will be no mining, quarry or gravel operations. The agreement will remain in effect for up to 20 years unless the property becomes contiguous as which time it will be annexed it. If there would be any future development of the property considered, the owner would have to come back to the Village and go through the correct process all over again.

Chairman Guttilla asked Mr. Burke where he lived on the property.

Mr. Burke stated that there are 3 lots and he currently lives on parcel 3. He would like to sell property located in parcel 1.

With no additional questions or Testimony, Mr. Burke was seated.

Attorney Walt Zulkowski, representing Waltham Township, was then sworn in by the Court Reporter.

Mr. Bill Stack, Waltham Township Supervisor, was then sworn in by the Court Reporter.

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Attorney Zulkowski then proceeded to ask questions to Mr. Stack about a Township Resolution dated 9-8-15 which was adopted by Waltham Township at a Special Board Meeting. With no objection, it was entered into the Record as Township Exhibit #1.

The previous Petition was amended to A1 zoning and reduced to include only 3 parcels of land.

Chairman Guttilla stated that the best use for the property is A1 zoning. He also asked Mr. Stack if the Township still objects. Mr. Stack answered yes, because of a lack of control that the Township would have if the property were to be annexed into Utica.

Member Gift asked who approved things like this in the past. Mr. Burke answered that the land and houses had been there before any County Zoning so it is grandfathered in.

Member Gift then asked if Waltham Township or any of its Members were part of a zoning group. Mr. Stack stated that they do work with the Board of Appeals on certain issues. He also stated that Mr. Monte Whipple was a Member of County Zoning Board however he is a resident of Utica Twp.

Member Gift then asked Mr. Stack if Waltham Township feels that they should control what happens with the land. Mr. Stack stated that they do feel they should have a voice and a vote on what will happen in Waltham Township.

Member Gift then stated that the Utica Planning Commission has to look at each property and the continued growth of the community. Mr. Stack stated that Waltham is not against growth, but still feels they should have a larger voice with what happens to property in their area.

Waltham Township wants a voice and wants to be consulted.

Member Gift then asked Mr. Stack if he has objections for what Mr. Burke wants to do with the property regarding subdividing and selling. Mr. Stack answered no. Member Gift asked if Mr. Stack was representing Waltham Township in objecting to the Petition itself and Mr. Stack answered yes. Mr. Stack stated that the Village is currently updating the Comprehensive Plan and the Village Board should wait to consider this until the new plan is adopted.

Member Hamilton asked if anyone from Waltham Township had attended the Comprehensive Plan Meetings. Mr. Stack answered that he is not sure recently but there were 3 people in attendance at the first public meeting.

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**MINUTES**

Attorney Klein reminded everyone that the Village does have a Comprehensive Plan that has been in place since 2002.

Redirect by Attorney Zulkowksi to Mr. Stack:

Attorney Zulkowski – The Village can exert zoning within 1 ½ miles and the Township would not have any authority?

Mr. Stack – Yes

Attorney Zulkowski – Would Mr. Burke be able to accomplish this through the County zoning?

Mr. Stack – No, due to the acreage.

Attorney Zulkowski – Would Waltham Township suggest that the Village postpone acting on the matter until after the Comprehensive Plan is finished?

Mr. Stack – Yes

Mr. Stack was excused at 7:24 pm.

Attorney Zulkowski asked that the Village's Subdivision Ordinance be admitted into the Record and then made some additional comments.

Member Gift then stated that the Planning Commission has been very consistent with looking at the details before making decisions. There are unique circumstances that are considered.

Attorney Zulkowksi presented his conclusion.

- a. The Village is in the process of re-evaluating its' Comprehensive Plan so it would be a good to defer the decision until it has been completed.
- b. The current Petition is at odds with the Village's Subdivision Ordinance
- c. The current Petition is at odds with the Village's Variance Ordinance
- d. The property is not yet contiguous. The Village should wait until it becomes contiguous.

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A provision will be included to state that any other formal requirements are waived. It was motioned by Member Gift, seconded by Member Hamilton to amend the Petition to all for such relief from formalities of the Subdivision Ordinance and allow the Plat to serve as the subdivision of property.

4 Yes

Motion Carried

Member Gift stated that Waltham Township wants the area to be kept rural however there are already 2 homes on the property.

Mr. Stack then stated that Waltham Township is not against growth in the right manner.

Ms. Linda Moyer-Halm was sworn in by the Court Reporter.

She stated that the neighbors next to this property need to think about the future of the land around them. People need to think about the Comprehensive Plan. She then asked if any of the surrounding neighbors had come to the Hearing.

Chairman Guttilla stated that while no one had attended, the property had been posted.

At 7:47 pm the Hearing was closed. Motion made by Member Chapman, seconded by Member Gift.

It was then motioned by Member Hamilton, seconded by Member Chapman to recommend approval of the Zoning of the property to A1.

4 Yes

Motion Carried

Member Gift then stated that the property would remain agriculture which is already in the Village's Comprehensive Plan.

It was then motioned by Member Gift, seconded by Member Hamilton to recommend granting of Variances to allow a height not to exceed 35 ft. and setbacks of 10 ft. or 20 ft. for new buildings; and to allow the Plat to serve as the Plat for the property.

4 Yes

Motion Carried

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It was then motioned by Member Hamilton, seconded by member Chapman to recommend approval of a pre-annexation agreement for property located at 3241 and 3233 E. 8<sup>th</sup> Rd, Waltham Twp.

4 Yes

Motion Carried

Attorney Klein then stated that the Record should reflect that the Mayor and the entire Village Board was present for the Hearing.

Minutes: It was motioned by Member Gift, seconded by Member Munson to approve the Minutes from the 10-14-15 and 10-19-15 meetings.

All in favor

Motion Carried

With no additional Business, it was motioned by Member Hamilton, seconded by Member Chapman to adjourn the meeting at 8:04 pm.

All in favor

Motion Carried

Respectfully submitted,

Laurie A. Gbur

Village Clerk