

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

REGULAR MEETING of the VILLAGE OF FONTANA PLAN COMMISSION
Monday, July 25, 2005

President Whowell called the monthly meeting of the Plan Commission to order at 5:45 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Plan Commissioners present: Roll call vote: Larson, Eakright, O’Connell, Spadoni, Treptow, President Whowell

Plan Commissioner absent: Poivey

Also present: Village Administrator Kelly Hayden-Staggs, Village Clerk Dennis Martin, Village Attorney Dale Thorpe

Announcement for Plan Commission to Consider Going Into Closed Session

Treptow/Spadoni 2nd made a MOTION for the Plan Commission to go into closed session pursuant to Chapter 19.85 (1) (e) Wis. Stats., for the purpose of “deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require,” and the roll call vote followed:

Eakright – Yes

O’Connell – Yes

Spadoni – Yes

Treptow - Yes

President Whowell – Yes

Larson - Yes

Adjourn to Open Session

Larson/Treptow 2nd made a MOTION to adjourn the Plan Commission’s Closed Session at 5:56 pm and to reconvene at 6:00 pm for the regular monthly meeting, and the MOTION carried without negative vote.

President Whowell announced the Plan Commission was still in session at 6:05 pm

Also present: John Clair, David Coates, Jim and Meagan Feeney, Joanne Hannigan, Code Specialist Bridget McCarthy, Joe McHugh, Building Inspector Ron Nyman, Jerry Oglesby, John Olson, Trustee Pete Petersen, Brian Pollard, Trustee Ron Pollitt, Margaret and Skip Scherb, Sturges Taggart, Carol and Jamie Whowell, Cindy Wilson

Visitors Heard

None

Announcements

Hayden-Staggs announced that the Geneva Lake West Chamber of Commerce Lakeshore Idol Contest final event will be held at Reid Park Friday, July 28, 2005, beginning at 6 pm; the monthly Village Board meeting will be Monday, August 1, 2005, at 6 pm; the CDA will hold its regular Board meeting Wednesday, August 3, 2005, at 6 pm; Music in the Park Featuring the Great Lake Naval will be held Monday, August 13, 2005, at 5 pm; and the next monthly Plan Commission meeting will be held Monday, August 29, 2005, at 6 pm. Spadoni announced the Big Foot Lions Club will hold its annual Steak Fry/Lobster Boil in Reid Park on Saturday, July 30, 2005.

Approve Plan Commission Minutes

Spadoni/Treptow 2nd made a MOTION to approve the June 27, 2005 minutes, and the MOTION carried without negative vote.

Public Hearings

Conditional Use Permit Application filed by Sturges P. Taggart, 797 Wells St., Lake Geneva, WI 53147, for property owner Margaret C. Scherb, 1737 W. Winona Ave., Chicago, IL 60640, for Tax Parcel No. SGS 00031, 420 Walworth Avenue, Fontana, to raze the existing residence and construct a two-story Frame Loft Home under the Nonconforming Lots Amendment to the Village of Fontana Municipal Code

President Howell opened the Public Hearing at 6:10 pm. President Howell explained that the Scherbs had to apply for a new CUP because the developer did not have the foundation for the new residence poured according to the plan approved at the January 31, 2005 Plan Commission meeting, the new residence was erected within the 10-foot limit of the existing garage, and other aspects of the plan were altered. McCarthy stated that the new plan calls for a walk-out deck that was not included on the initially approved plan, and the elimination of a covered entryway at the back of the residence. McCarthy stated that the Building and Zoning Department recommends approval of the walk-out deck, pending input from the neighbors; enforcement of the construction of the initially approved covered entryway; enforcement of the 10-foot separation of the new residence from the garage; submission of a landscaping plan for Plan Commission approval; enforcement of the initially established 19-foot, 6-inch height limitation for the new residence; and the implementation of a fine for violating the terms of the initially approved CUP. John Olson, representing Margaret Scherb, showed photographs of the foundation that was not poured after the January 31, 2005 CUP approval. Olson stated that it is not the fault of Mrs. Scherb that the foundation was poured improperly. Olson stated that the project has already cost Mrs. Scherb \$150,000, and if the recommendations of the Building Department are followed, it will cost her another \$75,000. Thorpe stated that it is not the job of the municipal building inspector to make sure a property owner is having a building constructed according to the approved plans. Thorpe stated that the foundation for the Scherb residence was poured in a different location which caused height and garage proximity problems. Thorpe stated that if the Plan Commission votes to approve the plans submitted for the new CUP application, the commissioners can add conditions. Thorpe stated that if the Plan Commissions votes to deny the new CUP application, the problems with the initially approved CUP will have to be rectified by issuing municipal citations, acquiring a court order and ultimately having the foundation razed. Bill Taylor, a resident of Gate 4 at Glenwood Springs, stated that he was told that it is a owner's sole responsibility to make sure their home is constructed according to the approved plans, it is not the responsibility of the Village. Taylor stated that the Plan Commission should require the Scherbs to stick with the initially approved plan. Jim Provenza stated that he owns property in the Glenwood subdivision and if the Scherbs want approval to construct the new residence in the site that was not initially approved by the Plan Commission, the existing garage should be razed. Provenza stated that he would like to see the situation resolved so the Scherbs can finish construction and the site can be cleaned. Gail Helmer stated that she is a neighbor of the Scherbs and she would like to see the matter resolved. Margaret Slattery Mandall stated that she is a neighbor of the Scherbs and she would like to see the new residence completed as soon as possible in order to allow Mrs. Scherb to enjoy the new home this summer. Mandall stated that the Plan Commission should allow the Scherbs to connect the garage to the new residence in order to alleviate the setback deficiency. In response to a question, Dorothy Klug, a resident of Gate 1 in Glenwood Springs, was told the new residence is about 2 feet over the height limitation in its unapproved location. Taggart stated that the foundation was not poured in the wrong location because of a blatant error, and he hired a surveyor who is noted for his accuracy. Hayden-Staggs stated that the Plan Commissioners cannot simply approve the height violation and allow the garage to be connected because they have to stick to the integrity of the CUP process. Hayden-Staggs stated that all of the problems associated with the plan violations were issues that were discussed at the many meetings and public hearings held for the initial CUP. Hayden-Staggs stated that the conditions that have been violated were established at the previous meetings. Spadoni stated that he supports the proposed walk-out entryway and deck; the back of the garage should be removed to create the required 10-foot setback from the new residence; a site landscaping plan should be submitted for approval; and in order to avoid a potential court battle, the residence should be allowed to be constructed on the site of the current foundation, but the developer should be fined for violating the initial CUP. Treptow stated that he agreed with Spadoni that the height of the new residence should be allowed to be higher than the initially approved 19-foot, 6-inches; however, the developer should be fined. Treptow stated that he also agreed that the garage should be renovated to make it at least 10

feet set back from the new residence. Larson stated that she is concerned about the whole CUP process, and the issues that were discussed at the previous public hearings were important. Eakright stated that he supports the new plan for a walk-out deck and the south entryway addition. Eakright stated that although the proposed height of the new residence exceeds 19-feet, 6-inches, it still is less than the 35-foot maximum allowed in the Municipal Code. O'Connell stated that she feels it's important to approve the plan so Mrs. Scherb can get her new home constructed and she can move into it before the end of summer. O'Connell stated that the south entry should be constructed as presented, and the walk-out deck is approvable; however, the trees on the lot have to be protected by an approved landscaping plan. O'Connell stated that the height problem is not right, but the foundation is already poured. Sapdoni stated that if the Plan Commission votes to approve the new CUP, he wants the original porch on the January 2005 plans constructed and a penalty to be levied on the developer. Thorpe stated that the Municipal Code calls for double permit fees to be charged as a possible violation penalty, and the Plan Commission also could request a financial donation to the village as a condition for approval of the new CUP. Olson stated that his client would agree to make a financial donation. Taggart stated that he would agree to make a \$5,000 donation to the village in exchange for approval of the new CUP, which calls for the residence to be constructed back further on the lot than the initially approved CUP.

Spadoni/Treptow 2nd made a MOTION to approve the CUP Application as presented with the conditions that a site landscaping plan be submitted and approved by the Village staff, that the covered entryway depicted on the south elevation of the plans approved for the CUP on January 31, 2005 be constructed as approved, that the existing garage be cut back from the new residence by a minimum of 10 feet, that a large oak tree be protected in the plans for the new walk-out deck, that all the trees on the site be protected, that all cost recovery bills be paid prior to the issuance of an occupancy permit, and that the developer make a \$5,000 contribution to a special village fund to be determined by the administrator. The MOTION carried without negative vote.

Amended Conditional Use Permit Application filed by David Coates, 509 Forest Glen Drive, Fontana, for property owner James Winquist, to raze the existing residence at 304 Kinzie Avenue, Fontana (Lot 74 of the Buena Vista Club Subdivision), and construct a new two-story residence under the Nonconforming Lots Amendment to the Village of Fontana Municipal Code

President Whowell opened the public hearing at 7:24 pm. David Coates stated that the applicants worked with the village staff to amend their initially submitted plans in an attempt to alleviate the concerns voiced at previous meetings. Coates stated that the changes to the plan included shifting the proposed footprint of the new residence back from the road. The new residence will be 2.5 feet off the right-of-way. The amended plan also calls for the proposed garage to be shifted away from the lot line and for a second-floor family room to be constructed stepped in from the ground-level garage. Mary Keeling stated that all of the neighbors support the Winquist proposal. Keeling stated that the proposed home is gorgeous and it will look nice on the lot, which is a key location for the subdivision because it is highly visible at the corner of Kinzie Avenue and North Lakeshore Drive. McCarthy stated that a condition for approval that should be considered by the Plan Commission is to reduce the size of the proposed wrap-around deck to increase the green space ratio on the site. Coates stated that the applicants would like the deck to remain as large as possible; however, they are willing to work with the village in order to gain approval. Clair asked how much of the deck the village wants the applicant to remove, and Hayden-Staggs responded that the portion that is proposed to wrap around the residence on the side facing Kinzie Avenue could be removed. President Whowell closed the public hearing at 7:43 pm. Treptow and Spadoni stated that they favored the amended CUP proposal with the conditions delineated in McCarthy's staff report and if the deck is reduced by 50 percent. O'Connell stated that she initially had a problem with the added volume proposed for the new residence and with the proposal for a room above the new garage, but she favors approving the CUP as amended. Eakright stated that he also favors the amended CUP application with the conditions suggested by McCarthy and if the size of the proposed deck is reduced. Larson stated that it is still her opinion that the Winquist proposal is a misinterpretation of the nonconforming lots ordinance. Larson stated that if approved, the new residence will make the nonconforming conditions worse on the lot. Larson stated that the amended CUP plan is better than the initial proposal only if the applicants are required to follow all of the conditions suggested by staff.

Spadoni/Eakright 2nd made a MOTION to approve the Amended CUP application as presented with the conditions that the applicant fully comply with Section 18-28, Natural Resource Conservation Ordinance of the Village of Fontana Municipal Code; that prior to construction the applicant submit mitigation plans in accordance to Section 18-28 Natural Resource Conservation Ordinance of the Village of Fontana Municipal Code, subject to approval; that prior to construction the applicant provide a letter of agreement from all adjacent property owners with regard to tree protection and tree remediation for potential loss of trees due to construction; that prior to construction the applicant provide a landscaping plan, subject to approval; that the applicant work with village staff to reduce the size of the proposed deck and impervious surface area and to increase the green space area; that the applicant give written notice to all adjoining property owners as required by Comm. 21.13 “Excavations adjacent to adjoining property owner” and that copies of the written notice be provided to the village; that all exterior building construction work, with the exception of landscaping, shall not take place during June, July or August; that the applicant provide a foundation survey prior to continuing with any framing construction; that the applicant provide certification of height within 10 days of completion of the roof framing; and that the applicant fully comply with all other state and local building codes and ordinances. The MOTION carried without negative vote.

Public Hearing on Proposed Amendment to Chapter 18-17, “Specific Words and Phrases – Building Height Definition” of the Village of Fontana Municipal Code

President Whowell opened the public hearing at 7:50 pm. McCarthy explained the proposal to add to the Municipal Code the definition used by the Village of Fontana to measure building height. After McCarthy explained the long-standing method used by the Village of Fontana, President Whowell closed the public hearing at 8:01 pm.

O’Connell/Treptow 2nd made a MOTION to recommend Village Board approval of the Amendment to Chapter 18-17 as presented, and the MOTION carried without negative vote.

General Business

Precise Implementation Plan Filed by Brian Pollard for the FairWyn, Ltd. Mill Street Development

Pollard stated that although he filed with the Village all the required documents for his PIP approval by the submittal deadline, he did not have the detailed landscaping plan until that day. Pollard stated that he hired about four or five weeks ago Brad Drefcinski of Planning & Design Institute, Inc. to prepare the landscaping plan for the Mill Street development. Drefcinski has been busy working on Village and CDA projects, so he did not have time to prepare the detailed landscaping plan until after the submittal deadline. Larson stated that one of her concerns was that the landscaping plan submitted by Pollard did not provide enough details. Pollard responded that he was aware of that fact, but he wanted to make sure something was submitted to fulfill that PIP requirement. Pollard stated that he instructed Drefcinski to incorporate into the Mill Street development the same type of landscaping that the Village is planting along the new Highway 67. Larson stated that she also has concerns about the proposed signage and asked if there was a lighting plan. Pollard responded that there will be no wall signage on the new buildings; the signage will be incorporated into the monument sign by the office building on the west side of Mill Street. Pollard stated that the development will be lighted by the fixtures being installed with the Mill Street road construction project. Hayden-Staggs as well as needing time to review the detailed landscaping plan submitted Monday night, village staff members also did not have enough time to fully review all of the submittal documents prior to the July 25, 2005 meeting. Hayden-Staggs stated that the staff would like to schedule a joint meeting of the Plan Commission and Village Board after a staff meeting is held with Pollard and his attorney, John Clair, to review the documents. The joint meeting will be scheduled prior to August 15, 2005. Hayden-Staggs suggested that the Plan Commission table the matter until after staff holds its meeting and a joint meeting of the Plan Commission and Village Board is scheduled for Monday, August 8 or August 15, 2005. Clair stated that he wanted to make it part of the meeting record that the submitted documents reflect a name change for the development, from FairWyn, Ltd. to FairWyn Development Corporation.

Larson/Spadoni 2nd made a MOTION to table the matter until a special joint meeting of the Plan Commission and Village Board on August 8, 2005 or August 15, 2005, and the MOTION carried without negative vote.

CSM Filed by Maria Kebbekus, Linn Township

Hayden-Staggs stated that the Kebbekus parcel is located within the Village of Fontana extraterritorial plat jurisdiction, so the village could provide input on the CSM, but not on the zoning. Hayden-Staggs stated that the staff review of the proposal did not result in areas of concern and she recommended forwarding the CSM to the Village Board for approval.

Spadoni/Eakright 2nd made a MOTION to recommend Village Board approval of the CSM, and the MOTION carried without negative vote.

BSOP, Sign Proposal Filed by Jerry's Marine for the Whowell Property at 102 W. Main Street (Lot 1, Block 1 of Plot 1 of the Douglas Addition Subdivision)

President Whowell asked the Plan Commission to consider a temporary chairman for the agenda item because the lot is owned by his brother, Jamie Whowell.

Treptow/O'Connell 2nd made a MOTION to appoint Spadoni the temporary chairman for the agenda item, and the MOTION carried without negative vote. President Whowell abstained.

Spadoni asked McCarthy to present the Building and Zoning Department's recommendation on the proposal. McCarthy stated that staff was recommending approval of the BSOP on a temporary basis of no more than two seasons, with the committed intent that the applicant and/or property owner shall develop in that timeframe a permanent use for the property. McCarthy stated that temporary BSOP approval should become null and void at the completion of the approved timeframe, and all use of the property should cease until a subsequent BSOP proposal is submitted and approved.

McCarthy stated that other suggested conditions for approval should be that the signage is reduced to a maximum of 24 square feet, that the signage should be temporary in nature and removed at the completion of each season, that no lighting be allowed to illuminate the sign, that final approval of the reduced sign be required prior to issuance of the permit, that use of the property be restricted to May 1 through October 1, at which time all boats should be removed from the property, that sales be restricted to boats only, that there should be no storage of empty boat trailers allowed on the property, that a maximum of 10 boats be allowed on the lot, and that the landscaping plan on the submitted drawing of the proposed sign be completed as proposed. McCarthy also reminded the Plan Commissioners that they could vote to impose additional restrictions and/or requirements to the proposal. Jerry Oglesby stated that he objected to the proposed condition that the sign be limited to 24 square feet, especially considering that the Municipal Code allows up to 50-square-foot signs in the zoning district and the proposed sign meets all of the code's height requirements. Oglesby also asked that the approved operating season run from May 1 through October 31. O'Connell stated that the Village of Fontana welcome sign and the sign at the Village Hall are about 9-by-4.5 feet and that would be an appropriate size for the Jerry's Marine sign. O'Connell stated that the size of the sign should be cut down a little since it will be located at the entrance to the village. Oglesby asked if a 30-square-foot sign would be approvable. Treptow stated he favored the suggested conditions with the exception that the sign should be allowed for the rest of this season and for the next two seasons. Larson stated that she has a problem approving a boat lot for the highly visible property because it will look tacky. Spadoni stated that in the long-term, he would like to see a permanent building constructed on the site and the property enhanced. Spadoni stated that a sales center would be appropriate and he suggested that Jamie Whowell and Oglesby work with the CDA on a permanent proposal for the site. In the meantime, Spadoni stated that it would be appropriate to approve the BSOP with the conditions suggested by staff, with the exceptions that the sign be 36 square feet in size and the timeframe run through the 2007 season. Thorpe stated that if approved, the Plan Commission should specify that the sign be a maximum of 36 square feet and it only be one-sided. After discussion, the Plan Commission also set conditions that the boats should be displayed at least 15 feet from all lot lines and that the property should be maintained on a weekly basis.

Eakright/O'Connell 2nd made a MOTION to approve the BSOP for the rest of the 2005 season and the entire 2006 and 2007 seasons with the conditions that the applicant and/or property owner work with the CDA to develop a permanent use for the property; that the BSOP becomes null and void at the completion of the approved timeframe, and all use of the property ceases until a subsequent BSOP proposal has been submitted and approved; that the signage is reduced to a maximum of 36 square feet and that it is one-sided; that the signage is temporary in nature and removed at the completion of each season; that no lighting should illuminate the sign; that final approval of the reduced signage is required prior to the issuance of a permit; that use of the property as proposed is

restricted to May 1 through October 31, at which time all boats shall be removed from the property; that sales are restricted to boats only; that there is no storage of empty boat trailers allowed on the property; that a maximum number of 10 boats is allowed; that the landscaping plan on the submitted drawing of the proposed sign be completed as depicted; that all commercial uses on the property require a 15-foot setback from the lot lines; and that business operations be limited to normal daylight hours. The MOTION carried on a 4-1 vote. Commissioner Larson voted no and President Whowell abstained.

Introduction of Hannigan Proposal to Raze and Reconstruct Residence at 653 Hazel Court

Joanne Hannigan presented photographs of the current 140-year-old residence and discussed her proposal for a new home in the Glenwood Springs Subdivision. Hannigan stated that she is proposing a smaller home than the current residence and it will be moved back off the lot line. Hannigan stated that the proposal complies with all of the requirements of the Village of Fontana Municipal Code; however, since the residence is on a nonconforming lot, a conditional use permit is required. Hannigan stated that the proposal also calls for moving the front steps of the residence out of the street right-of-way and for increasing the lot's total green space by eliminating 8 feet from the current deck. The new residence will be the same color and height as the current home, if approved. Larson stated that she is concerned that a small house with a nice roof line would be replaced by a larger structure if the CUP is approved. Hayden-Staggs stated that the proposal is a perfect example of why the Village adopted the nonconforming lots amendment to the Municipal Code; the proposal is improving the nonconforming conditions on the lot. Hannigan stated that she will attempt to have all the required documents filed with the Village clerk by August 5, 2005, so that a public hearing can be posted for Monday, August 29, 2005 for the Conditional Use Permit application.

Spadoni/Treptow 2nd made a MOTION to hold a public hearing on August 29, 2005 for the CUP to be filed by Hannigan, and the MOTION carried without negative vote.

Hubertz Annexation Proposal Update

Thorpe stated that he met with Chris Hubertz and they hired a surveyor to complete the work required to annex the vacant lot into the Village. Thorpe stated that the surveying work should be completed by the end of July.

Building Inspection Activity Report

Nyman stated that he did not have any additional items to report at the meeting.

Pending Items for Future Agendas

1. Audino Quarry Project
2. Grunow Petition to Amend ETZ Zoning Map

Adjournment

O'Connell/Spadoni 2nd made a MOTION to adjourn the meeting at 9:14 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: 08/29/05