

**VILLAGE OF FONTANA ON GENEVA LAKE  
WALWORTH COUNTY, WISCONSIN**

**(Official Minutes)**

MONTHLY MEETING of the VILLAGE OF FONTANA PLAN COMMISSION

**Monday, July 25, 2016**

Chairman Dave Prudden 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: Sarah Lobdell, Trustee Petersen, Trustee Prudden, Bob Grant, Bob Ahern

**Plan Commissioners Absent:** Fritz Frazier, Micki O'Connell

**Also present:** Steve Beers, Clerk Theresa Loomer, Administrator Dennis Martin, Zoning Administrator Bridget McCarthy, Bob Stewart, Village Attorney Dale Thorpe

**Visitors Heard**

None

**Approve Minutes**

Trustee Petersen/Commissioner Lobdell 2<sup>nd</sup> made a MOTION to approve the minutes for the June 27, 2016 meeting, as presented, and the MOTION carried without negative vote.

**Public Hearings**

**Proposed Amendment to Section 18-257(d)(1) Regarding Violations and Penalties**

Chairman Prudden opened the public hearing at 5:33 pm. McCarthy explained that prior to the zoning code re-write in 2012, the Building & Zoning Department was able to issue citations for ordinance violations. The rewritten code requires staff to seek Plan Commission authorization to issue a citation for zoning code violations, and this can lead to a several week lag-time between the violation and the issuance of the citation. The amendment would change the ordinance back to having the Building Administrator and Building Inspector issue citations when necessary. There were no other comments before Prudden closed the hearing at 5:35 pm.

Trustee Petersen/Commissioner Grant 2<sup>nd</sup> made a MOTION to recommend Village Board approval of the proposed amendment to Section 18-257(d)(1) regarding Violation and Penalties, and the MOTION carried without negative vote.

**Proposed Amendment Regarding Preservation of Existing Grade**

Chairman Prudden opened the public hearing at 5:35 pm. Thorpe stated that Trustee Petersen brought to his attention several months ago an issue with storm water drainage when a property owner builds or remodels a residence and changes the existing grade. He said when Petersen explained the issue, it was more in terms of houses having huge basements; however, it does not have to do with the walls, but more so whether the grade is steep or shallow. Through his research on state statutes and surrounding communities, Thorpe drafted an amendment to the zoning code. Staff recommended against the amendment as other areas of the Municipal Code already address the situation. Petersen stated any homeowner in the Village runs the risk that the next door neighbor's house may come down and they decide to build a hill and then put a house on top of it changing the topography of the entire neighborhood and sending their storm water somewhere else. Thorpe explained that everybody has the right to sue their neighbor if their neighbor negligently sheds water, but pursuing the issue and taking it to court costs a lot of money and time. Thorpe said the proposed ordinance adds a remedy where property owners would have to hire surveyor to prepare and submit a topographical survey in order to apply for a building permit and meet the requirement that if the

grading is significantly changed, there has to be a plan to handle the ground water runoff on site. The proposed ordinance repeals and recreates sections 18-210 and 18-229 and create section 18-230 regarding preservation of existing grade. Thorpe explained that 18-210 would amend the purpose section. Section 18-229(a) would read “In addition to any other obligation imposed by the Village-of-Fontana Municipal Code, no land shall be developed or graded and no use shall be permitted which shall result in water run off which causes property damage, a nuisance, or erosion on adjacent properties. 18-229(b) would read, “In order to protect adjacent properties from possible damage due to the change in the existing grade of adjoining lands, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ration greater than three (3) horizontal to one (1) vertical, within a distance of 30 feet from the property line. The property owner proposing to change the existing grade of that owner’s land shall submit a grading plan showing existing and proposed grades on the subject lot with such detail as is necessary to allow the Village to determine compliance with this Ordinance. To the extent this Ordinance conflicts with the requirements of Chapter 16 or the Village-of-Fontana Municipal Code, Chapter 16 shall control.”

McCarthy stated the Building & Zoning Department tries to stay on top of this issue and the local builders and contractors are familiar with the storm water runoff issues in the village and address them before they even come up. She stated the department could spend more time with new builders to make sure they understand the issues unique to Fontana. She reiterated that the expense would significantly increase even for someone who is doing something as simple as adding a deck, in that scenario, the cost of the topography could easily be a quarter of the cost of the whole project. She stated the ordinance would need to define when a topographic survey would be required – what size addition, what size garage, etc., and be applied across the board; it also needs to be written in a matter that is enforceable. If a property owner is trying to fix a problem that is causing runoff, they would still need to get a topographical survey. McCarthy stated she typically receives about one complaint per year regarding storm water. Anything to do with damage to another person’s property is currently a civil matter and McCarthy asked if the ordinance is passed, how it would be enforced. Thorpe stated the ordinance would allow for the Building & Zoning Department to issue tickets. McCarthy expressed concern with having to issue tickets based on another property owner’s accusation and does not believe it should be the Building & Zoning Department’s responsibility to issue citations based on complaints from a neighbor. Thorpe proposed adopting only Section 18-229(a) which he described as a flat statement that would prohibit individuals from altering their property to cause flooding for neighbors. Grant asked if there is a step-wise progression the Village could take. Stewart Excavation owner Bob Stewart spoke against the proposed ordinance amendment and explained that he worked on the lot causing the concern for Trustee Petersen. Stewart stated that the project was an isolated project that used an out-of-town developer not used to the challenges of the Village of Fontana topography. Stewart stated that no one is purposely trying to dump water onto their neighbor. He said changing the ordinance as proposed will not benefit the community and as an excavator, if he sees a plan that does not look quite right and like it might cause problems, he adjusts the excavation plan on site. Property owner Steve Beers stated he would like to reiterate Stewart’s concerns and said the requirement to get a topographical survey is expensive and would add an additional expense to the homeowner and would cost additional time. Beers stated that it could potentially make more issues with neighbors as well as make McCarthy’s job difficult and could extend a project for several months. There was further discussion by the commissioners on the current state of storm water management, how the presented ordinance would be enforced, and whether the Municipal Code storm water management Chapter 16 should be consolidated with Chapter 18. Thorpe suggested the option of moving forward with only 18-229(a). Ahern stated hills throughout the entire Village are a problem, but most issues in his subdivision are worked out neighbor to neighbor. He stated he believes enforcement would be difficult and agrees with the new builder education approach. The Public Hearing was closed at 6:02 p.m.

Trustee Prudden/Commissioner Ahern 2<sup>nd</sup> made a MOTION to recommend Village Board denial of the proposed amendment regarding Preservation of Existing Grade, Proposed Ordinance Repealing

and Recreating Sections 18-210, and 18-229 and Creating Section 18-230 Regarding Preservation of Existing Grade, and the MOTION carried on a 4-1 vote with Trustee Petersen opposed.

### **General Business**

#### **Accept Resignation for Commissioner Micki O'Connell**

Commissioner O'Connell submitted an email on July 19, 2016 stating she was retiring and resigning her position due to health reasons. Martin said O'Connell served from April 2003 to April 2011 as a Village Trustee and was also on the Plan Commission prior to stepping down as a Village Board member. In April 2011 she was appointed to the Plan Commission and she served until submitting her resignation. Prudden stated that he will have a recognition plaque made for O'Connell to thank her for her service to the community.

Trustee Petersen/Commissioner Lobdell 2<sup>nd</sup> made a MOTION to regretfully accept the resignation of Micki O'Connell, and the MOTION carried without negative vote.

#### **Chapter 17 Amendment to Reincorporate Lot Line Adjustment Approval Process**

Thorpe drafted an ordinance amendment that would reincorporate the approval process for lot line adjustment applications. The section is another item that was not carried over from the old Zoning Code during the rewrite project in 2011 and 2012. Martin stated that the definition for lot line adjustment approvals was carried over, just not the section that outlines the approval process and application requirements. Martin asked the Plan Commission to consider a motion to schedule a public hearing for the next meeting that is held as scheduled. Martin stated that there is currently nothing else pending for Plan Commission consideration and there will not be a monthly meeting held if there are no other items than the proposed correction amendment.

Trustee Petersen/Commissioner Grant 2<sup>nd</sup> made a MOTION to schedule a public hearing to consider the proposed amendment at the next Plan Commission meeting, and the MOTION carried without negative vote.

### **Adjournment**

Commissioner Lobdell/Trustee Petersen 2<sup>nd</sup> made a MOTION to adjourn the meeting at 6:12 pm, and the MOTION carried without negative vote.

Minutes prepared by: Theresa Loomer, 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: 10/31/16