

STENOGRAPHIC TRANSCRIPT
will reconvene the public hearing
OF PROCEEDINGS
Appeals originally called for
AT A PUBLIC HEARING (Continued)
returned to this date at the end of the
OF THE
where we proceed, I would like to make
ZONING BOARD OF APPEALS
statements which may clarify some matters
OF THE
of the people here.
VILLAGE OF BARRINGTON HILLS
those who were not here last week, will you

your hands Held at the Countryside School,
County Line Road,
Barrington Hills, Illinois.

on the 28th day of February, 1963,
8:00 o'clock, P.M.

the information that I attempted to give with
pursuant to legal notice.

to the nature of this hearing, I merely wish to

it is a public hearing of the Zoning Board of
MEMBERS OF THE BOARD PRESENT:

not a public meeting, and must be conducted

MR. LORENTZ B. KNOUFF, Chairman

According to the rules which are proper and required by

MR. J. HOWELL TURNER

statute and the rules of such hearings.

MR. ALFRED P. STRESEN-REUTER

MRS. RALPH A. BARD, JR. you to wait to be called

and MR. JAMES C. DAUBENSPECK, Secretary respect to

the matter MR. DAVID L. TRUNINGER, Village Attorney. you

be sworn with respect to the giving of testimony.

- - - - -

statements by counsel or lawyers for other

parties, of course, may be put in the record in that

category.

there is one matter which I am sure concerns

MR. KNOUFF: We will reconvene the public hearing of the Zoning Board of Appeals originally called for February 21 and adjourned to this date at the end of the first hearing. Before we proceed, I would like to make two or three statements which may clarify some matters in the minds of the people here.

Those who were not here last week, will you please raise your hands?

Oh, my, there were a lot of you.

So without encumbering the record unduly by repeating the information that I attempted to give with respect to the nature of this hearing, I merely wish to say that it is a public hearing of the Zoning Board of Appeals, not a public meeting, and must be conducted according to the rules which are proper and required by the statute and ordinance for such hearings.

Therefore, we will ask you to wait to be called upon, and if testimony is to be given with respect to the matters which are before us tonight we will ask you to be sworn with respect to the giving of testimony.

Statements by counsel or lawyers for other parties, of course, may be put in the record in that category.

There is one matter which I am sure concerns

us all that I would like to deal with at some length before we commence the hearing proper. During the course of the past week there has been considerable conversation between parties who were at this meeting and members of the Board, including Judge Henry Dieringer and Mr. Johnson, among others, and these had to do with respect to a question of jurisdiction of this Board with respect to certain matters before this hearing.

The members of this Board have felt it advisable, since they are not supposed to be triers of law but only triers of fact in this proceeding, to seek the opinion of Corporation Counsel with respect to any jurisdictional question which has been raised. And the Board has come to certain conclusions with respect thereto which, if I give you at the outset what they are, may clarify and shorten this proceeding somewhat.

In the first place, you must have in mind that there are two separate and distinct matters which are dealt with in what you would normally call zoning, but one of which is not really zoning in the technical sense. One is the zoning within the village boundaries of Barrington Hills. Those are the matters which are set forth in the zoning ordinance and the zoning map of the village zoning map; which means the map within the village

In addition, there is the question of the comprehensive plan of the village which was initially adopted when the village was organized and which includes the area of one mile and a half surrounding the village boundaries. Now, this is not strictly zoning. The Village Board of Trustees, advisory or otherwise, has no power to zone within that area but merely to file a map with the respective counties in which the areas are located which states our plan with respect thereto.

Now, it appeared at the first hearing last week that the Plan Commission was making recommendations on the maps which you see on the wall which had to do both with respect to zoning within the village and with respect to the comprehensive plan as to certain areas outside of the village limits. After seeking opinion of counsel for the village, the Board of Appeals has determined that it does not at this time have jurisdiction to proceed to take evidence with respect to the comprehensive plan.

The Board of Trustees in its resolution referring this matter to the Board of Appeals referred only amendments to the zoning ordinance--proposed amendments to the zoning ordinance, and proposed amendments to the zoning map; which means the map within the village

boundaries. On that account, the zoning Board of Appeals is of the opinion that it should take no more evidence and not further consider at this hearing or any adjournment of this hearing any matter having to do with the area outside the village boundaries, and since it appears from the proposal of the plan Commission that the proposed zoning along a certain area of the village adjacent to the area outside the village boundary is related to the comprehensive plan itself, that it would not be proper at this time to take further evidence with respect to the zoning within the village boundary either.

Therefore, the Board of Appeals can state, and I would like a formal motion on this for the record, that it will take no further evidence with respect to the zoning map, either within or without the village boundary at this hearing, and will make no recommendation to the Village Board of Trustees with respect thereto in either case.

It will proceed to take evidence and make the recommendation with respect to the proposed amendments to the zoning ordinance.

First, I Thank you.

MR. JOHNSON: Mr. Chairman, I will move that this

Board declare the acts of the Plan Commission in presenting the so-called map void and of no effect, and recommend to the Zoning Board of Appeals that they so advise the Board of Trustees of the Village.

The reason I put it in that form is so that this map as such will not, in the eyes of the public, carry any weight, as the map lawfully adopted by the Plan Commission. It is our contention that the entire proceedings are void in that, aside from the point that you raised, for the further reason that the Plan Commission did not hold public hearing as it is required to do under the statute authorizing the creation of a Plan Commission. It is our further position that since the comprehensive zoning ordinance which Mr. Zimmerman has labored so long and diligently on, and which is an excellent piece of work is keyed to and dependent on the map as such.

The authority of this Board to proceed with the consideration of the zoning amendment is likewise void, since the code itself would have no effect without the map which is an integral part of the amendment.

MR. KNOUFF: Your comments are noted for the record. First, I would like to know if the Board wishes to make a motion in support of the statement which I have made

limiting the evidence at this hearing.

MR. TURNER: Let me ask a question from a layman's standpoint, what do you mean when you said that the map itself is an integral part of the members of the Zoning Board itself? Are they interrelated so that they can't be separated?

MR. JOHNSON: The ordinance itself is not sufficient unless it has appended to it and a part of it a map, and it refers specifically to the map in the ordinance. Since the Commission now feels that the maps as presented are improper, we are left with an ordinance that has not got an integral part of it to further consider. You can go over the language, but what does it mean without the map?

MR. ZIMMERMAN: Mr. Chairman--

MR. KNOUFF: Before I recognize you, Mr. Zimmerman, I think the Board would like to have an opinion from the Corporation Counsel if it is possible to give it at this time on the validity of adoption of amendments to the zoning ordinance itself.

MR. TRUNINGER: I think it is proper. I think you have the authority to proceed with your ordinance or with this proposed ordinance, so long as you keep in mind that we now have a map, a zoning map, and if we make no amendments to it, it will stand and be a part of this amend-

ment.

MR. KNOUFF: In other words, it is your view that this is no different than any other amendment to the zoning ordinance which might be made at any time?

MR. TRUNINGER: It is more comprehensive in nature.

MR. ZIMMERMAN: Mr. Chairman, I would please like to make my comment.

MR. KNOUFF: Mr. Zimmerman?

MR. ZIMMERMAN: At the present time, under the Illinois statutes, the Village of Barrington Hills has a zoning map of the village under the laws of the State of Illinois, and it provided for one classification for all of the properties in the village, that is, five acres. Every parcel of land that has been annexed to the village since the village was incorporated has been mapped, and a map has been recorded in the proper place; and that makes it a part of the zoning ordinance of the village.

So we presently have a map which is a part of this existing ordinance, and if this comprehensive amendment is adopted it will be part of that comprehensive amendment. That is all I wanted to say.

JUDGE DIERINGER: Mr. Chairman, do I understand Mr. Zimmerman to say, then, that you wish to proceed on the map as is without any change whatsoever? Is that your

purpose, Mr. Zimmerman?

MR. ZIMMERMAN: I'm sorry if you misunderstood me, Henry. This map, this exhibit, has nothing to do with it.

JUDGE DIERINGER: I am talking about the one that you referred to now, the one now in effect.

MR. ZIMMERMAN: Yes.

JUDGE DIERINGER: Is it your intention that that map shall remain in full force and effect as such without any changes whatsoever as is?

MR. ZIMMERMAN: Until such time as a new one is adopted.

JUDGE DIERINGER: Because you can not proceed under the law without a map that has been, first, presented to the people at public hearing. If you are willing now to stipulate for the record and if the trustees are willing to be bound by it, that this comprehensive ordinance will embody the map as we know it today in the village of Barrington Hills, I think you are right. But if you have any conception or idea of changing that map or presenting a new one at a later date you can not do it because you will have to have that before the people.

Now, if that is understood, I am sure there would be no objection to it.

MR. ZIMMERMAN: That was my intended purpose in

making the statement, Henry, except for one thing--

JUDGE DIERINGER: Very well. But let me finish. We want a stipulation from the Board and the Board of Trustees that that is the map in full force and effect, and will so remain, and then we have nothing further to discuss. But if that is not so, you can not bind the Board, you can not bind the trustees. We could be going through a useless gesture here if we don't have that understanding, and this would be a complete nullity, I assure you, your ordinance would be invalid if it were not understood that that map is part of this ordinance and will so remain.

MR. ZIMMERMAN: May I answer, please. With the exception of one statement which I am not sure you intended to make, that we could not at any time in the future adopt a different map--

JUDGE DIERINGER: As part of this hearing, I insist.

MR. ZIMMERMAN: I am not speaking of this hearing.

JUDGE DIERINGER: I am. For the purpose of the validity of this hearing we must know what we are doing. Of course, ordinances and maps can be amended with public hearings at a later date. But for the purpose of this hearing if we are standing on the existing map as is without any change now or contemplated, when this is

presented to the Board of Trustees, I agree with you. But unless we have some understanding and stipulation that is binding, I insist this is an illegal proceeding.

MR. ZIMMERMAN: I understand that the motion which the Chairman of the Zoning Board of Appeals has asked be made by a member of the Board, so that they can act upon it, would eliminate from this hearing any recommendation or report with respect to any map.

MR. KNOUFF: Gentlemen, your argument is merely encumbering the record which is getting pretty expensive. Remember, we are all paying for this. I think I made it quite clear at the beginning that the recommendation back--that there would be no recommendation back to the Board of Trustees with respect to any change in the present map. The result of that must be that whatever recommendation this Board makes with respect to the proposed amendments to the ordinance, if it makes any, is made with the present map in existence, since the map and the ordinance, as Judge Dieringer says, together, is the zoning law of the village.

MR. [unclear] I think that has been made quite clear.

MR. [unclear] Do I hear a motion from the Board with respect to our procedure? If you take a poll of the members, [unclear]

MR. DAUBENSPECK: Larry, may I ask one question?

MR. KNOUFF: Yes.

MR. DAUBENSPECK: Is there any reason why we should not honor Mr. Johnson's suggestion with respect to stating unequivocally that any proceedings of a hearing nature before this Board insofar as it relates to the map would be declared null and void?

MR. KNOUFF: You mean with respect to the hearing last week with respect to the map?

MR. DAUBENSPECK: Yes. To me, it is one thing to say we won't hear anything further. We still have undisposed of, in my opinion, the part of the record from the hearing last week which did relate to it.

So I am perfectly willing to make your motion, but I would like to broaden it with your permission to honor Mr. Johnson's suggestion of also expunging, if I may use that term, from the record the portion of the hearing last week which related to the map.

MR. KNOUFF: You make that as a motion?

MR. DAUBENSPECK: Yes, I do.

MR. KNOUFF: Is there a second?

MR. TURNER: I second the motion.

MR. KNOUFF: All in favor. I think we should have a poll on that. Will you take a poll of the members, Mr. Secretary.

MR. DAUBENSPECK: Mr. Knouff? of Mr. Zimmerman?

MR. KNOUFF: Aye. in the amendment? Many of us

MR. DAUBENSPECK: Mr. O'Laughlin?

MR. O'LAUGHLIN: Aye. at is what they said last week

MR. DAUBENSPECK: Mr. Turner?

MR. TURNER: (Aye.) That is a pretty impressive

MR. DAUBENSPECK: Mrs. Bard?

MRS. BARD: Aye. was covered in detail by Mr.

MR. DAUBENSPECK: Mr. Stresen-Reuter? such detail as

MR. STRESEN-REUTER: Aye.

MR. DAUBENSPECK: Mr. Daubenspeck, "Aye" three minutes

MR. KNOUFF: The motion is carried.

MR. KNOUFF: Certain (Whereupon the motion was un-

MR. JOHNSON: Mr. Chanimosly carried) possibly tell

The public hearing will then proceed with respect to evidence concerning the proposed amendments to the zoning ordinance, this particular document which I am sure those of you who were here last week have been reading assiduously from that time on, and we will be very glad to first, if there are any further questions, questions of Mr. Zimmerman, Chairman of the Committee which proposed the ordinance to the Board of Trustees, we would like to hear those. If not, any testimony by witnesses who care to present themselves.

MR. Are there any questions of Mr. Zimmerman?

A VOICE: What is in the amendment? Many of us don't know.

MR. KNOUFF: Paul, that is what they said last week and it was covered in detail.

SAME VOICE: (Paul) That is a pretty impressive looking document.

MR. KNOUFF: It was covered in detail by Mr. Zimmerman at the original hearing, in as much detail as you could have in one evening.

SAME VOICE: (Paul) Could we have about three minutes on the subject?

MR. KNOUFF: Certainly.

MR. JOHNSON: Mr. Chairman, if I could possibly tell Paul on behalf of the Countryside Association, Mr. Herb Wallbite, Chairman of the Countryside Committee, we got a copy of this and went through it in detail. I think it is a beautiful job, I want to compliment the committee that prepared it. I think it is as complete a zoning ordinance as we could possibly have.

Outside of a couple of minor discrepancies which I don't even feel should be mentioned, I think it is a proper zoning ordinance, and as such, would recommend its favorable consideration.

MR. KNOUFF: Mr. Zimmerman, would you at the risk of further burdening the record, repeat briefly your comments of last week with respect to the differences between this and our present ordinance?

MR. ZIMMERMAN: If you have the record I would prefer to have it read.

MR. KNOUFF: We have the record if you would rather do it that way. May we eliminate the re-reading of the record from the record of this meeting?

MR. DAUBENSPECK: Simply incorporate this portion of the record of last week by reference in the record for this week.

MR. KNOUFF: May I have a motion?

MR. DAUBENSPECK: I will so move.

MR. TURNER: I will second the motion.

MR. KNOUFF: All in favor? Opposed. Carried.

(Whereupon the motion was carried unanimously)

MR. KNOUFF: Mr. Zimmerman, you may read.

MR. KNOUFF: Yes, (whereupon Mr. Zimmerman read his statement concerning the zoning

ordinance from the record of the

hearing of February 21, 1963.)

MR. KNOUFF: Thank you, Mr. Zimmerman. Are there any corrections now which anyone wishes to pose to Mr. Zimmerman before we call for testimony?

If not, the Board will hear any witnesses who care to present themselves to offer testimony with respect to the ordinance.

MR. FRED KLEIN: I am Fred Klein, 3532 Sutton Road, do I understand the procedure correctly that we are now considering the ordinance and not the specific maps as discussed last week?

MR. KNOUFF: That is correct.

MR. KLEIN: If and when maps or any type of business such as is discussed and illustrated on the maps comes up, is this then the subject of an additional public hearing?

MR. KNOUFF: That is correct.

MR. KLEIN: So that when the amendment as Mr. Zimmerman read it is put into effect, any specific move under that amendment is again the subject of an independent and different public hearing?

MR. KNOUFF: Yes, sir. Any other questions?

MR. ZIMMERMAN: Mr. Chairman--

MR. KNOUFF: Yes, Mr. Zimmerman?

MR. ZIMMERMAN: I would like to offer this proposed Comprehensive Amendment to the Zoning Board of the Village of Barrington Hills as an exhibit and offer it in evidence.

MR. KNOUFF: It will be received and marked Exhibit A for the record.

(Said document, so offered and received in evidence, was thereupon made part of the record)

MR. KNOUFF: Is there anything further that anyone cares to say here tonight with respect to the ordinance itself?

If not, I think a motion to adjourn--

MR. R. S. PETERSON: R. S. Peterson, South Hawthorne Road. Last week I brought up a question about the 40,000 square feet which you referred to somewhere in the ordinance, and yet we have no classification for 40,000 square feet. Is this correct? Is this right?

MR. KNOUFF: I think Mr. Zimmerman can answer that better than I, but I think that there was some misunderstanding last week with respect to what the 40,000 square feet referred to was. That is not a zoning classification but merely the size of an area which would permit one to seek a variation if he saw fit to do so. Is that correct,

Mr. Zimmerman?

MR. ZIMMERMAN: That is correct.

MR. KNOUFF: And has nothing to do with the lot size. The smallest "R" classification is one acre in the proposed ordinance, as I understand that, is that correct?

MR. ZIMMERMAN: Well, I would like to explain it a little bit more, if I may. There is a general provision in here which permits the Zoning Board of Appeals to recommend the acceptance of a variation in the area and also in dimensions of lots. And the limitation upon that reduction in the area or dimension is 10 per cent. Now, if you did that with one acre you would get below 40,000 square feet, at least on one lot in a subdivision, let us assume. Because 10 per cent of 43,560 square feet, if you take that much, 10 per cent of that off, you get below 40,000 square feet, and we don't want to consider any area of less than 40,000 square feet anywhere in the village for any purpose. That is a floor.

MR. KNOUFF: Even with a variation.

MR. ZIMMERMAN: Even with a variation.

MR. PETERSON: Mr. Zimmerman, then, that would also apply to five acres, three acres, and so on? In other words, if a person owns a piece of property now, let us say it is 4.97 acres, he would still be considered an

R-1 classification? Now which are non-conforming uses

MR. ZIMMERMAN: That is correct. Of course, these were

MR. PETERSON: And it could be sold as an R-1 to
classification? They are as non-conforming uses.

MR. ZIMMERMAN: If he gets the proper variation
granted, that is correct. It is in order.

MR. PETERSON: But in order to get that grant they
would have to apply to the village??

MR. ZIMMERMAN: That is correct.

MR. KNOUFF: You understand, Mr. Peterson, that an
application for a variation would be referred to this
Board for public hearing, the same sort of hearing that
you have here tonight.

MR. PETERSON: My reason for bringing this question
up, there are people that are outside of the village, and
I know one as an example that has 4.97 acres. He has not
applied for admission into the village because he does
not have five acres. Now, I can answer him and say that
he can request admission, and with that variation, is
that correct?

MR. KNOUFF: He would have to secure a variation in
connection with his annexation or he could not come in.

MR. PETERSON: I see.

MR. KNOUFF: There are, I understand, some areas

ATTORNEY GENERAL

within the village now which are non-conforming uses which are less than five acres, and of course, those were those before the village was incorporated and we have to take them as they are, as non-conforming uses.

Are there other questions?

If not, a motion to adjourn is in order.

MR. DAUBENSPECK: I will so move.

MR. KNOUFF: Is there a second?

MR. TURNER: I second the motion.

MR. KNOUFF: All in favor? Opposed? The meeting stands adjourned.

(Whereupon the motion to adjourn was carried unanimously and the hearing was adjourned at 8:40 o'clock, P.M. of the same date.)