

MINUTES
OAK PARK PLAN COMMISSION
VILLAGE HALL – COUNCIL CHAMBERS
JANUARY 15, 2009 - 7:00pm

PRESENT: Chairperson Linda Bolte; Commissioners Deborah Fausch, Gail Moran, Michael Quinn, Steve Ruszczyk, Susan Roberts and David Sokol

EXCUSED: Victor Guarino

ALSO PRESENT: Craig Failor, Village Planner, Attorney Dick Martens

CALL TO ORDER

Chair Bolte called the meeting to order AT 7:15 PM and roll was called.

CONTINUATION OF OPEN PUBLIC HEARING

Pc 08-03 Special Use and Zoning Text Amendment (Light Standards) The applicant seeks approval of a Zoning Ordinance text to Chapter 3, Article 4, to amend Section **4.5.2AA Light Standards** to allow 100 foot tall light standards for athletic fields in the R-2 Single Family District and R-7 Multiple Family District residential districts as a special use, and Article 3 to amend Section **3.1 Summary Use Matrix** to add the aforementioned use to the reference table. Pursuant to the approval and adoption of Section 4.5.2.AA, the Applicant is also requesting Special Use approval from Section **4.5.2AA** to allow two (2) eight foot tall, one (1) 90 foot tall and one (1) 100 foot tall light standards surrounding their athletic field within the R-2 Single Family District and R-7 Multiple Family District. The Applicant is also requesting one allowance from Section **3.6.5.B.4.a** for the corner side yard setback of a light standard proposed in the southwest corner of the athletic field abutting Linden Avenue at a distance of 4.58 feet where 15 feet are required. The proposed southeastern most light standard is proposed in the west half of the East Avenue right of way proposed for vacation.

Chair Bolte outlined the process, beginning with cross examination of objectors, then remaining testimony from Mr. Alstead, testimony from Bryan Marsh, and testimony from Donna Anderson. Citizen testimony would follow cross examination of Mr. Abel.

Mr. Sargis stated Mr. Keller said he would not cross-examine Mr. Brightfield, but would bring in rebuttal witnesses. Mr. Sargis said Mr. Brightfield could come in if the commissioners had questions of him.

Attorney Martens swore in all those wishing to testify.

Cross Examination of Mr. Abel

Replying to questions from Mr. Keller, Mr. Abel made the following statements. Mr. Abel used the Comprehensive Plan in his deliberations, more for the text amendment.

- He said there is no reference to lights in the Comprehensive Plan and that the Zoning allows for modifications to the map and code, and a process is provided.
- The Zoning Ordinance does not set criteria for text amendments.
- That is partially the reason why he relied on the LaSalle Factors. Standards for Special Use amendments to the Zoning Ordinance will utilize text amendments.
- The Comprehensive Plan is one consideration in text amendments.
- The intent of the Zoning Ordinance is to deal with intensity, compatibility, health, safety and general welfare.
- The Comprehensive Plan is the most important factor in deciding the appropriateness of a text amendment.
- The Comprehensive Plan does not mention lights except in commercial areas.
- The addition of lights to the south field in 2002 was done through the text amendment process. Such lights are appropriate in a commercial district.
- The high school is in an R2 and R7 district. Light poles are structures.

Mr. Keller asked whether under existing ordinance, the high school could install 30' to 55' light poles. Mr. Sargis objected that accessory uses are different heights than permitted uses. The objection was overruled. Mr. Abel said he would have to look at the ordinance to see if there is a separate height standard for lights. He said he did not remember the exact limitation, but that 80', 90' and 100' lights exceed it. Mr. Keller asked if Mr. Abel wanted to look at the ordinance. Mr. Sargis objected that this was beyond the scope of Mr. Abel's direct testimony. Chair Bolte said Mr. Able would be allowed to look at the ordinance.

Zoning Ordinance Section 3.5.2, Subsection 2 regarding building structure states that a building may not be over 30' except schools, churches and temples which may be erected to a height of 45' if there is a certain setback.

Section 3.6.3 – R7 Multi-Family District, Subsection A-2 - building should not exceed 45' except churches and schools and should not exceed 55' with setbacks.

Mr. Abel agreed that the definition of a structure under the Zoning Ordinance would include light poles and that under Sections **3.5.2 and 3.6.3**; the high school could install lights from 35' to 45', with setbacks. This language is in the original Zoning Code and is consistent with the Comprehensive Plan.

Based on previous testimony Mr. Abel stated that lights at 35' to 45' would not be effective for stadium use after dark. Mr. Keller asked whether there is a benefit to having lights higher. Mr. Sargis objected that this was a theoretical question. The objection was overruled. Mr. Keller repeated the question. Mr. Abel asked of benefit to whom and said if you want to put intense lights for players, they do not belong in a residential higher.

Mr. Abel stated previously that the Oak Park Zoning Ordinance does not have standards for text amendments, and for that reason he referred to the LaSalle Factors in this matter. He stated he did not know what the original case involved and could only cite the standards. Mr. Sargis objected that Mr. Abel was not testifying on a legal issue. The objection was sustained. Mr. Abel did not know what the facts were in the LaSalle case,

having read it a long time ago. Mr. Abel stated that the LaSalle Factors related to standards to address zoning issues, whether the validity of a zoning case meets criteria, with the important factor being surrounding land use. Relating to case, it would deal with the impact of lights in a residential historical area. Asked by Mr. Keller if he would be surprised that the legal issue was whether zoning was constitutional, he said he would not. Mr. Abel said the factor of being constitutional was important.

Asked by Mr. Keller whether he relied on the LaSalle Factors for highest and best use, Mr. Abel said he used his own personal definition with three points which were:

Conformance with Plan Policy (need for)

Use Adaptable to Property

Compatibility with surrounding land use.

Mr. Keller asked whether this does not ignore the economic return factor. Mr. Keller said that is a real estate, not a planning factor.

Mr. Keller asked whether when Mr. Abel gives an opinion on a Zoning Application on what is not appropriate by LaSalle Factors, he is saying it is unconstitutional. Mr. Abel stated this was not the case that he looks at surrounding land use, zoning and compatibility. He said there are levels of degrees of land use compatibility. When asked if his testimony had not relied primarily on LaSalle Factors, Mr. Abel said he relied basically on the Comprehensive Plan. Mr. Abel stated that, Oak Park is a landlocked community, essentially residential, and with intent to protect single family, historic properties. Regarding land use compatibility since there are no standards in the plan, Mr. Abel referred to the LaSalle Factors.

Mr. Abel said he agreed with the statement in the staff report, that stadium lights are not compatible with single family homes. Mr. Abel denied testifying that he did not agree with any part of the staff report. Asked about the statement in the staff report about mitigating factors to lights, he said he would have to read it. Mr. Abel stated the problem is the lights can not be designed to mitigate the effects.

Mr. Keller asked whether the staff report saying that directing lights down rather than out, and using them only a certain times, would be less offensive. Mr. Abel stated that the staff report gives no recommendation. He said the staff report does refer to another lighting situation, but is not endorsing this one. They say there are ways to make the lights less offensive, but they are still offensive. When Mr. Abel began to address the noise issue, Mr. Keller asked Chair Bolte to instruct Mr. Abel to stop. Chair Bolte did so.

Mr. Abel stated that that the two methods he named for mitigation between incompatible uses, landscaping and distance, refer both to this case and in general. Mr. Keller noted that the staff report says light direction can mitigate glare. Mr. Abel cited other issues such as traffic and noise, and for special use, the total effect must be considered.

In referring to landscaping and distance, Mr. Abel said he was not referring only to light and that there is no reason to put the lights in just for Friday night games and additional practice time. Mr. Abel said this is not worthwhile to disrupt the neighborhood. Mr. Abel stated that the proposal gives attention to lowering spillage and glare but does not eliminate it.

Asked about his testimony on the effect on neighbors' lifestyles that the lights would have, Mr. Abel said he was not exaggerating and the kind of people willing to live in such an environment would be different. Mr. Sargis objected. and Attorney Martens instructed Mr. Keller to move on. Mr. Abel stated that those people who choose to live in a historic district have a different attitude than others toward taking care of property. Mr. Abel stated this would change the character of the community, as residents feel the Village is not protecting the historic character of the neighborhood would move out and people not concerned with historic preservation would move in.

Mr. Abel said the only benefit of the lights would be to the school's athletic program. Mr. Abel stated that as a planner, he considers both limited areas, and communities as a whole. Mr. Abel has looked at areas ranging from small neighborhoods to a six-county region. Asked about balancing the benefit to the larger community, Mr. Abel stated that no land use should be sacrificed for some "way out" benefit, and that he did not see the benefit of Friday night games over Saturday games. Mr. Abel's opinion was that livability around the school is more important, and that under the Comprehensive Plan it is important to preserve single family homes. Mr. Abel stated that the Comprehensive Plan does not mention Friday night football in terms of balancing interests.

Mr. Abel stated that he is a member of the AICP and the APA (American Planning Association.) Mr. Abel said he was familiar with the APA's recommendation regarding the updating of Comprehensive Plans and that each community is different. He stated that in areas with room for growth in places such as Plainfield and Naperville, updates should be made yearly; communities like Oak Park and Glen Ellyn with no area for growth should look at plans once a year. Mr. Abel stated that a lot of older communities do target area updates for corridors or major intersections. Mr. Abel said DuPage County updates its plan every five years, but there is no set rule. Mr. Abel said the most important factor is a competent planning staff, which Oak Park does have.

Asked about legal requirement for communities to have a Comprehensive Plan, Mr. Abel said that they'd better have one if they get involved in zoning litigation. Mr. Keller asked whether Mr. Abel was aware that the APA recommends updates every twenty years. Mr. Abel said he believes the plans should be reviewed yearly and updated every five years according to the AICP which is accredited. The APA is not accredited. Mr. Abel said the Comprehensive Plan was developed in 1990, and he felt that given the opportunity, neither the commission nor the citizens would change much about it.

Mr. Keller asked Mr. Abel if he was drawing the conclusion that lights are not allowed in a residential area because this is not mentioned in the zoning ordinance. Mr. Abel replied that the issue is the height of the lights. The ordinance allows for a certain height in

residential areas and anything over that height is not allowed. Mr. Keller asked if Mr. Abel was aware that it is not legal to draw a conclusion based on what is not said.

Chair Bolte noted that Oak Park has areas with different issues in different parts of the community and asked Mr. Abel if he could see a situation of any changes for non-residential use that would impact residents. She stated that it sounded as if Mr. Abel was saying that there would be none. Mr. Abel gave the example of a church being converted to another use. They could be no change requested in a residential area, because residential is prevailing use. Mr. Abel said if the use is adaptable to the property, there would be no need for zoning variation and that there must be a very good reason for a variation. Mr. Abel's professional opinion was that 80', 90' 100' lights would too much of a change for an area used to quiet and this would be a major change with a big impact.

Commissioner Sokol asked whether if the school was built five or ten years ago as opposed to 80 years ago, there would be a difference. Mr. Abel answered that the school has operated for 80 years as is, and there is no reason to destroy a residential neighborhood for lights. Commissioner Sokol stated this was not the question and asked if there is weight given to the length of time of prior conditions. Mr. Abel stated there was not.

Redirect of Mr. Abel

Mr. Sargis asked if there is a concept of reasonable expectations regarding ongoing use for a certain length of time. Mr. Abel replied that anyone living in a unique residential district such as this one expects a degree of protection and that a text amendment should be done comprehensively, not by site.

Mr. Sargis about whether there is now a balance between residential and non-residential in that area. Mr. Abel said they have the perfect balance now, weekdays, weekends, night and daytime. Mr. Sargis asked whether it is difficult to maintain the balance. Mr. Abel answered that he preferred to refer to compatibility and that it would not be compatible land use to put lights next to a residential neighborhood.

Mr. Abel stated that any time you change an ordinance, the entire community is affected and that for special use, the immediate neighborhood must be considered. Asked whether Mr. Abel saw attention to noise and historic preservation goals in the application, Mr. Abel said he did not and noted that the application was opposed by the Historic Preservation Commission

Mr. Sargis asked about the lack of a land planner to testify to the applicant at the ZBA hearing. Mr. Abel felt there should have been one. Mr. Abel agreed that the zoning ordinance includes protection standards which should be considered when looking a special use. Asked whether in this case residential protection standards could be addressed by requirements for approval, Mr. Abel said there is not room for landscaping or for buffering.

Mr. Abel said after looking at aerial photos and walking through several areas he knew of no other fields so close to a single family residential area.

Mr. Abel stated that a light pole is a structure and the lighting an accessory use.

Mr. Sargis began to ask a question about something at the ZBA hearing. Mr. Keller's objection was sustained.

Mr. Abel stated that even if light poles were a principal use the setback requirements would be 2' for every foot of height.

Commissioner Fausch asked if the character of the neighborhood is affected by the proximity of Lake Street. Mr. Abel said there is a good transition from Lake Street to first use on the corner which is multi-family, and then the transition to single family continues from 4 to 6 blocks in every direction. Mr. Abel stated the immediate impact of Lake Street is diminished by the large multi-family building on the corner. Mr. Abel stated that in walking through the neighborhood, once one is past the multi-family building, one does not even realize Lake Street is there as it is blocked by the stadium.

Commissioner Ruszczuk noted that the staff report recommends that the commission look at larger community impact as well as that of the neighborhood. Mr. Abel spoke about a conversation with Dr. Thunder regarding noise generated to the north, which travels up to 2 blocks past the immediate area. Although the whole community might not be affected by this special use, a text amendment could be used in other areas.

Commissioner Ruszczuk noted that parents and students living nearby testified in favor of the lights.

Terrie Lieber asked if she could cross examine the witness. Mr. Martens stated that Mr. Sargis is the attorney for the opposition and he had his opportunity.

Mr. Sargis said he had a follow-up question and asked whether Mr. Abel was familiar with the Village ordinance allowing lights on commercial streets – referring to 2.0 foot candles and the illumination of this project. Chair Bolte said this was not pertinent.

A five minute break was called for. Meeting resumed at 9:15 pm.

Chair Bolte said that public comment will be concluded and then Mr. Marsh will testify. Chair Bolte asked for all those who had not testified previously. All those wishing to testify were sworn in.

Gary Cooper, 919 Ontario, that those who oppose the lights are not only the immediate neighbors of the high school. Mr. Cooper stated that lights would damage the character and image of Oak Park, at a time when the entire country is working to go "green. He asked the commission to think about the environment and energy conservation and that while those opposed to the lights may be a minority, Oak Park is supposed to respect the rights of the minority.

Teresa Blomquist, 747 Forest, River Forest spoke about accountability of government and the vagueness of the evidence presented by the applicant. Residents of the neighborhood and experts have demonstrated that the application is not in the public interest and that the unique historic neighborhood should be preserved.

Lane Hart, 147 Linden, stated that he lives across from the end zone. His daughters graduated from OPRF, having participated in sports. Mr. Hart said he moved to Oak Park for the advantages of urban living and a quiet sanctuary in evenings and on weekends. There are condo developments, the Farmers Market, Ridgeland Commons, the Fire Department and the trains, all of which have benefits that outweigh the inconvenience. Having attended five years of meetings on this issue, Mr. Lane stated he never heard a benefit that would outweigh the burden to the neighborhood. He urged commissioners to read the transcripts to see that the applicant did not make a case.

Susan Saliny, 151 Linden, stated she bought her house in 1974 and raised four kids who graduated from OPRF and were active in sports. She noted that noisy daytime activity is one thing, and it adds to the vibrancy of the neighborhood, but nights and weekends are different. The lights would mean a loss for residents of normal enjoyment of their property.

John Biek, 440 Linden, felt lights would be bad for the larger neighborhood. He has a nine year old and feels that people with young children would not have moved in the area if they knew nights and weekends would be noisy. He stated the high school bears the burden of proof. Other schools don't have more than one lighted field and the fields are not in close proximity. The high school has not shown a need and there would be a detrimental impact on the community. He said the Plan Commission should not give credibility to testimony from MUSCO as they are unwilling to give IES data to April. Mr. Biek stated that photo exhibits showed the glare. At 440 Linden, he can follow a football game by the sound. He said that property values would be affected, that this application is opposed by the HPC and that the proposal was passed by a vote of 4 to 3 on the high school board. The application was turned down by the ZBA; the high school has not demonstrated need, and the lights would have a detrimental impact on the neighborhood.

Ann Courter, 322 Linden, has two children who graduated from OPRF and one who is a junior there. She felt the lack of lights did not hurt her children and noted that she had supported previous improvements such as the artificial turf.. She felt there were already enough Friday night activities for kids and the lights would not benefit the school or the community. The noise would change the character of the neighborhood. Ms. Courter said she was on the District #97 Board during the construction of two new middle schools, and that board took neighbors into account, whereas the high school is not responsive. She questioned whether the majority of students care about Friday night football.

Donna Barrows, 525 North East, 20 year resident with two children graduated form OPRF and one junior, stated that even a number of Chicago Avenue residents are impacted daily by the proximity of the high school. She stated the proposal does not

provide significant benefit. The lights would not eliminate off-site practices. Many schools do not have any on-site areas for practice. She felt the attendance at the games would not include a high number of Oak Park residents. Ms. Barrows said on Saturdays, she can hear the p.a. system, the bands, the crowd; north of Chicago Avenue. Such activity every night would affect the neighborhood. She stated she was drawn to Oak Park for the sense of the community and that the high school is showing disregard for neighbors.

Valerie DePriest, 312 North East, 16 year resident spoke about the right to quiet, restorative evenings. The Village should protect the quality of life in neighborhoods. Stadium lights in residential neighborhoods will not attract new residents. She felt the high school expected the application to be “rubber-stamped.” Though turned down by the ZBA they have come back with basically the same proposal. The burden has been on the residents – countless hours of research and thousands of dollars spent by a neighborhood “fighting for its life.” She spoke about the open space around the school and read a poem relating to that.

Stephen Alstead, F 1136 Frank Lloyd Wright Lane, read a letter from his wife, **Ellen Alstead**, dated January 12, 2009. The letter stated that as a UIC student, Ms. Alstead spends Friday afternoons studying at home. On October 31st, the high school hosted the state semi-finals for hockey and she had to go to the public library to study. When she went to the library the next day because of the games, the library closed earlier than the ending of the game.

Objector Witness, Donna Anderson under questioning by Mr. Sargis stated she is a member of the PTO, has a son at the high school and first learned of the lights when the Boosters approached the PTO for support. She questioned whether the high school would be willing to spend the money on the lights, were there no gift and whether there were not other items in the capital plan that such money should be spent on. She noted the proposal was passed by District 200 by a vote of 4-3. The ZBA denied the application; the HPC testified against it twice. The neighbors did request that the board hire independent consultants to look at environmental impact on neighbors. Ms. Anderson stated she lives in a historic district, spent lots of money to preserve the home in a “compact” with the Village. Ms. Anderson stated that lights would affect the type of investments people will make in a historic neighborhood. Ms. Anderson further testified that the proposed foot candles are 400 times that recommended by LEED. She submitted a newspaper article about “green” efforts in Barrie Park and this was offered as Objectors Exhibit 24.

Ms. Anderson said that based on experience with her children, the after-school time allowed the family to have dinner together. Dr. Weininger stated that the school would have to work out something for students who stayed there to wait for practice. She said she enjoyed the daytime activity of the high school and the quiet at night. Right now, the open space at this high school is an amenity and lights would change that.

Mr. Keller did not wish to cross-examine the witness.

Re-direct by Applicant – Ryan Marsh, MUSCO stated he was responsible for designing the lighting for the high school. Mr. Keller asked him to clarify illumination study exhibits, specifically the one dated September 5, 2007. Mr. Sargis objected that the illumination studies were already stipulated to be correct. Commissioner Quinn said the question came from the Commission.

Mr. Marsh said the difference between the exhibit of September 6th and that of September 10th was that F1 lighting pole had to be moved 9 feet due to underground obstruction. This reduced fixtures and light spillage. At the request of the commission he prepared another exhibit (#5). A blow up of the exhibit was submitted to Mr. Failor. The exhibit, dated 8/10/08 represents the design of the plan consistent with September 10th Exhibit 6A, representing current stadium lighting.

Asked about energy efficiency, Mr. Marsh stated that compared to the lights on the south field, there will be 67% more light, using 30% less energy. Looking at the comparison of Oak Lawn's MUSCO design to that of Oak Park, done by Mr. Brightfield, Mr. Marsh said this was not an accurate depiction of what Oak Park will look like. Mr. Marsh stated that Oak Lawn was not designed with the same spill and glare features and there are different foot candles. The Oak Lawn poles are 70' high and use a different visor. He said the Evanston design is more comparable and said he had exhibits to demonstrate this. Mr. Sargis objected to this exhibit, as being different from the others. Mr. Keller asked that Mr. Marsh be allowed to explain.

Applicant Exhibit #13 showed the horizontal spill line on the Evanston and Oak Lawn designs. The Oak Lawn designed submitted by Mr. Brightfield used over twice as much light as would the Oak Park design.

Applicant Exhibit #14 – top photo, screen shot from Mr. Brightfield's video of Oak Lawn. The bottom photo was of Evanston at high setting, taken from back by the light pole. The exhibit also presented the percent of reduction in spillage between Evanston, Oak Lawn and Oak Park. Mr. Sargis objected to this exhibit on the basis of being a different grade, at night light with a camera flash. Chair Bolte instructed Mr. Sargis to address this in cross-examination.

The IES files were discussed. Mr. Marsh stated that IES files are electronic photometric files for light distribution, computing the file of light distribution coming out of a reflection. Mr. Marsh stated that MUSCO has 158 different photometric types and that fixture design allows thousands of ways to redistribute light. Mr. Marsh stated that MUSCO manufactures all of its reflectors and there are 108 computer models. Mr. Marsh stated that to design a lighting system he chooses the correct computer models, most efficient for the field. Each lighting fixture has the same bulb. The difference is in the type of reflectors. Mr. Marsh spoke about add-on such as shade, baffles, visors, etc.

Mr. Marsh stated that the encrypted files containing the lighting design for OPRF submitted to Mr. Brightfield would enable a lighting engineer to validate the data. Mr. Sargis objected on the basis of lack of foundation. Mr. Keller rephrased the question asking how a lighting engineer could use encrypted fields. Mr. Marsh replied that the

designs could be replicated. and an experienced lighting engineer with access to unencrypted files could get a full photometric report and that per the MUSCO Research and Development Department there is no way they should give out more than two files, let alone unencrypted data.

Mr. Marsh stated that Mr. Brightfield chose not to redo the computer modeling in a different program, which would be available.

Commissioner Moran asked about LEED standards for stadium lights. Commissioner Quinn said it appears that the OPRF design is way over those standards. Mr. Marsh said he was not familiar with the standards but that MUSCO has participated in many projects involving LEED. Mr. Marsh stated he was not aware that LEED has specific foot candle levels. Mr. Marsh said he is not familiar with specific values but that LEED gives points for spill light reduction and that MUSCO reduces spill light 50% over other companies.

Mr. Failor quoted the LEED standard for schools – maximum: 10 feet horizontal at site and .01, ten feet beyond site boundary. Mr. Marsh said it would not be possible to meet those criteria in this design. Mr. Martens said the standards will be part of the record.

Mr. Sargis said he would want to cross-examine Mr. Marsh at the next meeting, not having been allowed to see the exhibits beforehand.

Commissioner Roberts asked whether the same results from encrypted data with the correct software, would differ from unencrypted data. Mr. Marsh said the result would be the same. Commissioner Sokol noted that the neighbors want unencrypted data to see if they could produce different results.

Mr. Marsh said the difference in Mr. Brightfield's model was that it is 3d and can not be done in AGI. MUSCO did not use a 3d model and would therefore have to verify Mr. Brightfield's design.

The hearing will resume on January 29th with testimony and cross-examinations. Witnesses will be Dr. Thunder, Mr. Marsh, Mr. Alstead and Dr. Weininger.

Mr. Sargis asked that any new exhibits or data should be submitted to him within a week to give him time for preparation for cross examination. Mr. Sargis stated that since the opposition witness is not a lighting engineer expert, they would be willing to sign a confidentiality agreement if MUSCO would produce the unencrypted data.

Mr. Marsh said he could not respond to this.

There will be no public comment next week. Closing arguments (45 minutes to one hour maximum) will be given. Deliberation dates will be set. After the January 29th meeting, there will be one on February 5th at 7pm.

Mr. Sargis asked if individuals would present closings. Mr. Tyma said as he is not a member of APRIL he should be allowed to present a closing. Mr. Martens instructed Mr. Sargis to work with Mr. Tyma.

APPROVED February 19, 2009

Meeting adjourned at 11:20 pm., Liz Melara, Recording Secretary.