

**VILLAGE PRESIDENT**  
Ray Danford

**VILLAGE CLERK**  
Jerry Menard

**VILLAGE TRUSTEES**  
Rita Baker  
Seth Speiser  
Charlie Mattern  
Ray Matchett, Jr.  
Steve Smith  
Mike Blaies

# VILLAGE OF FREEBURG

**FREEBURG MUNICIPAL CENTER**  
14 SOUTHGATE CENTER, FREEBURG, IL 62243  
PHONE: (618) 539-5545 • FAX: (618) 539-5590  
Web Site: www.freeburg.com

**VILLAGE ADMINISTRATOR**  
Dennis Herzing

**VILLAGE TREASURER**  
Bryan A. Vogel

**PUBLIC WORKS DIRECTOR**  
Ronald Dintelmann

**POLICE CHIEF**  
Melvin E. Woodruff, Jr.

**VILLAGE ATTORNEY**  
Weilmuenster Law Group, P.C

November 8, 2012

## NOTICE

### **MEETING OF LEGAL AND ORDINANCE COMMITTEES** **Annexation; Building; Zoning; Subdivision** **(Speiser/Baker/Mattern)**

A Legal and Ordinance Committee Meeting of the Village of Freeburg will be held at the Municipal Center, Executive Board Room, **Wednesday, November 14, 2012, at 4:30 p.m.**

### **LEGAL AND ORDINANCE COMMITTEE MEETING AGENDA**

#### I. Items to be Discussed:

##### A. Old Business

1. Approval of October 3, 2012 Minutes
2. Status of Public Hazard Homes
3. Unionization
4. Update Code Book
5. Nuisance Abatement Code
6. Resident complaint about dust from high school parking lot
7. Class B liquor license

##### B. New Business

1. 101 E. Hill Street

##### C. General Concerns

##### D. Public Participation

##### E. Adjourn

At said Legal and Ordinance Meeting, the Village Trustees may vote on whether or not to hold an Executive Session to discuss the selection of a person to fill a public office [5 ILCS, 120/2 - (c)(3)], litigation [5 ILCS, 120/2 - (c)(11)] personnel [5 ILCS, 120/2 - (c)(1)]; collective negotiating matters between the public body and its employees or their representatives [5 ILCS 120/2 (C)(2)] or real estate transactions [5 ILCS, 120/2 - (c)(5)].

VILLAGE BOARD OF TRUSTEES MEETINGS ARE HELD ON THE FIRST AND THIRD MONDAY OF EVERY MONTH

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Legal and Ordinance Committee Meeting  
(Annexation; Building; Zoning; Subdivision)  
(Speiser/Baker/Mattern)

Wednesday, November 14, 2012 at 4:30 p.m.

The meeting of the Legal and Ordinance Committee was called to order at 4:31 p.m. by Chairman Seth Speiser on Wednesday, November 14, 2012, in the Freeburg Municipal Center. Members attending were Chairman Seth Speiser, Trustee Rita Baker, Trustee Charlie Mattern, Mayor Ray Danford, Village Clerk Jerry Menard, Village Administrator Dennis Herzing and Office Manager Julie Polson.

## A. OLD BUSINESS:

1. Approval of October 3, 2012 Minutes: Trustee Rita Baker motioned to approve the October 3, 2012 minutes and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.
2. Status of Public Hazard Homes: Julie said Phil Borger sent Bill Herr another letter about the trailer on the property.
3. Unionization: Dennis said Attorney Manion and Jim Beck met last week. He believes the issues have been ironed out and we are waiting for Jim to schedule a meeting for the public works employees to ratify the contract.
4. Update Code Book: On hold for now.
5. Nuisance Abatement Code: Stumpf's November court date is being continued. Dennis said Attorney Manion is working on having Stumpf charges with multiple violations instead of just one.
6. Resident complaint about dust from high school parking lot: Nothing new.
7. Class B liquor license: The committee will review the proposed ordinance and discuss it at next month's committee meeting.

## B. NEW BUSINESS:

1. 101 E. Hill: Included in the packet is a letter from Attorney Philip Rice who represents the property owners that want to sell this property. Zoning Administrator Borger had informed the realtor that the Village wouldn't allow that property to be fixed up for multi-family use. Attorney Manion replied to Rice's letter on November 2<sup>nd</sup> advising them several years have passed when the property was used for multi-family use. Our code states if a non-confirming use of a property is discontinued for 12 months, the non-confirming use can't resume. Our code also states if the structure is fixed, it would have to be brought back in compliance with the zoning code. That structure

Legal and Ordinance Committee Meeting

Wednesday, November 14, 2012

VILLAGE BOARD OF TRUSTEES MEETINGS ARE HELD ON THE FIRST AND THIRD MONDAY OF EVERY MONTH

does not meet the setbacks. Dennis believes the costs to tear down the structure exceed the value of the property. The village would like to see the structure torn down.

**C. GENERAL CONCERNS:** None.

**D. PUBLIC PARTICIPATION:** None.

**E. ADJOURN:** *Trustee Rita Baker motioned to adjourn at 4:38 p.m. and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.*



Julie Polson  
Office Manager

VILLAGE PRESIDENT  
Ray Danford

VILLAGE CLERK  
Jerry Menard

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Legal and Ordinance Committee Meeting  
(Annexation; Building; Zoning; Subdivision)  
(Speiser/Baker/Mattern)  
Wednesday, October 3, 2012 at 4:30 p.m.

The meeting of the Legal and Ordinance Committee was called to order at 4:32 p.m. by Chairman Seth Speiser on Wednesday, October 3, 2012, in the Freeburg Municipal Center. Members attending were Chairman Seth Speiser, Trustee Rita Baker, Trustee Charlie Mattern (absent), Mayor Ray Danford, Village Administrator Dennis Herzing and Office Manager Julie Polson.

## A. OLD BUSINESS:

1. Approval of September 5, 2012 Minutes: Trustee Rita Baker motioned to approve the September 5, 2012 minutes and Trustee Seth Speiser seconded the motion. All voting aye, the motion carried.
2. Status of Public Hazard Homes: Seth said Bill Herr has completed most of the items on the list. He thinks the trailer on the property needs to be addressed. Dennis thinks it should be treated as a derelict house. Mayor Danford said that could be pursued under our nuisance abatement code. Herr also has a camper parked there that belongs to someone else. If it isn't functional, it should be moved to the fenced-in area. The committee would like Phil to put more pressure on Herr about getting rid of the trailer.
3. Unionization: Dennis said the proposed contract was voted down. We have another meeting scheduled for October 22<sup>nd</sup> at 4:00 p.m. Rita said she will try to make that meeting. Dennis said we have told the union this is it and we will go to arbitration if we have to. He also said we told the union if they have a new issue, we would bring that back to the board.
4. Update Code Book: On hold for now.
5. Nuisance Abatement Code: Stumpf has a court date in November.
6. Resident complaint about dust from high school parking lot: Dennis said he needs to meet with Lehman to see what his understanding of the school parking lots is. The committee discussed the topic of parking lots and whether they needed to be paved or if some could get by with oil and chip.
7. Class B liquor license: Dennis provided a revised ordinance on this. Under (B)(1), he said he added language in to further clarify that section. He also added Section 115.58(C) which states a Class B liquor license holder can't sell liquor unless the kitchen is in full operation and meals are being served. Mayor Danford said we need to better define our licenses our so we have control over them. He said we

Legal and Ordinance Committee Meeting

Wednesday, October 3, 2012

VILLAGE BOARD OF TRUSTEES MEETINGS ARE HELD ON THE FIRST AND THIRD MONDAY OF EVERY MONTH

have certain expectations of a restaurant and may need to revise the ordinance to meet those expectations. This ordinance was prepared as a guideline to show the shortcomings in the current ordinance. The committee tabled this topic until the next meeting.

**B. NEW BUSINESS:**

1. Business License Renewals: The committee discussed the businesses that do not renew their licenses in a timely manner. If we decided to cite the business owners who were late, it would require a court appearance, and the committee decided we did not want to pursue that avenue. Item can be taken off the agenda.

**C. GENERAL CONCERNS:** None.

**D. PUBLIC PARTICIPATION:** None.

**E. ADJOURN:** *Trustee Rita Baker motioned to adjourn at 5:22 p.m. and Trustee Seth Speiser seconded the motion. All voting aye, the motion carried.*



Julie Polson  
Office Manager

RICE LAW OFFICES, LTD.

ROBERT H. RICE (1926-1993)  
PHILIP R. RICE \*

\*MEMBER ILLINOIS AND FLORIDA BARS

110 EAST LINCOLN STREET  
BELLEVILLE, ILLINOIS 62220-2299  
(618) 277-6010  
FAX (618) 277-0133  
EMAIL: PRICE@RICELAWOFFICES.COM

**VIA FACSIMILE NO. 539-5590**

October 15, 2012

RECEIVED

OCT 17 2012

Dennis Herzig  
Village Administrator  
Village of Freeburg  
14 Southgate Center  
Freeburg, IL 62243

Phil Borger  
Zoning Administrator  
Village of Freeburg  
14 Southgate Center  
Freeburg, IL 62243

**Re: My Clients: Carrie Middendorf, Margie Ernst & Lisa Biermann  
Property located at 101 East Hill, Freeburg, Illinois**

Dear Gentlemen:

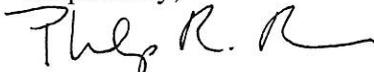
Please be advised that I represent Carrie Middendorf, Marjorie Ernst and Lisa Biermann in their legal affairs. Please allow this letter to serve as notice of their intent to sell the premises located at 101 East Hill in Freeburg, Illinois and that their realtor is Tammy Mitchell Hines & Co.

Please be further advised that on October 11, 2012, my clients' realtor contacted the Village of Freeburg and spoke with Mr. Phil Borger regarding the sale of the premises located at 101 East Hill. At that time, Mr. Borger advised the realtor that if a potential buyer would wish to remodel the premises at 101 East Hill, that it would not be permitted if the remodeling costs were in excess of 50% of the appraisal value. Please be advised that the realtor has indicated that she has never heard of such a requirement by a City or Village relating to the sale of a property.

I request at this time that you provide any Ordinance in effect for the Village of Freeburg or any other documentation which sets forth this specific requirement on the sale of property in the Village of Freeburg.

Your cooperation in this matter is greatly appreciated.

Respectfully,



Philip R. Rice  
PRR/csm

J. MICHAEL WEILMUNSTER\*

E-Mail:

jmw@weilmuensterlaw.com

FREDERICK W. KECK\*

E-Mail:

fwk@weilmuensterlaw.com

J. BRIAN MANION\*

E-Mail:

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NATHANIEL O. BROWN†

E-Mail:

nob@weilmuensterlaw.com

\*Licensed in

Illinois and Missouri

†Licensed in Illinois

3201 WEST MAIN

BELLEVILLE, IL 62226

PHONE:

(618) 257-2222

FACSIMILE:

(618) 257-2030

November 2, 2012

RECEIVED

NOV 05 2012

Philip Rice  
110 East Lincoln Street  
Belleville, IL

*Via facsimile: (618) 277-0133*

**Re: 101 East Hill Street, Freeburg, Illinois**

Dear Mr. Rice:

Thank you for your letter of November 1, 2012. I apologize for the delay in getting back to you. The property at 101 East Hill Street is zoned single family residence (SR-1). Prior to the time that Freeburg enacted its zoning code, the property was used for multi-family use. It is my understanding from the village administration that several years have passed since the last time that the property was used for multi-family use. Accordingly, section 155.324 of the Freeburg Village Code applies. Under subsection (e), when a non-conforming use of a structure or premises is discontinued for 12 consecutive months, the non-conforming use shall not thereafter be resumed. It is the Village's position that the property may now only be used for single family use (SR-1). Additionally, subsection (b) is also applicable. Subsection (b) provides "no structure housing a non-conforming use shall be enlarged, structurally altered, reconstructed, or relocated unless the use of the structure is changed to a permitted use." Under subsection (b), the apartment building could only be rebuilt in such a way as to conform with a single family residence use.

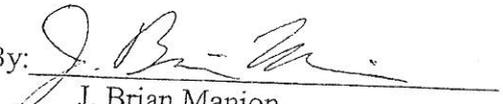
There is also an issue with the structures on the property (the house and the apartment building) being "non-conforming structures" under section 155.323 of the Freeburg village code. For example, the apartment building is non-conforming in that it does not meet the setback requirements (25 feet). There may also be other aspects in which the structures are non-conforming. When structures are non-conforming, then there is a prohibition on reconstructing the non-conforming structures if the cost of reconstruction exceeds 50% of the structure's market value.

Attached for your review is a copy of section 155.323 and 155.324 of the Freeburg Village code, a copy of the application and wrecking permit involving the property and a copy of correspondence from Phil Borger, Village Zoning Administrator, to Margie Ernst, dated November 18, 2011, concerning structural damage on the property.

Please contact me if you have any questions or concerns.

Sincerely,

WEILMUNSTER LAW GROUP, P.C.

By:   
J. Brian Manion

JBM:kf  
Enclosures

cc: Dennis Herzing

- (A) Was recorded in the office of the County Recorder of Deeds prior to the effective date of this chapter (or pertinent amendment thereto); and
  - (B) Is at least 50 feet wide.
- (Former Code, § 40-8-2)

**155.322 TWO OR MORE LOTS IN COMMON OWNERSHIP.** If two or more lots or combinations of lots and portions of lots with continuous frontage were of record and in common ownership on the effective date of this chapter and if one or more of those lots does not meet the minimum lot width, depth, or area requirements of the district in which it is located, the land involved shall be considered an undivided parcel. No portion of any such parcel shall be developed except in compliance with this chapter, nor shall any such parcel be divided so as to create a lot that does not meet the requirements of this chapter. (Former Code, § 40-8-2.1)

**155.323 NONCONFORMING STRUCTURES.** Any otherwise lawful structure which exists on the effective date of this chapter but which could not be erected under the terms of this chapter because of requirements/restrictions concerning lot size, height, setbacks, or other characteristics of the structure or its location on the lot may lawfully remain, subject to the following provisions.

(A) **Maintenance.** A nonconforming structure may be maintained by ordinary repairs.

(B) **Enlargement, Alterations.** A nonconforming structure shall not be enlarged or altered in any way which increases its nonconformity.

(C) **Relocation.** A nonconforming structure shall not be moved unless, after relocation, it will conform to all the regulations of the district in which it will be situated.

(D) **Reconstruction.**

- (1) No structure which is destroyed or damaged by any means shall be reconstructed if the Administrator determines that the cost of such reconstruction exceeds 50% of the structure's market value at the time of loss, unless after reconstruction the structure will conform to all applicable regulations of the district in which it is located. In the event the Administrator determines the estimated cost of reconstruction is less than 50% of the structure's market value at the time of the loss, repairs or

reconstruction shall be permitted, provided such work starts within six months from the date the damage occurred and is diligently prosecuted to completion.

- (2) The Administrator may require that the reconstruction cost estimate be made by a bona fide construction contractor and that the structure's market value at the time of loss be determined by a licensed real estate appraiser. The owner of the damaged structure shall be responsible for obtaining these estimates for the Administrator.
- (3) As an alternative, the market value may be determined by the Administrator by using the "state equalized assessed value" multiplied by the number three.
- (4) The provisions of this division (D) shall not apply to single-family dwellings.

(Former Code, § 40-8-3) Penalty, see § 155.999

**155.324 NONCONFORMING USES OCCUPYING A STRUCTURE.** If any lawful use occupying a structure exists on the effective date of this chapter but would not be allowed under the terms of this chapter, such use may lawfully continue, subject to the following provisions.

(A) **Maintenance.** Any structure housing a nonconforming use may be maintained through ordinary repairs.

(B) **Enlargement; Alteration; Reconstruction; Relocation.** No structure housing a nonconforming use shall be enlarged, structurally altered, reconstructed, or relocated unless the use of the structure is changed to a permitted use. This division (B) shall not apply to the reconstruction of single-family dwellings.  
**(Ord. No. 1079; 03-17-03)**

(C) **Extension of Use.** No conforming use may be extended to any part(s) of the structure not intended or designed for such use, nor shall the nonconforming use be extended to occupy any land outside such structure.

(D) **Change of Use.** A nonconforming use occupying a structure may be changed to a similar use, to a more restrictive use, or to a conforming use. Such use shall not thereafter be changed to a less restrictive use.

(E) **Discontinuance of Use.** When a nonconforming use of a structure or of a structure and premises in combination is discontinued for 12 consecutive months, the nonconforming use shall not thereafter be resumed. Any discontinuance caused by government action and without any contributing fault by the nonconforming user shall not be counted in calculating the length of discontinuance.

(Former Code, § 40-8-4)

MAY 14 2010

APPLICATION NO. \_\_\_\_\_

APPLICATION FOR WRECKING PERMIT

Village of Freeburg  
Office of the Zoning Administrator  
Municipal Center  
14 Southgate Center  
Freeburg, Illinois 62243

Zoning Application No. \_\_\_\_\_

Date: \_\_\_\_\_

\*\*\*\*\*

(DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY)

Date: \_\_\_\_\_

- Permit Issued
- Permit Denied

Zoning fee paid to Village of Freeburg

\$ 10.00 Date: 5-1-2010  
If denied, cause of denial: \_\_\_\_\_

Permanent Parcel #: \_\_\_\_\_

\*\*\*\*\*

1. Name of Owner(s): Marjorie Ernst Phone: Carrie - 257-8499  
Address: 722 West Lincoln Street, Belleville, IL Zip: 62220
2. Applicant's name: Same Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_
3. Property interest of applicant: Owner
4. Address of proposed demolition: 101 East Hill Street, Freeburg, IL 62285
5. Permanent Parcel Number: 14-29.0-107-016 \* House Only\*  
Legal Description: Hills Sub.  
LOT/SEC-18-BLK/RG-4 BK. 2409-1415
6. Total sq. ft. of Demolition: 850 sq. ft.
7. Explanation of the demolition: Deteriorated condition of old house next to Apartment Building. Both the house and the Apartments are under the same Parcel No., but demolition only involves the old house next to the Apartments.

8. Use of existing structure:

Existing Use: Empty. House was previously rental property.  
Proposed Use: N/A.

Check Appropriate Zoning District:

- A (Agricultural)                       SR-1 (Single-Family Residence, large)
- SR-2 (Single-Family Residence, small)     MH-1 (Mobile Home Residence)
- MR-1 (Two-Family Residence)             MR-2 (Multiple-Family Residence)
- B-1 (Community Business)             B-2 (Highway Business)     I (Industrial)

9. A copy of a sketch plat (drawn to scale) shall be attached, showing the following:

- a) Dimensions and use of all buildings;
- b) Dimensions of the Zoning lot;
- c) Distance of each building from zoning lot lines;
- d) Distance between accessory buildings and principal buildings;
- e) Part to be removed;
- f) Any additional information as may be reasonably required by the Zoning Administrator and applicable requirements of the Zoning Code. (See 40.83)

10. **INITIAL CERTIFICATES OF ZONING COMPLIANCE.** Upon the effective date of this Chapter, no land shall be developed, no new use or structure shall be established or erected, and no existing use or structure shall be enlarged, extended, altered, relocated, or reconstructed until an initial certificate of zoning compliance unless he determines that the proposed activity conforms to the applicable provisions of this Chapter. (See section 40-9-2 of Zoning Code)

It is understood that any permit issued on this application will not grant any right or privilege to erect any structure or to use any premises described for any purpose or in any manner prohibited by the Zoning Ordinance, or by other ordinances, codes, or regulations of the Village of Freeburg does not enforce private restrictive covenants which may affect the construction of the proposed improvement.

(APPLICANT) Marjorie Ernst

**TEMPORARY CERTIFICATE OF ZONING OCCUPANCY**

The plans and specifications submitted with this application are in conformity with the zone district requirements applicable to the subject property. Changes in plans or specifications shall not be made without written approval of the appropriate Village officials.

Failure to comply with the above shall constitute a violation of the provisions of the Village Zoning Ordinance.

DATE: 5/17/10

Philip L. Berger  
Zoning Administrator  
Freeburg, Illinois

This card shall be conspicuously displayed. Failure to do so shall be deemed violation of the zoning ordinance.

# VILLAGE OF FREEBURG

FREEBURG, ILLINOIS

# WRECKING PERMIT

Number WR-10-03

Has Been Secured.

Application Number 5419

Project DEMOLISH OLD RESIDENCE

Location 101 E. HILL ST.

Owner MARJORIE ERNST

Date Issued 5/17/10 Date of Expiration 5/17/11

PHONE: 618-539-5545

By Philip L. Berger

ZONING ADMINISTRATOR

Freeburg, Illinois

VILLAGE PRESIDENT  
Ray Danford

VILLAGE CLERK  
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Weilmuenster Law Group, P.C

November 18, 2011

Ms. Margie Ernst  
722 W. Lincoln Street  
Belleville, IL 62220-1927

Re: 101 E. Hill Street Property

Dear Ms. Ernst:

This letter is to inform you that your property at 101 E. Hill Street is in such bad shape that I'm not sure it can be fixed at this point. I would need to get inside to be sure, but the southern most roof (on the first floor apartment) looks to be in very bad shape. It looks like it has had some makeshift patchwork done on it, i.e. like shingles or tar paper and sheets of plastic. If this roof is leaking through to the inside, this could cause very serious health problems to anyone living there in close proximity.

Some of the visible problems with the 3-story building:

1. The carport is full of junk and trash
2. the floor above the carport is leaking, rotting and falling in;
3. Soffit on third floor is missing plus there is a hole in the building;
4. There are holes in the east side;
5. Siding is missing and buckling;
6. East side vent or exhaust pipe is rotted off.

Some of the visible problems on the little one-story structure are:

1. Siding on the south side's finish is gone and rotting
2. Bare wood behind siding is exposed;
3. Hole in soffit;
4. Hole in the northwest corner;
5. North side soffit is rotting, fascia and siding is falling off;
6. Window sill is rotten
7. Wild plant growth and vines growing on building
8. Little maple tree blocking view from alley - needs to come down.

Ms. Margie Ernst  
Page 2  
November 18, 2011

These are just problems that are visible from the outside. If these problems are not fixed or fixable, these buildings will probably have to be condemned. I would like to hear from you with your thoughts on this matter as soon as possible.

Please call me at 539-5545 on Monday, Thursday or Friday between the hours of 10:00 a.m. - 12:00 p.m.

Very truly yours,

Village of Freeburg

  
\_\_\_\_\_  
Phil Borger  
Zoning Administrator

PB/jp