

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

MONTHLY MEETING of the VILLAGE OF FONTANA PLAN COMMISSION

Monday, April 28, 2008

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

Plan Commissioners present: D’Auria, McGreevy, O’Connell, Lobdell, President Pollitt, Poivey

Pan Commissioner absent: Chairman Spadoni

Also present: Steve Beers, Skip Bliss, Administrator Kelly E. Hayden-Staggs, Germaine and Robert Hehr, Rob Ireland, Cary Kerger, David Lindelow, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, CDA Executive Director Joseph McHugh, Rich Morris, Building Inspector Ron Nyman, Trustee Pete Petersen, David Rasmussen, Roy Seabow, Village Attorney Dale Thorpe, Barbara Turner, Trustee Bill Turner, Carol Whowell, Director of Public Works Craig Workman, Bob Youngquist

Elect Chairman Pro Tem

O’Connell/Poivey 2nd made a MOTION to elect President Pollitt as the chairman pro tem for the meeting, and the MOTION carried without negative vote.

Visitors Heard

None

Announcements

Hayden-Staggs stated that the Park Commission will hold walking tours in the Village parks on Thursdays, May 1, 8 and 15, 2008 beginning at 6:00 pm; the Park Commission rescheduled its Frisbee Golf Course Cleanup Day and Demonstration at the Duck Pond for Saturday, May 3, 2008 beginning at 10:00 am; the next monthly meeting of the Village Board will be held Monday, May 5, 2008 at 6:00 pm; the Geneva Lake West Chamber of Commerce Citizen of the Year Awards Luncheon will be held at the Abbey Spring Yacht Club on Wednesday, May 7, 2008 beginning at 11:30 am; the next monthly meeting of the CDA will be held Wednesday, May 7, 2008 at 6:00 pm; the Randall Arendt Seminar will be held at the Village Hall on Wednesday, May 14, 2008 beginning at 7:00 pm; the fourth annual Chris Schwenn Memorial Golf Outing will be held at the Abbey Springs and Abbey Resort on Friday, May 16, 2008; and the next monthly meeting of the Plan Commission has been rescheduled for Tuesday, May 27, 2008 at 5:30 pm because of the Memorial Day holiday.

Approve Minutes

O’Connell/Poivey 2nd made a MOTION to approve the minutes for the meeting held March 31, 2008, and the MOTION carried without negative vote.

Public Hearing

Petition to Amend the Village of Fontana Municipal Code – Proposed Amendments to Lakefront Zoning Sections 18-89(g), 18-17, 18-79(c)2, 18-79(e)1, 18-80(c)10, 18-79(c)5.d., and 18-17

President Pollitt opened the public hearing at 5:34 pm. Thorpe explained the amendment drafting process which was initiated last summer at the request of the Village Board. Thorpe stated that after

many staff meetings, the seven specific items being presented at the public hearing were finalized by the Village Board and Plan Commission. Amendments dealing with lot density and lot width issues were drafted but separated from the other seven amendments, then tabled for further study, and then entirely dropped from consideration by an approved motion of the Village Board. Thorpe stated that the Plan Commission could consider that night recommending denial or approval of the amendments as presented, or recommending denial or approval of entire sections; however, new language could not be considered without another public hearing. Thorpe stated that Section 1 of the proposed amendments would make Planned Development zoning unavailable as a rezone for any property currently located in the RS-1 Zoning District; Section 2 would close a loophole for condominium plats by adding a Lot Area definition comparable to the definition in the residential zoning districts; Section 3 would move a definition of "measurement of lot areas" to Section 18-17; Section 4 would make roads serve as barriers for development density calculations when proposing to combine lots on opposite of the road; Section 5 would add a total size limitation of 1,500 square feet or 50 percent of the total square footage of the primary residential structure to the regulations for quarters for household employees or caretakers; Section 6 would add the provision that the lot of record is the document that is recorded with the Walworth County Register of Deeds Office; and Section 7 would incorporate the basic definition of "lot width." President Pollitt stated that he wanted to make part of the record a letter submitted to the Village on April 10, 2008 by Steve Beers. Attorney David Rasmussen asked if the Plan Commission dropped the proposed area and lot size regulation amendments. Thorpe stated that the initial amendments to the lot width and density standards were initially separated into another draft and then entirely dropped from consideration because they met with opposition from the Village Board members. Rasmussen stated that Section 3 of the amendments being presented that night concerns him because the definition of a stream that would be incorporated into all of the zoning districts would adversely affect property owner's rights. Rasmussen stated that the definition of the stream area will take small, not-navigable streams out of the lot density calculation. Rasmussen stated that the State has ruled that small streams are owned by the property owners, not the state, and it would not be fair that the property owners have been paying taxes on the property for many years, but now they couldn't count the land toward the lot density calculations. Rasmussen stated that proposed amendment also would create land surveying problems and other related issues. Thorpe stated that the stream definition has been part of the Zoning Code in Fontana since the 1970s. Rasmussen stated that small streams that run across private property should not count toward the density calculation or the land is worthless and the current lakefront property assessments must be corrected. President Pollitt stated that streams are not unique to the Village of Fontana and other lake municipalities must address the lot density and land assessment issues. Bob Youngquist, 585 North Lakeshore Drive, stated that the amendments being proposed that night are not clear and it is not possible to determine what exactly is being eliminated from the current Zoning Code. Youngquist stated that the information distributed by the Village is uninformative and the public hearing has no value. Youngquist stated that he cannot determine if he is in favor or opposed to the proposed amendments and that it would not be proper for the Plan Commission to act on the amendments that night. Trustee Bill Turner, 393 North Lakeshore Drive, asked why Section 1 of the proposed amendments was proposing to take away the option for a rezone to Planned Development. Turner stated that as long as a residential development proposal meets the density requirements, Planned Development zoning should be an option. Turner stated that he is also opposed to Section 7 of the proposed amendments concerning lot width and that he really doesn't understand the proposal. Turner stated that he would suggest dropping the lot width amendment and that the current code language is working fine as written. Turner stated that the proposed lakefront zoning amendments have not addressed the "McMansion" issue. Turner stated that the Village should consider adopting a "McMansion" ordinance similar to a sample ordinance that calls for 10-foot side-yard setbacks for a residence up to 6,000 square feet and one additional foot of side-yard setback for each additional 1,000 feet of total square footage of proposed residences. McCarthy stated that the current zoning standards already call for side-yard setbacks of 20 feet. Thorpe stated that his firm already has researched the McMansion issue and a sample ordinance

is ready to be drafted. Rich Morris, 1034 South Lakeshore Drive, stated that he is concerned about the proposed amendment to the guest house definition that adds the 1,500 total square foot limitation. Thorpe stated that the current code does not have a limitation on the total size of a guest house, only setback and density standards. Thorpe stated that the guest house definition amendment was proposed to require that guest houses would be smaller than main residences. Morris stated that the majority of guest houses in the Village are larger than 1,500 square feet. Morris stated that if adopted, the amendment may cause property owners to build larger main residences to get around the standards of the ordinance, and it may create more “McMansions” in the Village. Morris stated that a lot of lakefront property owners also were not in attendance at the public hearing that night to speak and he requested that the Plan Commission reconsider the proposed amendments and the unattended consequences that approving the amendments would cause. McCarthy stated that the current Zoning Code allows property owners to construct second residences on their property through the Conditional Use Permit process, and that right would still exist even if the proposed amendments are adopted. Carol Howell stated that the definition of a guest house is different from a second residence. Steve Beers, 454 North Lakeshore Drive, stated that the lakefront zoning amendment process has been very lengthy and the ordinance has been extensively reviewed. Beers stated that following the review, it is apparent that the current code is working well – there is flexibility in place and the ordinance is serving the public’s best interests. Beers stated that adopting the proposed amendments will create more issues and nonconforming situations. Beers stated that the Village handled the one outstanding issue on the lakefront – the second residence constructed on the Germaine Hehr lot with a building permit incorrectly issued by the Building Inspector for a caretaker’s residence. The second residence constructed on the Hehr lot that was made conforming when the Village approved a condominium plat and condominium association declarations for the two residences located on the lot. Beers stated that the lakefront property owners have paid taxes on their properties with the roadways included in area for land value and the proposed amendment would prohibit the land owners from using the road area in the total lot density calculation. Beers stated that the Plan Commission should recommend keeping the zoning code as written and lift the moratorium on the acceptance, review and approval of land divisions and subdivision applications and condominium plat applications for lakefront properties that has been in place for close to one year. Roy Seabow, a Geneva Township resident who serves as an officer for the Wisconsin Realtors Association, stated that the public hearing should have been scheduled for June, July or August when more lakefront property owners are in town. Seabow also stated that the moratorium in place has not been fair to property owners and the Village should act to have it lifted. Seabow stated that the Wisconsin Supreme Court has ruled that stream beds can be used to calculate land area so property owners should be able to use them in lot density calculations. Thorpe stated that the moratorium already is scheduled to expire on May 7, 2008. Skip Bliss, 644 South Lakeshore Drive, stated that he constructed a caretaker’s residence on his property and it had to remain under a maximum height limitation. Bliss stated that it should be a requirement that a secondary residence on a lot has to be smaller than the main residence. Bliss stated that the Plan Commission and Village Board members have a lake stewardship responsibility to consider and lot width standards should be incorporated on top of the density requirements. Bliss stated that the density standards in the current code are all messed up and the new residences being approved by the Village are too large for the lots in the Village of Fontana. Bliss stated that there is a big difference between lakefront lots that are only 100 feet wide and lakefront properties that are 3- to 4-acre parcels. Poivey stated that there were many very good points made that night and he suggested referring the proposed amendments back to the Village staff for further study – taking into account the concerns stated that night. Poivey stated that another public hearing could be held at a later date to consider the redrafted proposed amendments. Hayden-Staggs stated that many of the comments made that night were not previously brought up by the Plan Commission or Village Board members, so they were not considered by the staff members when drafting the initial proposal. President Pollitt stated that it is the goal of the Village to keep the lake area the way it is today, but to address the development concerns. President Pollitt stated that he agrees that the proposed amendments require further research by the Village staff before they are

brought back to the Plan Commission for consideration. Poivey stated that staff also should look at the definitions for guest houses and caretaker's quarters to make sure guest houses are for guests and caretaker's quarters are for caretakers. McCarthy stated that the different definitions are unenforceable by the Village staff anyway because it can't be determined if the people residing in the guest houses or caretaker's quarters are employees, relatives, guests or tenants. McCarthy stated that the definitions for guest houses and caretaker's quarters should be removed from the zoning code and the code amended to govern the construction of secondary residences on a lot no matter if the residences will be occupied by employees, relatives, guests or tenants. The Plan Commission members were in consensus that the proposed amendments should be referred back to staff for further study and to be redrafted. President Pollitt closed the public hearing at 6:34 pm.

Poivey/O'Connell 2nd made a MOTION to send the proposed lakefront zoning code amendments back to staff to be revamped based on the comments made at the public hearing and to bring the revamped amendments back to the Plan Commission for consideration prior to scheduling a subsequent public hearing, and the Roll Call vote followed:

McGreevy – Yes

O'Connell – Yes

Lobdell – Yes

President Pollitt – Yes

Poivey – Yes

D'Auria – Yes

The MOTION carried on a 6-0 vote.

General Business

Building, Site and Operational Plan Filed for 310 Third Avenue – Peacock Trading

Staff recommend approval of the BSOP as submitted for a satellite office for Peacock Trading at 310 Third Avenue, in the unit on the far west side of the building. There is another financial office located in the unit right next door and there used to be businesses located in the subject unit before it was renovated into a residential unit. Staff recommended approval with the following four conditions:

1. A complete submittal for building and zoning permits shall be applied for and issued prior to the commencement of construction of and/or installation of any proposed signage. BSOP approval shall not alleviate the applicant from securing all required permits. Proposed signage shall be made in accordance to the Village of Fontana Municipal Code.
2. A depiction of the proposed permanent signage shall be submitted to the Building and Zoning Department for review of compliance and approval. The actual size of the sign shall not exceed 18 square feet.
3. Illumination of the permanent sign shall be limited to the hours of 8:00 am until 9:00 pm daily, Monday through Friday only.
4. All outstanding cost recovery fees billed to date applicable to this project shall be paid within 30 days of the issuance of any building and zoning permits. This condition does not alleviate the applicant from any cost recovery fees not yet billed.

Carol Whowell stated that once the tenant has signed the lease and the sign design is finalized, she will obtain the proper permit to have it mounted in the fixture that is currently on the building.

Following discussion, the Plan Commission was in consensus that the tenant should be allowed to illuminate the business sign on weekends even if the office is not opened.

O'Connell/Poivey 2nd made a MOTION to recommend Village Board approval of the Building, Site and Operational Plan as submitted for Peacock Trading at 310 Third Avenue, with the following conditions: 1. A complete submittal for building and zoning permits shall be applied for and issued prior to the commencement of construction of and/or installation of any proposed signage. BSOP approval shall not alleviate the applicant from securing all required permits. Proposed signage shall be made in accordance to the Village of Fontana Municipal Code. 2. A depiction of the proposed permanent signage shall be submitted to the Building and Zoning Department for review of

compliance and approval. The actual size of the sign shall not exceed 18 square feet. 3. Illumination of the permanent sign shall be limited to the hours of 8:00 am until 9:00 pm daily. 4. All outstanding cost recovery fees billed to date applicable to this project shall be paid within 30 days of the issuance of any building and zoning permits. This condition does not alleviate the applicant from any cost recovery fees not yet billed. The MOTION carried without negative vote.

Building, Site and Operational Plan Amendment for Exterior Renovation of Abbey Resort Spa

Because there still are specific plans needed to make a recommendation on the signage and lighting aspects of the exterior renovation plan, staff recommended tabling the BSOP or just acting on the exterior building renovations and landscaping aspects of the proposal. Cary Kerger stated that there is still additional information needed for the new signage proposal; however, he requested that the Plan Commission consider making a recommendation on the exterior building renovations and landscaping so that construction can commence at the same time that the previously approved interior renovations are being worked on. Kerger stated that the additional information requested by the staff members can be submitted for consideration at the next Plan Commission meeting on Tuesday, May 27, 2008. Thorpe stated that the BSOP amendment can be approved in two steps if two separate approval documents are prepared. Thorpe stated that the first approval document could carve out the exterior building renovation plan and landscaping aspects of the proposal, and the second approval document could carve out the lighting and signage aspects of the proposal. Hayden-Staggs stated that if desired the Plan Commission could act on the building, location and landscaping plans based on the plans submitted. Kerger stated that it is critical for the developers to coordinate the exterior entrance construction with the interior renovation work at the spa. Thorpe stated that the exterior renovation plans are connected to the previously approved building footprint, so a survey or plan depicting the current building footprint and the proposed improvements must be filed with the Village. Kerger stated that the only exterior building renovation work being proposed is to install a new door, so there would be no increase in the total footprint of the building. Kerger stated that the landscaping plan will result in the loss of 23 parking spaces, but the resort has added 82 spaces in the former tennis court area since the initially approved parking plan. Thorpe stated that the Village needs to record how many parking spaces were approved in the initial BSOP and record how many will be taken out if the proposal is approved. Kerger stated that the resort will have at least 59 more parking spaces than were initially approved even if the 23 parking spaces are removed for the new landscaping plan. Kerger stated that he is not certain how many parking stalls are handicapped accessible. Hayden-Staggs stated that those are the type of details that initially approved BSOP is lacking. Hayden-Staggs stated that parking stall details and lot dimensions are needed so that the staff can make sure local, state and AODA standards are met. McCarthy stated that the BSOP approval process is setup so staff can determine if something needs to be addressed to correct a noncompliant situation. McGreevy stated that the new door and landscaping plans are approvable as presented and he recommended that Abbey representatives work with staff to provide the necessary documentation and plans to ensure the local, state and AODA standards are met. McGreevy stated that the plans can be prepared to address the code specifics prior to the monthly meeting of the Village Board. The applicants were directed to file an updated, specific parking plan with lot and individual stall dimensions delineated so that they can be reviewed prior to Village Board action. McGreevy/Poivey 2nd made a MOTION to recommend Village Board approval of the exterior building renovation work on the Fontana Spa door and entryway and the landscaping aspects of the amended Building, Site and Operational Plan as submitted, with the conditions that the applicant submit an updated, specific parking plan with lot and individual stall dimensions delineated, that Village Attorney Dale Thorpe drafts two separate approval documents for Village Board consideration and that the lighting and signage aspects of the Building, Site and Operational Plan amendment be approved in a subsequent amendment. The MOTION carried without negative vote.

Recommendation on Third Avenue Parking Easement – Post Office

Thorpe stated that state statutes require a recommendation from the Plan Commission regarding all municipal land acquisition proposals – including sidewalk easements. Workman stated that the easement is needed to widen the parking area on Third Avenue in front of the Post Office. Workman stated that the traffic situation will be safer if motorists are able to pull their automobiles further off the roadway. The work is scheduled to be completed at the same time as the Third Avenue Project, which received approval in the April 1, 2008 election.

D’Auria/O’Connell 2nd made a MOTION to recommend Village Board approval of the Third Avenue parking easement as presented, and the MOTION carried without negative vote.

Proposed Zoning Code Amendments (Tabled March 31, 2008) – Tent Signs & Illuminated Signs

Hayden-Staggs stated that the proposed amendments were distributed last month for review. The proposed amendments establish guidelines for tent or menu-board signage, illuminated signs and open signs. The proposed amendments also address abandoned signs and “for sale,” “for rent,” “garage sale” and congratulatory signs. Poivey stated that he has concerns with regulating garage sale signs. McGreevy stated that he has a concern with prohibiting all real estate signage, especially signs that promote open house events on specific days.

O’Connell/McGreevy 2nd made a MOTION to schedule a public hearing for Tuesday, May 27, 2008 to consider the proposed zoning code amendments to Section 18-254 as presented, and the MOTION carried without negative vote.

Pending Items for Future Agendas

1. Brick Church Hotel and Spa BSOP Proposal

Adjournment

O’Connell/Poivey 2nd made a MOTION to adjourn at 7:18 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: 5/26/08