

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

**(Official Minutes)**

MONTHLY MEETING of the VILLAGE OF FONTANA PLAN COMMISSION

**Monday, April 29, 2019**

Clerk Theresa Loomer called the monthly meeting of the Plan Commission to order at 5:39 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

**Plan Commissioners present:** Roll call: Bob Kirkland, Trustee Petersen, F.J. Frazier, Bob Grant (arrived at 6:08 pm), Bob Ahern

**Plan Commissioner Absent:** Trustee Prudden, Sarah Lobdell

**Also present:** Teri Burns, Jeff Cates, Kevin Day, Linda Gray, Bill Henry, Winn Kazowinski, Bob Klockars, Matt Leinen, Stan Livingston, Theresa Loomer, Mike McKay, Pete Novak, Eric Nyman, Wally Perkins, Bob Rauland, Mickie Springer, Bonnie Schaeffer, Denise Soling, Harry Soling, Dale Thorpe

**Elect Chairman Pro-Tem**

Commissioner Ahern/Commissioner Kirkland 2<sup>nd</sup> made a MOTION to elect Trustee Petersen as the Chairman pro tem. The MOTION carried without negative vote.

**Visitors Heard**

None

**Approve Minutes**

Commissioner Ahern/Commissioner Kirkland 2<sup>nd</sup> made a MOTION to approve the minutes from the April 4, 2019 meeting, as presented, and the MOTION carried without negative vote.

**Public Hearings**

**Grade Preservation Ordinance Amendments – Recreating Sections 18-13, 18-210 and 18-229 and Creating Sections 18-229**

The public hearing was opened at 5:40 pm. Attorney Thorpe described the purpose of the ordinance to proactively preserve the grade of a property in order to diminish water damage to adjacent properties. A grading permit will be required for any property owner proposing to alter the grade of the property within 30-feet of a lot line. No one spoke for or against the ordinance amendment. The public hearing was closed at 5:42 pm.

**Conditional Use Permit Application Filed by Harry Soling for Parcels SA359200002 & SA359200003 for Construction of a Single Family Dwelling**

The public hearing was opened at 5:43 pm. Zoning Administrator Bonnie Schaeffer explained that a CUP application was filed to construct a house on two lots in the AH-35 zoning district. The applicant is proposing to connect sewer and water and place the driveway entrance from Kathy Court located in the Pheasant Ridge Subdivision. The site plan submitted also shows a strip of land labeled as Outlot 1 that connects the lots to Indian Hills Road. Schaeffer stated the application meets all requirements and is recommended for approval by staff. Applicant Harry Soling stated by entering from Kathy Court there is less of a hindrance to the two property owners that already use Outlot 1 for access to their properties; however, lots 1 – 3 are currently under condition for purchase. Thorpe stated he recalled that the land was platted for Outlot 1 to be used as a driveway to access lots 2 and 3. Pheasant Ridge Homeowners Association President Eric Nyman, 1209 Bridget Court, stated he was speaking on behalf of the association and the HOA does not object to combining the lots but

does object to access from Kathy Court for a number of reasons including no benefit to Pheasant Ridge, whether the property should be brought into the HOA, and the potential legal issues and costs. Bob Rauland, 1109 Julie Ann Court, stated he was the realtor that assisted Bill Henry in developing the site as a conservancy subdivision in the year 2000. He stated Pheasant Ridge also invested \$25,000 to buy the lot at the corner of Indian Hills Road and County Highway B. Rauland described three more sites with similar access points and asked what would prevent those from being developed in the future. Bill Divane, 1022 Indian Hills Road, stated he is in favor of the proposal and access off Kathy Court because he is the property owner to the south of Outlot 1 and currently uses it for access to his home. Mike McKay, 538 Pheasant Ridge Lane, stated he purchased his property in the year 2000 and selected it for quiet enjoyment. He stated he is opposed to further traffic and to the construction of a pole barn. Bill Henry stated he developed the property in 1999 for \$20,000 per lot, and at that time asked Administrator Chuck Patten for a recapture fee. He said he never received it in writing, but Patten did agree to it in front of other people. Loomer stated she received a letter to be placed on the record from Paul and Edyta Pappas, 1102 Kathy Court, in opposition to the application. The public hearing was closed at 5:58 pm. Commissioner Ahern asked whether the detached garage is out of character for the area. Soling stated the out building is a detached garage and not a pole barn. Thorpe reminded the commission that the application is to build a house on two lots and all future building approvals will need to comply with the zoning code. Commissioner Frazier discussed the access from Kathy Court as opposed to Outlot 1 from Indian Hills Road. Thorpe stated if the applicant chooses to use Outlot 1 as the driveway then a shared driveway agreement could be arranged with the two neighboring property owners. The public hearing was closed at 6:06 pm.

#### **Conditional Use Permit Application Filed by Rex and Diane Lewis for 650 S. Main Street for Bed & Breakfast**

The public hearing was opened at 6:09 pm. Thorpe stated the Lewis's voluntarily surrendered their Bed and Breakfast Conditional Use Permit that was issued in 2017. Staff has worked closely with Attorney Johnson who represents the Lewis's and Attorney Gray who represents the Geneva Pointe Condo Association to develop agreed upon conditions of a new Bed and Breakfast Conditional Use Permit. Attorney Gray spoke on behalf of the Geneva Pointe Condo Association and stated that a noise complaint was filed on April 13, 2019 at 5:45 am because of loud and excessive noise. Gray stated the police report cites that Mr. Lewis told the on-duty officer that he did not want him to complete a police report because it would affect him getting the new license. Gray stated the Geneva Point Condo Owners feel the Lewis's will not abide by the approved conditions and asked the commission to recommend denial of the application. Thorpe stated the citations have not been adjudicated and instructed the commission members not to make a decision on tickets that have not yet went through court. Julius Babowice, 227 Dewey Avenue, stated he was the person that called the police on April 13, 2019 at 5:45 am regarding the noise coming from the Lewis property. He stated he spoke at the 2017 public hearing on the previously issued Bed and Breakfast permit and even though the Lewis's surrendered that permit, they are still renting out the property without a valid license. He asked the commission why they would give the Lewis's another chance when they are habitual offenders. Teri Burns, 227 Dewey Avenue, stated she is a 22-year resident of Geneva Point and that she has been woken up by loud music and people on Saturday nights between 1:00 am and 3:00 am. She stated she would not mind if the property was running as an actual bed and breakfast. Four letters of opposition were placed on record by Loomer: letters from Robert Meehan, property owner at 227 Dewey Avenue, Unit 103, Todd Lizak, property owner at 227 Dewey Avenue, Unit 101, and two letters from Marti Green, property owner at 227 Dewey Avenue. Winn Kazowinski stated that the Lewis's and their attorney not appearing is not a misunderstanding and has been going on for two years. She stated the Lewis's have not followed the rules and their property is still listed on VRBO. She stated the Lewis's are not even on premise when they rent out their property. The public hearing was closed at 6:24 pm. There was discussion about whether to table the public hearing since the Lewis's and their attorney were not in attendance.

**General Business**

**Plan Commission Recommendation on Grade Preservation Ordinance Amendments – Recreating Sections 18-13, 18-210 and 18-229 and Creating Sections 18-229**

Commissioner Kirkland/Commission Frazier 2<sup>nd</sup> made a MOTION to recommend the Village Board approve adopting the Grade Preservation Ordinance Amendments, as presented, and the MOTION carried without negative vote.

**Plan Commission Recommendation on Conditional Use Permit Application Filed by Harry Soling for Parcels SA359200002 & SA359200003 for Construction of a Single Family Dwelling**

Commissioner Ahern/Commissioner Kirkland 2<sup>nd</sup> made a MOTION to recommend Village Board approval of the conditional use permit application filed by Harry Soling to construct a house on Parcels SA359200002 and SA359200003, subject to driveway access through Outlot 1, and further historical research by the Village Attorney, and the MOTION carried without negative vote. Commissioner Grant abstained due to arriving late.

**Plan Commission Recommendation on Conditional Use Permit Application Filed by Rex and Diane Lewis for 650 S. Main Street for Bed & Breakfast**

Trustee Petersen/Commissioner Frazier 2<sup>nd</sup> made a MOTION to recommend Village Board denial of the conditional use permit application for a Bed and Breakfast for the property located at 650 S. Main Street. The MOTION carried without negative vote.

**Conditional Use Permit Application Filed by Southbound Development, LLC, for 138 Fontana Boulevard for Outdoor Boat Display – Set Public Hearing**

Commissioner Frazier/Commissioner Grant 2<sup>nd</sup> made a MOTION to schedule a public hearing for the conditional use permit application filed by Southbound Development, LLC., for 138 Fontana Boulevard for outdoor boat display at the next Plan Commission meeting scheduled for Tuesday, May 28, 2019 at 5:30 pm. The MOTION carried without negative vote.

**Amend Zoning Code Sect. 18-246(g) regarding Conditional Use Permit – Set Public Hearing**

Commissioner Frazier/Commissioner Grant 2<sup>nd</sup> made a MOTION to schedule a public hearing for the zoning code amendment for section 18-246(g) regarding conditional use permit public hearing, at the next Plan Commission meeting scheduled for Tuesday, May 28, 2019 at 5:30 pm. The MOTION carried without negative vote.

**Amend Zoning Code Article XVI. – Extraterritorial Zoning to add Bed and Breakfast as an Allowable Land Use – Set Public Hearing**

Commissioner Grant/Commissioner Ahern 2<sup>nd</sup> made a MOTION to schedule a public hearing for the zoning code amendments for zoning article XVI regarding the ETZ to add Bed and Breakfasts as an allowable land use at the next Plan Commission meeting scheduled for Tuesday, May 28, 2019 at 5:30 pm. The MOTION carried without negative vote.

**Reschedule May Meeting Date Due to Memorial Day**

The May meeting was scheduled for Tuesday, May 28, 2019 at 5:30 pm.

**Adjournment**

Commissioner Frazier/Commissioner Grant 2<sup>nd</sup> made a MOTION to adjourn the meeting at 6:27 pm, and the MOTION carried without negative vote.

Minutes prepared by: Theresa Loomer, Village Administrator/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: 05-28-19