

**ZONING BOARD OF APPEALS  
FEBRUARY 23, 2011**

**CALL TO ORDER**

Chairman Celske called the meeting to order at 7:00 p.m.

**INTRODUCTION OF NEW MEMBER**

Chairman Celske welcomed Viki Karls to the Zoning Board of Appeals. She was a member of the Planning and Economic Development Commission for the past 17 years.

**ROLL CALL**

Dal Compo polled the members present: Zoning Board members, Celske, Anderson, Dufern, Karls, Murren, Rosch and Schneider. Also present were Village Planner Al Maiden, Village Administrator Art Osten as staff to the Zoning Board and John Donahue, Village Attorney.

Trustees Suzanne Blohm, Michael Ireland and Steve Knar, PEDC Chairman Mike Schiestel, PEDC member Melissa Schladt and Village Clerk Donna Brouder were also present.

Mr. David Curfman, Attorney with the firm of Kirkland and Ellis, and Jeannine Scheff, Court Reporter were also in attendance representing the petitioner.

Attorney Robert O'Donnell was present representing Mr. and Mrs. Miyuskovich.

**APPROVAL OF JANUARY 12, 2011 MINUTES**

A motion was made by Murren and seconded by Rosch to approve the minutes from the January 12, 2011 meeting as presented. A voice vote followed with one abstention. The motion carried.

**ZONING BOARD CASE 2011-01 TEXT AMENDMENT/SPECIAL USE:  
BETTENDORF CASTLE**

The petitioners, Mike and Judy Strohl, were introduced. Chairman Celske asked all those present to conduct themselves in a civil manner, and to try to avoid redundant commentary to move the meeting along expeditiously.

Chairman Celske asked all those who planned to speak at the meeting regarding the case to be heard, to raise their right hand and he swore them in.

Chairman Celske explained the two issues to be discussed. 1) The request for a special use permit of the ownership interest of Bettendorf Castle. 2) A text amendment to add language to the zoning ordinance to be eligible for a special use.

Attorney Curfman presented the proof of service signed notices and return receipts from owners within 250 feet of the subject property.

Chairman Celske stated the ZBA members had been provided with a number of exhibits through e-mail. He enumerated them as follows:

- 1) Zoning application
- 2) Signed petition from property owners objecting to the proposed changes dated 2/7/11
- 3) Report from Rolf C. Campbell and Associates
- 4) Letter from Paul Wrobel 409 Concord dated 2/14/11, including an attachment from realtor
- 5) Letter from Ken Wilson dated 6/18/10
- 6) Letter from Norge Ski Club, Jean Brown to the Strohl's dated 8/30/10
- 7) Letter from Mr. Strohl to Ted Wagner of Stonehill, dated 2/11/11
- 8) Letter from Mr. Strohl to Ken Wilson, dated 2/11/11

Attorney Curfman thanked everyone present for the opportunity to speak about the exciting proposal regarding Bettendorf Castle, and offered to answer any questions. He explained the vision that the Strohl Family has towards the Castle.

He stated that in 1931 Teddy Bettendorf began building the Castle, which was completed in 1967. The Strohl Family has lived there for the past 25 years, doing many of the additions and repairs by hand. They would like to give the public the opportunity to know the history and legend behind the Castle. The family hopes that the ZBA will give permission for a text amendment to create the special use, and then grant that special use.

In consultation with the Village, a text amendment was recommended with a limited scope. The purpose is to open up the castle to share the history and architecture through special events and tours. There will be benefit to the Village as whole, and it will add to the prominence of the Village. The Strohl's have received a number of support letters. The residence has otherwise been off limits since the late 1960's/early 1970's.

Chairman Celske asked if any of the Zoning Board members had questions. Member Anderson said that since the family wants to open up the property for its historical significance, would it be possible to accomplish that without parties, loud music or excessive noise?

Attorney Curfman directed attention to Exhibit D in the petition, where provision was made for off-site parking in order to limit excessive traffic. This was done out of concern for the surrounding neighborhood. Since the Strohl's still reside here, they also have interest in making it as livable as possible.

Member Anderson reiterated that the objective as stated is historical in nature, but in reality the goal is really to host events. Attorney Curfman stated that in order to support one, the other is needed. The family has attempted to strike a balance.

Member Karls said that she did not understand why this is being done 25 years later, if the objective is altruistic. Attorney Curfman said that the Strohl's were raising their children during that time, and also learning more about the historical significance of the property over time.

Member Karls asked if the tours will be offered for free, or if they will be fee-based. Attorney Curfman said they would likely be fee based, but that there would be limits as to usage. The family is not requesting carte blanche. They are, however, hoping to realize the full value of

their property. Member Karls asked for clarification as to the proposed “limits”. Attorney Curfman pointed out that the ZBA has a say in those limits, and that the tours and events would not be a seven day a week type of proposition. Terms and days will be worked out, and the events and tours would likely be seasonal. For example, events would not begin before 10 a.m. on any given day and would not last too late into the night. The family is estimating that they would host about 26 events per year. Member Karls noted that that could conceivably embrace every weekend for about four months. Attorney Curfman said possibly, yes. Member Karls further inquired if this would be Fridays, Saturdays and Sundays. Attorney Curfman said that events will not include 300 people every weekend. Some of the events may be charitable in nature, and the family is not anticipating that events will be held every day of every weekend. This is still the family’s home.

Member Karls asked how many people can be permitted at the outer limit, and if they had spoken with the fire marshal. Attorney Curfman said they had not spoken with the fire marshal, but they only expected larger events to host between 50-100 people. Member Karls asked what the size of the tents would be and where they would likely be placed. For example, the diagrams seemed to indicate that the tents would be in lot 12, but parking is also designated for lot 12. Attorney Curfman answered that when there is a higher volume of parking required, then off-site satellite parking would be used.

Village Planner Maiden said that usually the applicant makes clear what the hours of usage would be, but that had not yet been done. Attorney Curfman said that even in the event of a wedding, the applicants did not expect anything to be permitted past midnight. Limits could be placed on noise levels. Member Karls pointed out that according to the zoning regulations for B3, in paragraph D subsection B the hours of operation should be 8 a.m. to 11 p.m. for similar types of businesses. Attorney Curfman said that the family wants to work collaboratively with the neighbors to set the hours, but they did not expect any events to begin before 10 a.m.

Member Karls stated that she had an issue with the parking/loading and unloading arrangement. She acknowledged that the Strohl’s had probably gone to some expense for the parking arrangements, but will people actually want to pay \$5 to tip the valet? If not, then they will likely park themselves on the residential streets. Attorney Curfman said that the applicants tried to give options, and attempted to mitigate the risk by advanced planning. They are very cognizant of the parking concerns. Member Murren commented that personally, he objects to having anyone park his car. There may have to be no parking signs put up, and these would preclude residents from having their visitors or their own cars parked on the street. Attorney Donahue referred to the Zoning application and pointed out that it said “only limited interior use.” If the events will be held mostly on the exterior grounds, how much of it will actually end up as usable space? If a particular lot is used for tents, then where will the parking be? Will there be any permanent or semi-permanent structures?

Member Schneider noted that usually in these proceedings there would be a listing of the improvements, ingresses, egresses, etc., but thus far not enough information has been given. For example, will the parking area be improved? He further asked if the road leading up to the castle would be improved. Will people go through the Midwest Construction parking lot to get in? Attorney Curfman said that there is no current intent to do blacktopping of any drives or parking areas. With regard to the parking diagrams, these are not fixed parking spaces but rather possible parking situations. If there are only 30 people attending an event, then only lot 11 would be used. If there are even smaller events, then primarily lots 9 or 10 would be used.

Member Schneider asked how people access lot 12. He was told there is gated fence. He further expressed concern over the grassy areas becoming too soft and muddy to be useable, and that people would then choose to park elsewhere. Attorney Curfman said that the consulting firm had already expressed concern over the conditions in lot 14 if water became high. In the case of poor conditions there, the off-site parking would be used.

Member Karls noted that the aerial maps provided were dated 2009. She made reference to exhibit #4, and mentioned that she had brought her concern before the PEDC in May. She said that she was aware that some type of landscaping work had taken place, and wondered if the topography was now different. Attorney Curfman consulted Mr. Strohl, then answered that yes, some landscaping had been done to create a berm on the south side of lot 12. Screening foliage was also added. Member Dufern asked if any work was done on lots 13, 14 or 15. He was told that some of the dirt from lot 12 was transferred to lot 13, and a ramp was put in to make access to the valley. Member Dufern clarified that lot 13 would be along the eastern side of the building. Attorney Curfman said that the fill was put north of the end of the asphalt. Member Karls asked if the basic contours were still the same and if it was still as heavily wooded as in 2009; she was told yes.

Member Schneider stated that there is no ingress point for the north property (Midwest Construction). Attorney Curfman said that as in exhibit #3, the topography to the north is very steep. Member Schneider asked if a tour bus came in, if it would then still have to come in from the south end. He was told that the south edge of lot 11 is designated for such. Member Rosch asked for clarification if this would be considered the main gate area; he was told yes. Member Karls asked if tour busses would have to come in and then have to back the busses out the same way. If there was an obstruction at the entrance, it could cause a traffic jam of 70 cars out on Concord, Foxmoor and Lincoln. Attorney Curfman responded that if lot 12 was unavailable, the off-site parking would be used. There is no intent to have so many people and vehicles so as to create such a back up. Chairman Celske pointed out that if a larger gathering such as a wedding reception was being held, backups might be created because people would be waiting for the valets. Attorney Curfman said in the hypothetical situation of a larger gathering, the offsite shuttle option could be used. There is no anticipation of filling the lots to capacity.

Member Rosch asked where tents will be located. Attorney Curfman said that they would usually be contained on lot 12, and if a smaller event is held it could be contained on lot 11. The tents would not be put up permanently, and there would not necessarily be a tent used at every event.

Member Rosch noted that the grass would likely be ruined after just one event, and it would take weeks to recover. Attorney Curfman asked if this was a reference to required green space. He further explained that there is nothing in proposal that would bring down the green space, and there is every incentive to keep the green space healthy. Otherwise, it is not a viable business model. The scenic nature of the property cannot be highlighted if the impact ruins it.

Member Rosch asked how the petitioner would address the concerns of neighbors as regards the music and other noise generated by events through bands or DJ's. Attorney Curfman pointed out that they would be subject to noise ordinances like any other business. There is a re-dress mechanism if there is excessive noise. One of the ways to address the concern is in exhibit CD. The southern portion has a berm to help with the noise levels. Member Karls noted that she lives on Algonquin Rd near Lions Park, and mentioned that she can hear much of the noise generated from events held there. She lives closer to the subject property.

Attorney Curfman asked if this property would be held to a different standard than others. Member Dufern noted that some of the noise might be contained within the castle walls. However, would there be provision to direct sound out to 14 if events are held outside? Attorney Curfman answered yes, that exhibit #4 shows the topography of lot 11. It is located at the highest point in the property. There are no adjoining neighbors on that lot line.

Member Dufern asked if the Strohl family had done any large family gatherings privately in recent years. Mr. Strohl said that graduation parties had been held there, as well as a madrigal/Halloween party. He stated that they had learned what *not* to do through those gatherings. Attorney Curfman said that it would be conceivable to have un-amplified, or lower amplified music. Member Dufern asked if it would be a great detriment if the hours were restricted to 10 p.m. at the latest. Attorney Curfman stated that the parameters would be set out to each individual renter prior to signing any contract.

Member Dufern suggested a contingency for staggered events, such as a Friday night event one weekend, Saturday the following weekend, and Sunday the next. Attorney Curfman reminded everyone that this is the Strohl's family home, and they will not want constant interruptions either.

Chairman Celske asked if alcohol would be served. He was told only if a caterer was used who held their own liquor license.

Member Murren asked if there would be ADA accessible restrooms. He was directed to exhibit C, and told that there would be a handicap accessible restroom on lot 11. The walkways are already handicap accessible, as Mr. Strohl is currently in a wheelchair himself.

Member Karls asked about the comment that there would be tremendous economic benefit, but she was curious as to whether any sales tax would be generated for the Village. Attorney Curfman said that it would be more of a "ripple effect."

Member Karls asked if the site had been given any grants or been plaqued by any historical entities. She was told no.

Attorney O'Donnell was retained by Mr. and Mrs. Miyuskovich, residents of Fox River Grove. He made reference to chapter 11, section K of the zoning code, and made the following observations. 1) That text amendments may only be proposed by a governmental body and 2) that only map amendments may be proposed by a resident. He further asserted that the so-called historic nature of the site does not override the zoning restriction. He made reference to the fact that the ZBA was basically asked to abandon parking limitations for this application. He pointed out that no traffic study was provided, and that the residence/business may "flip" to another owner in the future. He reiterated that point that was made regarding the 25 years that the Strohl family owned this property while raising their children, and asserted that the rest of the families in the neighborhood may not be finished raising their families.

Attorney O'Donnell further used the term "spot zoning" with reference to this application. He objected to the fact that no civil engineer or traffic planner had been retained by the petitioner to give testimony regarding the parking and traffic impact.

Attorney Curfman replied that the general parking guideline for such a business is 1 parking space per five attendees. That would mean that even in the event of 300 guests, only 60 parking spaces would be required. The proposed parking would thus be adequate.

He further noted that two businesses are permitted to share parking, and the Norge Ski Club area would provide more parking than could conceivably be needed.

Chairman Celske recognized the following community residents to speak:

Mrs. Jen Long—411 Concord

Mrs. Long stated that her main concerns were the possibility of having intoxicated drivers leaving the site and then driving in the neighboring community. She also noted that there is a “blind” curve not far away that is already a traffic hazard. Chairman Celske added that it is one block to the east of the subject property.

Mr. Kevin Long—411 Concord

Mr. Long pointed out that if lots 9, 10 and 11 of the site are considered to be historical, then it is not taking into consideration lots 12, 13, 14 and 15 which would abut R-2. Also, he was concerned about what type of lighting would be used, and whether or not it would be downward facing.

Ted Johnson—420 Concord

Mr. Johnson lives on the west side of lot 9. He had concerns regarding potential inaccuracy of the plat of survey, since it did not show a garage which is present on the property. He stated that in April of 2010, the Bettendorf Castle website claimed that the Castle was already “open for business.” He objected to the wording in the application that activities would not be limited. He also stated that the proposed valet usage is in a right of way, which could not be used for that purpose since it is on an easement.

Mr. Johnson noted that the railroad is within 250 feet of the subject property, and wondered if anyone from Metra had been notified.

Sam Miyuskovich—405 Concord

Mr. Miyuskovich expressed concern over set up times, deliveries, and where the garbage from larger events would be stored until garbage pickup day.

Nick Chirikos—representing the McHenry County Preservation District

Mr. Chirikos stated that there is significant historical perspective in the Bettendorf Castle. The site is well known in the community and has been the subject of a number of newspaper articles. He felt it was important for people to be able to experience the Castle and be exposed to its cultural benefits. He hoped that a formal relationship would be established between the Castle owners and the MCCPD in the future. He noted that there are 14 criteria needed to establish a historical site, and the Castle meets 12 of them.

Paulette Pelletier 988 Plum Tree Rd

Mrs. Pelletier’s concern was for the children in the area due to the proximity of the Algonquin Road School. She felt that the events might create a “bar atmosphere” in the neighborhood. She also felt it would bring down property values.

Karen Wrobel—409 Concord

Mrs. Wrobel noted that the reason she purchased a home in the area was because it was a quiet area. She explained that many homes in the area have already lost 1/3 of their value due to the economy, and that this proposal might bring them down even more. She further commented that the Strohl family had told her that they flattened lot 12 for their dogs, (not for future business purposes).

Carol Pierpont —426 Concord

Mrs. Pierpont objected to the statement that the family loved the property so much that they wouldn't sell it. She pointed out that anyone can "flip" their property.

Robert Woods—430 Concord

Mr. Woods wanted to know who would be paying for security guards. He was concerned about people leaving the grounds having had too much to drink. He was told that whoever was renting the site would be in charge of providing security.

Bill Hauck (Cary resident who owns property in FRG)

Mr. Hauck felt that people should have the opportunity to enjoy the Castle property.

The public portion of the testimony was closed at 9:34 p.m.

There was further discussion by the Zoning Board members as to the definition of a historical site, and whether it should be defined in the broad sense or the specific sense. The issue of spot zoning was also discussed.

The main concerns were outlined as follows:

- Existing uses and zoning of nearby property
- Extent of impact on property values and or devaluation
- Public health and safety impact
- Gain to the public
- Suitability of the property

Attorney Donahue stated that if the proposed text amendment were to be passed, it could not be restricted and would have to be open to anyone that applied for it.

**A MOTION was made by Celske and seconded by Murren to allow the text amendment to be written as requested. A voice vote was taken. Celske--yes, Anderson--no, Dufern--yes, Karls—no, Murren--yes, Rosch--no, Schneider--no. Motion Failed.**

Chairman Celske stated that if the Village Board subsequently approves the text amendment, then the application should come back to the Zoning Board for review of the special use portion.

**OTHER BUSINESS--NONE**

**ADJOURNMENT**

A motion was made by Murren and seconded by Rosch to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 9:50 p.m.

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Daniel A. Celske, Chairman

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Alison Dal Compo, Secretary

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Date approved