

VILLAGE OF FONTANA ON GENEVA LAKE
WALWORTH COUNTY, WISCONSIN
(Official Minutes)

MONTHLY MEETING of the VILLAGE OF FONTANA PLAN COMMISSION

Monday, March 26, 2007

President Howell called the monthly meeting of the Village of Fontana Plan Commission to order at 5:32 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Plan Commissioners present: Roll call: Poivey, Spadoni, O'Connell, Treptow, President Howell

Plan Commissioners absent: D'Auria, McGreevy

Also present: Tim Beckstal, Skip Bliss, Anthony Coletti, Richard Czaja, Administrator Kelly E. Hayden-Staggs, Rob Ireland, Library Director Nancy Krei, Laurie Larson, Lou Loenneke, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, CDA Executive Director Joseph McHugh, Building Inspector Ron Nyman, Arlene Patek, Trustee Pete Petersen, Trustee Ron Pollitt, David Rasmussen, Don Roberts, Dan Shepard, Mr. and Mrs. Rolf Suppes, Michele Teale, Village Attorney Dale Thorpe, Jill Wegner, Jan Whitler, M. Bruce Wilkinson, Cindy Wilson, Public Works Director Craig Workman

Visitors Heard

None

Announcements

Hayden-Staggs stated that the next meeting of the Village Board will be Monday, April 2, 2007, beginning at 6:00 pm; the polls will be open from 7:00 am to 8:00 pm for the Spring Election on Tuesday, April 3, 2007; the CDA Board monthly meeting will be Wednesday, April 4, 2007, beginning at 6:00 pm; Village Hall will be closed Friday and Saturday, April 6 and 7, 2007; newly elected officials will take office on Tuesday, April 17, 2007; and the Plan Commission's next monthly meeting will be held Monday, April 30, 2007, beginning at 5:30 pm.

Approve Minutes

Spadoni/O'Connell 2nd made a MOTION to approve the minutes for the meeting held February 26, 2007, and the MOTION carried without negative vote.

Public Hearings

Continued Public Hearing on Conditional Use Permit Application Filed by Barton and Joan Love, 928B South Lakeshore Drive (STFV 00087 - Westgate), Fontana, WI, to Develop Three Single-Family Residences with Residential Accessory Structures in the RS-1 (Single-Family Residential District) Zoning District

President Howell stated that the public hearing was still open following last month's meeting. Attorney Anthony Coletti, representing the Loves, stated that they are still working to address the concerns stated at last month's meeting. Coletti stated that there also have been some discussions with the neighbors. Mrs. Suppes stated that she or her husband have not been contacted by the applicants. Coletti stated that he has been in contact with Attorney Richard Rasmussen, who represented the Suppes at last month's meeting; however, he will make sure to directly contact Attorney Rasmussen and Mr. and Mrs. Suppes. Coletti stated that he would like the matter tabled again until next month, at which time the requested documents should be completed, and the concerns of the neighboring property owners should be addressed.

Spadoni/Treptow 2nd made a MOTION to continue the public hearing at the April 30, 2007 meeting, and the MOTION carried without negative vote.

Conditional Use Permit Application Filed by M. Bruce Wilkinson to Remove in Excess of 30 Percent of Existing Protected Trees on Lot 49 in the Country Club Estates Subdivision

President Howell stated the public hearing was open at 5:38 pm. Thorpe stated that Village staff met with Bruce Wilkinson to discuss engineer plans for a single-family home being proposed for the lot, and staff recommended tabling the public hearing until new engineering plans for the development of Lot 49 and the adjacent lot owned by Wilkinson are reviewed. Wilkinson submitted new engineering plans after the most recent meeting with Village staff. Wilkinson stated that he had the engineering plans redrafted and he is working with the Village engineer to address storm water management and construction plans, and he agreed the matter should be tabled until next month. Laurie Larson stated that the tree removal permit is the last issue that has to be dealt with regarding the single-family home proposal. Larson stated that all the plans required for the development are needed before the Plan Commission considers the CUP application, and stated that the Village should also consider what is being proposed for the second lot. Thorpe stated that Wilkinson has submitted plans for both lots and they are being reviewed by the Village engineer. Richard Czaja stated that he owns a property located next door to the Wilkinson lots and asked who is planning the project and who would live in the new residence if it is approved. Wilkinson responded that he and his wife are planning to reside in the new home, and last month he stated that the engineering plans were drafted by Farris, Hansen & Associates Inc., Elkhorn. Wilkinson stated that he is working with the Village to earn approval for a single-family home on the lot, and the lot conforms to the size and density standards of the zoning district. Wilkinson stated that he is sensitive to the concerns of the neighboring property owners. Lou Loenneke stated that he and his wife own the old Sam Johnston home across the street from the lots now owned by the Wilkinsons and formerly owned by Johnston, and his sister owns another lot that also originally was owned by the Johnston family. Loenneke stated that they have been living in the neighborhood since the 1970s and the area always has been a natural water retention area, and the kettle located on the Wilkinson lots can fill up with storm water for up to six weeks at a time. Loenneke stated that another kettle is located on the lot he and his wife own. Arlene Patek stated that she also owns a home in the neighborhood and on many occasions she has observed water fill the hole up as high as the road. Wilkinson stated that if the Village does not approve construction plans for the lots and deems that the lots are not developable, it is his opinion that the Village will have to take a look at acquiring the lots through eminent domain. Treptow stated that he is concerned about Styrofoam and other debris on the lots, which he used to keep clean until “No Trespassing” signs were erected. Wilkinson stated that he will have the lots cleaned up.

Spadoni/O’Connell 2nd made a MOTION to table the matter and continue the public hearing at the April 30, 2007 meeting, and the MOTION carried without negative vote.

Petition to Amend Zoning Ordinance Section 18-28, Natural Resource Conservation Ordinance (Tree Ordinance) Filed by Village of Fontana

President Howell stated that the public hearing was open at 6:07 pm. Nyman stated that the proposed amendments were drafted following a joint workshop meeting and subsequent meetings of a Park Commission subcommittee. Nyman stated that the Park Commission recommended the minor adjustments to the existing Tree Ordinance at this time, and if deemed necessary, the ordinance can be tweaked again in the future. Nyman stated that two of the amendments allow for the waiver of inspection requirements if the project plans are drafted by a tree specialist or an arborist, and add the requirement for Tree Removal Permits to be prominently displayed at the site. Nyman stated that the third amendment is to the clear cutting section of the ordinance and it would allow property owners to not count trees located within a proposed building footprint in the clear-cutting calculation; however, protected trees that are cut down would still have to be replaced according to other provisions of the ordinance. Nyman stated other proposed amendments are to add four species to the list of nuisance and weed trees; adjust the required dimensions for protective

fence barriers during construction and reduce the height requirement for protective fences from 4 feet to 2 feet; and allow for replacement trees under the mitigation policy to be planted on other Village lots owned by the applicant. Nyman stated that the penalty section of the ordinance also was amended to make all fines \$100 for the non-permitted removal of nuisance trees, and to set a \$500 minimum fine for the non-permitted removal of protected trees and an escalating scale of \$100 per inch for each inch over 8-inches in diameter at breast height. Workman stated that a section that calls for the Department of Public Works to receive Park Commission approval for the removal of trees in the right-of-way may be cumbersome and in need of amendment. Workman currently obtains tree removal permits when needed directly from the Building and Zoning Department, which is open five days a week. The Park Commission only meets once a month. Following discussion, it was determined that the matter can be addressed with other concerns that may arise when the Tree Ordinance is tweaked again in the future. President Whowell closed the public hearing at 6:40 pm. Spadoni/Poivey 2nd made a MOTION to recommend Village Board approval of the proposed amendments as submitted, and the MOTION carried without negative vote.

General Business

Condominium Plat and Declarations Filed by Barton and Joan Love, 928B South Lakeshore Drive (Tabled 2-26-07)

Spadoni/Treptow 2nd made a MOTION to table matter until the April 30, 2007 meeting, and the MOTION carried without negative vote.

Condominium Plat, Declarations and Bylaws Filed by Robert Hehr for Property at 636 S. Lakeshore Drive (Tabled 2-26-07)

Attorney David Rasmussen stated that the concerns stated by staff at last month's meeting with regard to the proposed plat have been corrected and the condominium association declarations were redrafted. Hayden-Staggs stated that staff is satisfied that the concerns stated at the February 26, 2007 meeting were alleviated following the review of the amended documents. At the February 26, 2007 Plan Commission meeting, staff recommended that the applicant remove the piers from the condominium plat and that the surveyor also make other lot width clarifications. Other recommendations in the staff report last month included that the plat be amended to depict actual dimensions of the proposed units; that the Village's sanitary sewer line on the property be located to verify that it lies within the center of depicted easements; that any easement for Village utilities contain a provision allowing the Village access to the easement for purposes of maintaining, constructing, removing and replacing the utilities; that the condominium declarations include Village access to easements; and that all other state and local codes and ordinances shall apply. The Plan Commission voted to table the matter until the plat and declarations were amended to address the corrections and staff conditions, including the removal of the piers from the plat and the clarification of a lot width perpendicular line on the plat. Following the staff report at the March 26, 2007 meeting, Spadoni made a motion to recommend Village Board approval of the Condominium Plat, Declarations and Bylaws filed by Robert Hehr for the property at 636 S. Lakeshore Drive as submitted, and the motion was seconded by Treptow. Skip Bliss then stated that he owns a neighboring lakefront parcel and asked for the purpose of the proposal. Rasmussen stated that the applicant would like to create separate tax parcels for the two residences located on the lot. Bliss asked if Germaine Hehr was aware of the proposal, and Rasmussen stated that her son, Robert Hehr, hired him to represent the family. Rasmussen stated that if approved, the amended plat also has to be signed by Germaine Hehr. Bliss stated that the second residence was illegally constructed as a caretaker's residence and it always has been used as a full-time single-family home. Thorpe stated that the proposal meets the minimum lot size requirements of the zoning district and the creation of a condominium association consisting of two units adheres with the Municipal Code. Bliss stated that if the Village approves the proposal, it will open the door for the owners of other lakefront lots to build second residences on their parcels. Bliss stated that the Village should deny the proposal and order the house to be razed because it has been illegally used as a year-round residence and not a

caretaker's house. Larson stated that she remembers that the construction of the second home under the definition of a caretaker's home and its approval by a former building inspector was on the agenda of the first meeting she served as a Plan Commission member in 2004. Larson stated that the proposal should be denied because it would give approval to a residence that should not have been constructed on the lot. Thorpe stated that under the parameters of the current zoning ordinance and state statutes, the proposal would hold up if disputed in court. Thorpe stated that the Village could consider adopting a new zoning district for lakefront lots to address concerns stated regarding the construction of second residences on the existing lakefront lots.

Spadoni/Treptow 2nd made a MOTION to recommend Village Board approval of the Condominium Plat, Declarations and Bylaws filed by Robert Hehr for the property at 636 S. Lakeshore Drive as submitted, and the MOTION carried without negative vote.

Precise Implementation Plan Amendment Filed by Par Development for Cliffs of Fontana Development, Condo Plat, Developer's Agreement and Condo Declarations & Bylaws

Tim Beckstal and Dan Shepard of Par Development stated that they were seeking approval of an amendment to the PIP approved in July 2006. Beckstal stated that the PIP was amended to relocate the emergency access driveway that will lead from the southwest corner of the future subdivision to West Main Street. Beckstal stated that Par Development purchased the former Thomas Birdsall property at 192 W. Main Street, which allowed for the reconfiguration of the road and the construction access easements to the former quarry. Beckstal stated that the engineering plans were finalized with Village Engineer Joe Eberle. Beckstal stated that the road reconfiguration and final engineering plans made it possible to save 35 mature trees on the site that would have been cut down under the initially approved PIP; to eliminate a sharp turn in the access road; and to eliminate a retaining wall in the northwest corner of the site. Beckstal stated that the final engineering plans also call for the containment of all storm water on the site. Beckstal stated that the scenic overlook northwest portion of the site will not require the retaining wall called for in the initially approved PIP, and the new engineering plan addresses safety and maintenance concerns. Beckstal stated that the relocated access road also will allow for the proposed reconfiguration of the pool and "Tot Lot" area. Beckstal stated that the proposed amendment to the PIP does not change the previously approved density of the residential subdivision or the landscaping plan. Hayden-Staggs stated that the amended PIP will save 35 trees, which is the most prevalent improvement of the proposal. Workman stated that the final engineering and construction plans were favorably reviewed by the Village engineer and the amended PIP calls for the removal of a significant retaining wall. Thorpe stated that three motions were required if the Plan Commission favors approval of the amended PIP. Hayden-Staggs stated that one of the provisions of the amended developer's agreement calls for Par Development to construct the Park Commission Mill House Pavilion. Workman stated that a preconstruction meeting will be held next week and the excavation is scheduled to commence in April.

Spadoni/Poivey 2nd made a MOTION to recommend Village Board approval of the amendment to the Precise Implementation Plan filed by Par Development for the Cliffs of Fontana Development as presented, and the MOTION carried without negative vote.

Spadoni/Poivey 2nd made a MOTION to recommend Village Board approval of the amended Developer's Agreement, with the addition of the language for the in-kind construction labor donation for the Park Commission Mill House Pavilion project, and the MOTION carried without negative vote.

Spadoni/Poivey 2nd made a MOTION to recommend Village Board approval of the amended Condominium Plat, Condominium Declarations and Bylaws as presented, and the MOTION carried without negative vote.

VCP Language – SEWRPC Recodification Error List (Tabled 1-29-07 & 2-26-07)

There were no other additions or concerns presented with regard to the list of recodification errors presented by Thorpe. At the February 26, 2007 meeting Thorpe stated that he reviewed Chapter 18

of the Municipal Code and prepared a list of the errors made by the Southeastern Wisconsin Regional Planning Commission when it recodified the Village of Fontana Municipal Code in 2000. Thorpe stated last month that he reviewed the current zoning regulations and compared them to the version of the zoning ordinance that was in effect prior to the recodification. Thorpe stated that the project was the result of the Village staff discovering that a number of historic zoning regulations for the Village had been altered through the recodification process in 2000, and that there had been no disclosure or discussion of the changes at the time the recodification took place. Thorpe stated that some of the 104 total changes noted on the list are “modernizations” of the former code and not really substantive; however, the changes addressed in the proposed ordinance are substantive and should be corrected. Thorpe stated that rather than correcting the substantive changes in a piecemeal manner, they were combined in the proposed ordinance he drafted. Derek D’Auria stated at last month’s meeting that he wanted to review the list and maybe suggest other changes be addressed at this time. Hayden-Staggs also stated last month that staff really didn’t get a chance to thoroughly review the error list since it was submitted by Thorpe, and it would not be a problem to delay setting a public hearing on the matter for another month.

Spadoni/Poivey 2nd made a MOTION to set a public hearing for the Monday, April 30, 2007 Plan Commission meeting to consider the proposed corrections to Chapter 18 of the Municipal Code as presented, and the MOTION carried without negative vote.

Fencing Ordinance Amendment Update – Public Hearing Monday, April 30, 2007

President Whowell stated that the Plan Commission already voted to set a public hearing for the Monday, April 30, 2007 Plan Commission meeting to consider the proposed amendments to Section 18-27(f)(1) with regard to fencing regulations. McCarthy stated that upon further review by the Village staff, the proposal will include a provision to establish a uniform 4-foot maximum height for a fence located within a setback area. Last month, McCarthy stated that one of the inconsistencies that the proposed amendment addresses is that the maximum height of a fence within a setback area currently is 3.5 feet in one section and 4 feet in another. The proposed amendment is on file at the Village Hall and posted on the Village website.

Pending Items for Future Agendas

1. Concept Review for CUP – Edward Lyon (Tabled 5/30/06 & 6/26/06)
2. Minimum Lot Size Requirement Discussion (Tabled 6/26/06)
3. Abbey Harbor Condo Plat
4. Fontana Village Inn BSOP
5. Novaks’ Deli – Certified Survey/Parking Lot Renovation Plan & Noncompliance Letter (Tabled 1-29-07)
6. Abbey Springs Clubhouse Renovation – PIP Amendment Proposal (Tabled 1-29-07)
7. Abbey Springs Boat Storage Expansion – PIP Amendment Proposal (Tabled 12-18-06, 1-29-07)

Adjournment

Spadoni/O’Connell 2nd made a MOTION to adjourn at 7:23 pm, and the MOTION carried without negative vote.

Minutes prepared by: Dennis L. Martin, Village Clerk

Note: These minutes are subject to further editing. Once approved by the Plan Commission, the official minutes will be on file at the Village Hall.

APPROVED: 04/30/07