

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

**(Official Minutes)**

MONTHLY MEETING of the VILLAGE OF FONTANA PLAN COMMISSION

**Monday, October 31, 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: Trustee Prudden, Fritz Frazier (arrived at 5:35 pm), Bob Grant, Bob Ahern, Trustee Petersen

**Plan Commissioner Absent:** Sarah Lobdell

**Also present:** President Pat Kenny, Clerk Theresa Loomer, Administrator Dennis Martin, Zoning Administrator Bridget McCarthy, Mark Moritz, Ken Pariser, Village Attorney Dale Thorpe

**Visitors Heard**

None

**Approve Minutes**

Commissioner Grant/Commissioner Ahern 2<sup>nd</sup> made a MOTION to approve the minutes for the July 25, 2016 meeting, as presented, and the MOTION carried without negative vote.

**Public Hearing**

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

Prudden opened the public hearing at 5:31 pm. Thorpe explained the drafted ordinance would reincorporate the approval process for lot line adjustment applications. The adjustment approvals were carried over from the 2012 zoning code rewrite, but not the section that outlines the approval procedure and application requirements. It creates an avenue for staff to review proposed lot line adjustments under an applied for fee and make sure they comply with the zoning requirements. Martin stated staff recommends approval of the proposed amendment. No one else spoke before the hearing was closed at 5:32 pm.

Trustee Petersen/Commissioner Grant 2<sup>nd</sup> made a MOTION to recommend Village Board approval of Zoning Code Ordinance 17-4(f) to reincorporate the requirement for review of lot line adjustments, as presented, and the MOTION carried without negative vote.

**General Business**

**Conditional Use Permit Filed by James Reuland for 490 N. Lakeshore Drive for Driveway Entry Pillars – Set Public Hearing**

Trustee Petersen/Commissioner Ahern 2<sup>nd</sup> made a MOTION to schedule a public hearing for the next scheduled monthly Plan Commission meeting to consider a CUP application filed by James Reuland for 490 N. Lakeshore Drive for driveway entry pillars, and the MOTION carried without negative vote.

**Certified Survey Map Filed by Kenneth Pariser for 398 Hillcrest Drive**

Thorpe explained Ken Pariser applied for a minor subdivision certified survey map for the lots at 398 Hillcrest Drive and 413 Hillcrest Drive. After review by staff, village engineers and the village attorney, the issue remains that a portion of the property incorporated into one of the lots is recorded as public right-of-way. Thorpe stated he has checked records provided by the surveyor and village records, and it looks like there was an effort to convey the triangle piece of right-of-way in the past. Thorpe stated the public right-of-way cannot be included in the CSM without approval from

the municipality or by resolving a title claim. Thorpe gave a historical overview and stated that sometime between the 1920s and 1950s, the subdivision developer, Arthur Jensen, dedicated to the Village all the streets and road right-of-way areas in the subdivision, but then signed a Quit Claim Deed for the parcel that was provided to a previous owner of the parcels in the 1950s. Thorpe stated that although he does not understand why the transgression occurred how it did, he stated he believes there is some reason Jensen had drafted and signed the Quit Claim Deed after the roads had been dedicated over to the Village. Representing Ken Pariser, Attorney Eggert stated that in 1951 Jensen conveyed to the previous owner of the lots the title and the Quit Claim Deed for the triangle parcel in question. Since that time, it has been Pariser's understanding that he owned the parcel, which he has been taxed for; and looking back as far as the 1920s, Eggert stated he has not found any evidence of any road vacation. He said that record keeping was not what it is today and they have not been able to locate any documents of road vacation or chain of title and suggested the proof might lie within the village's records of what has been vacated. Thorpe reiterated he feels strongly that Jensen knew very well what he was doing after the all the roads had been dedicated to the village in the 1920s; and to resolve the issue the undeveloped portion of the road-right-of-way will have to be discontinued or vacated. Thorpe stated that by state statute, vacated roads must be split between property owners. He said it is a technical process that must comply with a certain set of statutes and once the title issue is resolved, it is likely able to be approved. He also stated since roads are not associated with tax parcels, a recorded deed may have gotten lost in the chain of title over the past 70 years. Martin stated he has checked with the village engineer, Public Works Committee and the as-built plans, and Hillcrest Drive is now reconstructed in the manner that it is going to be for the future, and all the updated utilities including water and sewer are in. If Pariser or his attorney can figure out a way the village can deed over the portion of the property, staff does not have a concern with it being officially vacated. Thorpe asked Attorney Eggert if anyone had looked at the plat to the east to see if there was some indication of why the right-of-way exists where it is. Pariser distributed several images of the property to the Plan Commission members. He stated time is of the essence as he is trying to close on the sale of the property. He said he has spent time and money trying to resolve the issue and requested the village's assistance in order to get resolution. He stated there is no logical use for the village to develop the antiquated road right-of-way. Thorpe stated he has read the opinions of zoning staff and village engineering staff and agrees with all reports and believes there is a way to fix the issue at hand, but he is leery of having taxpayers foot the bill. He stated that if he is directed by the village president, administrator or Village Board, he will do as directed and complete some research at the Register of Deeds Office and pursue the road vacation proposal if necessary. Martin added the quickest way to resolve the problem would be for Pariser to petition for vacation or discontinuance, furthermore, ownership and splitting of the parcel would need to be resolved between the two property owners. Thorpe suggested looking into the property sale closing file and title policy from 30 years ago when the property was purchased by Pariser. After being directed to find a fix to the problem at hand, Thorpe indicated he would need a legal description of the triangle parcel from the applicant's land surveyor.

Trustee Prudden/Commissioner Frazier 2<sup>nd</sup> made a MOTION to direct the village attorney to assist the applicant in resolving the problem of the public right-of-way subject to the approval and consent of the Village President or Village Administrator, and the MOTION carried without negative vote.

### **122 Fontana Avenue CSM Approval Condition Removal**

McCarthy explained the initial CSM approval split the lot at 122 Fontana Avenue into two parcels, and typically that happens so the parcels can be sold separately. In this case, the lots were purchased by a single owner who has retained both lots for personal use. One of the conditions on the previously approved CSM included, "The existing accessory structure on Lot 1 shall be removed within 90 days from approval of the CSM unless permits to build a principal structure on the lot are obtained within this timeframe." McCarthy stated that the condition for approval assumed the lots would have separate owners, which is not the case; and the existing accessory structure is code compliant.

Trustee Petersen/Commissioner Ahern 2<sup>nd</sup> made a MOTION to recommend Village Board approval to remove Condition No. 8 of the approved CSM for 122 Fontana Boulevard, as presented, and the MOTION carried without negative vote.

**Adjournment**

Trustee Petersen/Commissioner Ahern 2<sup>nd</sup> made a MOTION to adjourn the meeting at 5:57 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: 11/28/16