

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

MONTHLY MEETING of the VILLAGE OF FONTANA PLAN COMMISSION
Monday, June 30, 2014

Chairman George Spadoni called the monthly meeting of the Plan Commission to order at 5:30 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Plan Commissioners present: Roll call: Micki O'Connell, President Petersen, Sarah Lobdell, Trustee Spadoni, F.J. Frazier

Plan Commissioner absent: Cynthia Nickolai

Also present: Attorney Anthony Coletti, William Durante, Mark Henning, Library Director Nancy Krei, Theresa Linneman, Village Administrator Dennis Martin, James McGrath, George Nassos, Building Inspector/Zoning Administrator Ron Nyman, Abbey Ridge Agent Ryan Southwick, Village Attorney Dale Thorpe, Kevin Towers, Joseph Tullo

Visitors Heard

None

Announcements

July Calendar Distributed

Approve Minutes

President Petersen/Commissioner O'Connell 2nd made a MOTION to approve the minutes as submitted for the monthly meeting held January 27, 2014, and the MOTION carried without negative vote.

Public Hearings

Public Hearing for Petition to Amend Zoning Code Filed by Abbey Villas Condominium Association, Inc., to Amend Section 18-40 II. Abbey Villas Subdistrict, Section 18-40 II. (c) Principal Land Uses Permitted by Right

At the request of Trustee Spadoni, Martin provided an overview of the petitions filed by the Abbey Villas and Abbey Ridge condominium associations. Martin stated the amendments proposed on the first two agenda items are very similar and relate to overnight rentals in the two Abbey subdistricts. A complete rewrite of the Chapter 18 zoning ordinance was completed in 2012, but confusion surfaced regarding the overnight rentals as a use permitted by right that was not included in the sections governing the Villas and Ridge condo units. Martin stated after a recent staff meeting with Village Planner Mike Slavney and Attorney Coletti (representing the Abbey Villas), it was determined that the correct classification to permit overnight rentals by right is the "Tourist Rooming House" definition. That specific use was not included in the newly written Chapter 18 Zoning code sections for the Abbey Villas and Abbey Ridge associations; although the previous zoning code called for the use of overnight rentals and both condominium associations' declarations and bylaws call for the use. The public hearings were held in order of the agenda to present the petitions that seek authorization to reestablish the permitted use by right in the two code sections.

The Abbey Villas public hearing was opened at 5:32 p.m. Attorney Coletti spoke on behalf of Abbey Villas Condominium Association affirming the situation Martin had described above. Coletti stated the bylaws of the Abbey Villas association have allowed for short-term rentals for many years past. He stated there was a lawsuit a while back to determine if short-term rentals should continue and it

was resolved in favor of allowing for rentals. Coletti asked that on behalf of the individual condo owners and on behalf of the Abbey Villas that the allowance of long and short term rentals be rewritten back into the code as it had been previously. Abbey Villas Board of Directors member George Nassos stated he is one of five board members and he is in favor of reinserting the language into the code to allow for short-term rentals at the Villas. Abbey Villas (and Abbey Ridge) condo owner Joe Tullo stated the result of the lawsuit was that short-term rentals be permitted. Tullo stated he wants to make sure no lawsuits happen again as it had cost the Association quite a bit of money to resolve the issues. Abbey Villas condo unit owner Kenneth Towers stated that he is in support of the position taken by Nassos and Attorney Coletti. Abbey Villas owner Haven Ready stated he and he and his wife have owned their unit for more than 30 years. Ready stated they live in Seattle and it is hard to use the unit often enough to justify ownership and therefore he is in support of having the ability to rent out the unit. No one spoke in opposition. The public hearing was closed at 5:36 p.m. President Petersen/Commissioner Frazier 2nd made a MOTION to recommend Village Board approval of the Petition to Amend the Zoning Code filed by Abbey Villas Condominium Association, Inc., to amend Section 18-40 II. Abbey Villas Subdistrict, Section 18-40 II. (c) as presented. The MOTION carried on a 5-0 vote with Commissioner Nickolai absent.

Public Hearing for Petition to Amend Zoning Code Filed by Abbey Ridge Condominium Association to Amend Section 18-40 III. Abbey Ridge Subdistrict, Section 18-40 III. (c) Principal Land Uses Permitted by Right

The public hearing was opened at 5:37 p.m. Ryan Southwick of Lakes Property Management stated he filed the re-zone application and was speaking on behalf of the Board of Directors of the Abbey Ridge Condominium Association. Southwick stated he is in favor of the proposed amendment to allow rentals and added short-term rentals and daily rentals are currently included as permissible in the condominium association declarations of the Abbey Ridge. Tullo, also an Abbey Ridge property owner, stated he is in favor of the amendment as the use is already included in the association bylaws. Abbey Ridge condo owner Mark Henning stated he understands the addition of lodging for short term, but does not understand why the Abbey Ridge has commercial indoor lodging. Spadoni stated that is not the issue posted in the hearing notice and stated it would have to be discussed at another time as an agenda item, or that the Building and Zoning Department could provide a clarification. Abbey Ridge Association President Bill Durante asked if it was possible to amend the bylaws of the condominium association by taking a vote of those in the audience at the hearing. Village Attorney Dale Thorpe stated it was not an appropriate venue for an association membership vote and changing the bylaws of the association is a separate issue dictated by state statutes and the condominium declaration, and not the Village. Abbey Ridge condo owner James McGrath spoke in opposition to allowing short-term rentals. McGrath stated at the time he bought his unit, nobody bought the units to lease them out on a short-term basis, and at the current time only one unit is rented on a short-term basis. McGrath stated he is trying to protect the property values of the condos as there was a unit previously used as a rental and it sold two weeks ago for just \$419,000. A condo unit two buildings down is currently listed as \$645,000. Durante asked how the village monitors rentals and room taxes because there are some condo unit owners they are aware of who are not complying with the regulations. Building Inspector/Zoning Administrator Ron Nyman stated there may be short-term rentals going on that the Village is not aware of. The Village finds out about these rentals through internet advertising and information from the public. There is currently three rental situations the Village is aware of. Martin added that the Village now gets notified by the state when people apply for the required permits. Durante asked about inspections and Nyman stated the state does not require an inspection, it's something the Village code requires. Local inspections of rentals are done once a year and a health inspection required by the state is done every two years. The public hearing was closed at 5:44 pm. President Petersen then made a motion that was seconded by Commissioner Frazier that following a vote and subsequent discussion turned out was a motion to just recommend the petition forward to the Village Board without a recommendation for approval or denial. That motion carried on a 4-1 vote with Commissioner

O'Connell opposed and Commissioner Nickolai absent. During the subsequent discussion, Thorpe stated that by state statute there has to be a Plan Commission recommendation either "for" or "against" a filed petition. Thorpe asked Southwick if he had been directed by the board of directors to submit the application and he replied in the affirmative. During the discussion it was stated that the majority of association members at the meeting were opposed to the short-term rental even though the use is allowed in the condo declaration and bylaws. Spadoni suggested that the Abbey Ridge Condominium Association call a meeting to consider internal restrictions on short-term rentals, similar to the restrictions adopted by the Villas Association. O'Connell stated that if the owners of the units are opposed to the short-term rentals, the permitted use should not be reinserted in the new zoning code, even though it was in the old zoning code that was repealed and recreated in September 2012. Petersen stated that he was initially opposed to recommending in favor of the amendment because he thought the management company filed the petition, and not the association's Board of Directors. Petersen stated that he thought it was the condo owners' intent to have the short-term rental provision removed from the rewritten code. Following further discussion, Thorpe explained that the board of directors for condominium associations are elected by the association membership at duly posted meetings, and the boards speaks for the associations. Thorpe stated that the Abbey Ridge Association filed the petition to have the code amended as presented. After the motion was restated with a recommendation to approve the petition, Spadoni called for a roll call vote.

President Petersen/Commissioner Frazier 2nd made a MOTION to recommend Village Board approval of the Petition to Amend the Zoning Code filed by Abbey Ridge Condominium Association, Inc., to amend Section 18-40 III. Abbey Ridge Subdistrict, Section 18-40 III. (c) as presented, and the roll call vote was as follows:

Commissioner O'Connell – Nay

President Petersen – Aye

Commissioner Lobdell – Aye

Trustee Spadoni – Aye

Commissioner Frazier – Aye

The motion carried on a 4-1 vote, with Commissioner Nickolai absent.

Public Hearing for Petition to Amend Zoning Code Filed by Village of Fontana for Proposed Zoning Code Amendment to Chapter 18, Article VIII, Floodplain Zoning Ordinance

Spadoni opened the public hearing at 5:53 p.m. Martin stated the floodplain ordinance amendment was to adopt the updated model ordinance and local map panels provided by the Wisconsin DNR and FEMA. No other comments were made before the hearing was closed at 5:54 p.m.

Commission O'Connell/Commissioner Lobdell 2nd made a MOTION to recommend Village Board approval of the Petition to Amend the Zoning Code filed by Village of Fontana for the proposed update to the Chapter 18, Article VIII, Floodplain Zoning Ordinance and the associated map panels, and the motion carried on a 5-0 vote with Commissioner Nickolai absent.

Adjournment

Trustee Spadoni/President Petersen 2nd made a MOTION to adjourn the meeting at 5:55 pm, and the MOTION carried without negative vote.

Minutes prepared by: Theresa Linneman, Deputy 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: 10/06/14