

Agenda Item # 602

Distribution  
County Board  
Dept. of Plng., Bldg & Dev. (4)

STATE OF ILLINOIS        )  
  )  
  )        SS  
COUNTY OF LAKE        )

Case No. 3462  
Fremont Township

COUNTY BOARD, LAKE COUNTY, ILLINOIS

March 8, 2005

MADAM CHAIRMAN AND MEMBERS OF THE COUNTY BOARD:

Your Planning, Building and Zoning Committee presents herewith a Resolution on Zoning Case No. 3462, which consists of the Petition of Jerome T. Salvino, Sr. relative to a request for rezoning from the Estate Zoning District to the Agricultural Zoning District. The Department of Planning, Building and Development makes no recommendation on the petition. On the motion "to deny" the prayer of the petitioner, the Zoning Board of Appeals vote is 5 "Ayes" and 0 "Nays"; on the motion "to approve" the prayer of the petitioner, the Planning, Building and Zoning Committee vote is 5 "Ayes" and 2 "Nays".

- o An "Aye" vote on the motion shall operate in favor of the prayer of the petitioner.
- o A "Nay" vote on the motion shall operate against the prayer of the petitioner.
- o A 3/4 (18) affirmative vote is required to approve the rezoning if there is a legal objection on file.

Respectfully submitted,

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|--|-----------------|
| <u>Judy Martini</u><br>CHAIRMAN          | <u>AYE</u><br>✓ |
| <u>Samuel O. Hester</u><br>VICE-CHAIRMAN | ✓               |
| <u>Susan L. Greenberg</u>                | _____           |
| <u>Robert Saborn</u>                     | o               |
| <u>[Signature]</u>                       | ✓               |
| <u>Pandy Whitman</u>                     | o               |
| <u>St. Wilson [Signature]</u>            | X               |

*Nay*

## RESOLUTION

WHEREAS, a public hearing has been held by the Lake County Zoning Board of Appeals pursuant to the Statutes of the State of Illinois on the petition of Jerome T. Salvino, Sr., relative to a request for rezoning from the Estate zoning district to the Agricultural zoning district for the following real estate, to-wit:

PARCEL 1: THE EAST 154.57 FEET OF THE WEST 902.08 FEET OF THAT PART OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 44 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, WHICH LIES SOUTH OF THE CENTER LINE OF MILTON ROAD, IN LAKE COUNTY, ILLINOIS.

PARCEL 2: THE EAST 154.57 FEET OF THE WEST 1056.65 FEET OF THAT PART OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 44 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, WHICH LIES SOUTH OF THE CENTER LINE OF MILTON ROAD, IN LAKE COUNTY, ILLINOIS.

PIN: 10-32-300-017

WHEREAS, your Department of Planning, Building and Development duly considered the aforesaid petition and makes no recommendation; and

WHEREAS, your Zoning Board of Appeals, after reviewing the testimony presented at the public hearing on the aforesaid petition, has submitted its report thereon to the County Board and its report recommends by a vote of 5 – 0 that the petition be denied; and

WHEREAS, your Planning, Building and Zoning Committee duly considered the petition and reports aforescribed and recommends by a vote of 5 – 2 that the petition be granted. Motion by Member Mountsier, second by Member Whitmore, to grant the petition. Voting "Aye", Members Leafblad, Martini, Newton, Sabonjian, and Whitmore. Voting "Nay", Members Gravenhorst and Mountsier.

NOW, THEREFORE, BE IT RESOLVED by the Lake County Board, that the prayer of the Petitioner be granted and that the above described real estate shall be rezoned from the Estate Zoning District to the Agricultural Zoning District; and

BE IT FURTHER RESOLVED, that the Secretary of said Zoning Board of Appeals be instructed to notify the petitioner as to the action taken by the Board.

STATE OF ILLINOIS        )  
                                  )       SS  
COUNTY OF LAKE        )

COUNTY BOARD, LAKE COUNTY, ILLINOIS

March 8, 2005

MADAM CHAIRMAN AND MEMBERS OF THE COUNTY BOARD:

Pursuant to State Statutes and following proper publication of public notice, a public hearing was conducted before the Lake County Zoning Board of Appeals on January 31, 2005, at 1:00 p.m., in the Fremont Township Hall, Mundelein, Illinois, relative to the petition of Jerome T. Salvino, Sr. requesting rezoning from the Estate Zoning District to the Agricultural Zoning District for the following described real estate, to-wit:

PARCEL 1: THE EAST 154.57 FEET OF THE WEST 902.08 FEET OF THAT PART OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 44 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, WHICH LIES SOUTH OF THE CENTER LINE OF MILTON ROAD, IN LAKE COUNTY, ILLINOIS.

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PIN: 10-32-300-017

The proceedings of this hearing have been electronically recorded and are available for public review at the office of the Lake County Zoning Board of Appeals.

The reports and recommendations received prior to this hearing from the various County Departments and other interested agencies are on file at the office of the Lake County Zoning Board of Appeals. The Board is in receipt of the reports and recommendations from the following agencies, to-wit:

The Lake County Building and Code Enforcement Division;  
The Lake County Health Department; and  
The Lake County Department of Planning, Building and Development.

In making its recommendation, the Zoning Board of Appeals has considered and taken into account the following:

- a) The testimony at the hearing;
- b) A site inspection of the property in question;
- c) The recommendations from interested official bodies; and
- d) Standards provided in Section 3.3 of the Unified Development Ordinance


At the meeting of the Lake County Zoning Board of Appeals held on January 31, 2005, after a final review of all evidence and testimony presented, Member Van Erden moved, with a second by Member Bell, to recommend the prayer of the petitioner for rezoning from the Estate Zoning District to the Agricultural Zoning District be denied. Voting "Aye" on this motion were Members Bell, Koeppn, Stimpson, Van Erden, and Wilson; voting "Nay," none. The motion to recommend this petition be denied was approved by a vote of 5 – 0.

The Board finds that the request for rezoning from the Estate Zoning District to the Agricultural Zoning District does not meet Standard A of Section 3.3.8:

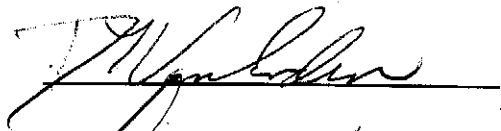
**Standard A:** The proposed amendment is consistent with the stated purpose and intent of Sec. 1.5.

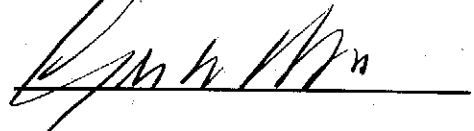
**Finding:** The Board finds that since the stable and arena are allowed in both the Estate and Agricultural zoning districts that the request is based on economics and not on use. Therefore, the rezoning is unnecessary for the applicant's desired use.

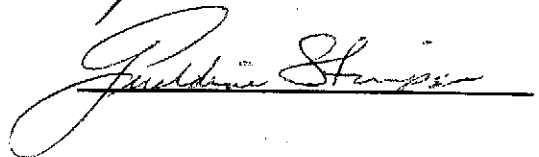
At the direction of the Chairman of the Zoning Board of Appeals, this report is herewith forwarded to your Honorable Body with the recommendation that it be accepted.

  
CHAIRMAN

VICE-CHAIRMAN







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Dated this 7th day of February 2005.

## **Summary of Testimony**

### **Zoning Case #3462**

A public hearing was conducted by the Lake County Zoning Board of Appeals on January 31, 2005, on the application of Jerome T. Salvino, Sr., record owner, which seeks rezoning from the Estate Zoning District to the Agricultural Zoning District. The subject property contains approximately 11.6 acres and is located at 23557 West Milton Road in Fremont Township. The following is a summary of the testimony presented:

1. Mr. Jerome T. Salvino, Sr., record owner, testified he is seeking this rezoning in order to construct a horse stable with an indoor riding arena. He stated he lives on the property and currently uses it for agricultural purposes. The stable would measure 116' X 200' and the enclosed riding arena would be 80 feet wide. There would be room for at least 20 horse stalls. Mr. Salvino further testified that the stable and arena would only be used by him, his relatives and friends; it would not be used for commercial boarding or for riding lessons.
2. Mr. Salvino testified that he purchased the property in 1968 and was unaware that the property had been rezoned from Agricultural to Estate in 1989. He was seeking the rezoning back to Agricultural so that he could build the stable without having to comply with the County building code and its associated costs.
3. Mr. Tom Corning, a neighbor residing northeast of the subject property at 23642 West Milton, stated that he was not against the use but did object to the rezoning. He stated the area should be maintained for large lot residential properties so that the owners in the area could realize the maximum return on their investments. Mr. Corning stated that meeting the requirements of the building code would ensure that the construction would be of a higher quality. Mr. Corning further testified that he was also against the rezoning to Agricultural because kennels are allowed in the Agricultural district and he has an ongoing dispute with his next-door neighbor who has a kennel.
4. In response to a question, Mr. Salvino replied that the stable would not be used in conjunction with a construction business.

## **Summary of Department and Agency Comments**

### **Zoning Case #3462**

#### **Lake County Health Department:**

The Health Department has no objections to the rezoning. The Department requires a property alteration / addition application and site plan for the construction of the stable.

#### **Lake County Department of Planning, Building and Development:**

Staff reviewed the case but did not provide a recommendation. Because the construction of the proposed stable and riding arena is allowed by right in both the current Estate and the requested Agricultural zoning districts, it is staff's position that the request is not a land use or a zoning issue. The requested rezoning is an economic issue for the applicant which raises a policy question as to whether agriculturally exempt structures located on non-agriculturally zoned land should comply with County building codes and be charged for a building permit.



Philip J. Rovang  
Director

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**MEMORANDUM**

January 11, 2005

TO: Dennis Wilson, Chairman, Lake County Zoning Board of Appeals

FR: Robert Mosteller, Deputy Director *RM*  
Lake County Department of Planning, Building and Development

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CASE NO: # 3462 Rezoning

REQUESTED ACTION: Rezoning from the Estate Zoning District to the Agricultural Zoning District. The applicant wishes to construct a stable measuring approximately 116 feet by 200 feet.

ZBA HEARING DATE: January 31, 2005

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**GENERAL INFORMATION**

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PETITIONER: Jerome T. Salvino, Sr., record owner

# OF PARCELS: One

SIZE: 11.6 acres

LOCATION: 23557 West Milton Road, Wauconda, IL

EXISTING ZONING: Estate

PROPOSED ZONING: Agricultural

EXISTING LAND USE: Single-family house, private stable, pasture, and paddocks.

PROPOSED LAND USE: Same as existing land use with the addition of a new stable

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## SURROUNDING ZONING / LAND USE

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NORTH: Estate / Single-family houses; farm homesite w/ acreage  
EAST: Agricultural / Farm homesite w/ acreage; agricultural  
WEST: Estate / Farm homesites w/ acreage; agricultural; single-family houses  
SOUTH: Village of Hawthorn Woods: Estate Zoning ( 1 to 2 acre lots; Bridle Woods Subdivision)

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## COMPREHENSIVE PLANS

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LAKE COUNTY: Residential Single-family Large Lot (> 3 acres)  
MUNICIPALITIES WITHIN 1 ½ MILES: Village of Hawthorn Woods:  
Rural Estate on the northern half / 1 dwelling unit per 5 – 10 acres;  
Estate on the southern half / 1 dwelling unit per 1 – 2 acre lot

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## DETAILS OF REQUEST

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ACCESS: Direct access is from Milton Road  
PHYSICAL CHARACTERISTICS: Property is developed with a house and buildings for agricultural uses  
SOIL TYPES: Grays and Markham Silt Loams 2-4% slopes (979B)  
Houghton Muck (103)  
Beecher Silt Loam 2-4% slopes (298B)  
Peotone Silty Clay Loam (330)  
FLOODPLAIN / WETLANDS: Wetlands are present on the southern end and in the north central portion of the site  
SEWER AND WATER: The property is served by private septic and well

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## ADDITIONAL COMMENTS

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The construction of a new stable is allowed in both the current Estate zoning district and in the requested Agricultural zoning district. By Illinois Statute, construction in an agriculturally zoned district for an agricultural use is not subject to a county building code, except for setbacks. Lake County's policy is that construction of a stable is subject to the County's building code and fees unless the property where the stable will be built is zoned Agricultural.

Because the desired construction of a new stable is allowed in both the Estate and Agricultural zoning districts, this is not a zoning or a land use issue.

This property was zoned Estate during the comprehensive County rezoning of 1989 which implemented the land use districts of the 1987 Comprehensive Plan. The 1987 Plan and the subsequent rezoning divided the properties on the south side of Milton Road into Estate and Agricultural zoning districts, with the dividing line being the east boundary of the subject property. However, there is no apparent reason why the dividing line could not have been drawn on the west side since the subject property then, as now, exceeds the minimum lot size and width requirements of the UDO for the Agricultural zoning district, i.e., the area of the property exceeds 5 acres and it is greater than 300 feet in width. Furthermore, as stated in the petition, the property has been used for agricultural purposes since the current owner purchased it in 1968.

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## RECOMMENDATION ON REQUEST FOR REZONING

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Since the construction of the proposed stable is allowed by right in both the current Estate and the requested Agricultural zones, it is staff's position that this request poses neither a zoning nor a land use issue. Rather, it is simply an economic issue for the applicant which raises only a policy question of whether agriculturally exempt structures located on non-agriculturally zoned land should comply with County building codes and be charged for a building permit. Staff is currently reviewing and updating the County's building code and will raise this matter as a policy decision for the County Board when the code revisions are presented.

For these reasons, staff has no recommendation on the requested rezoning.