

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

(Official Minutes)

MONTHLY MEETING of the VILLAGE OF FONTANA PLAN COMMISSION

Monday, July 31, 2017

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, Bob Ahern, Bob Grant, Bob Kirkland, Sarah Lobdell, Trustee Petersen (arrived at 5:37 pm)

Plan Commissioner Absent: F.J. Frazier

Also present: Jay Babowice, Terry Burns, Attorney Tony Coletti, Marty Green, Rex Lewis, Todd Lizak, Administrator Dennis Martin, Zoning Administrator Bridget McCarthy, Building Inspector Ron Nyman, Betty Powers, Chris Schultz, Village Attorney Dale Thorpe

Visitors Heard

None

Approve Minutes

Commissioner Lobdell/Commissioner Ahern 2nd made a MOTION to approve the minutes for the meeting held on June 26, 2017, and the MOTION carried without negative vote.

Public Hearing

Conditional Use Permit Application Filed by Rex & Diane Lewis for the Property Located at 650 S. Main Street for Proposed Bed & Breakfast

The public hearing was opened at 5:31 pm. Attorney Coletti provided an overview of the conditional use permit application that was filed by Rex and Diane Lewis to operate a Bed and Breakfast at 650 S. Main Street. Coletti stated the current proposal requests a maximum of 16 guests, but at some point they may want to increase that number to 20 guests. The applicant has requested several exceptions including allowing the minimum side yard setback of 20-feet to the existing nonconforming 3.86-feet, an exception to the minimum 50-foot street frontage to the existing nonconforming 36-foot frontage, an exception to the blanket 18-foot driveway, and an exception to the paving of the driveway and parking area to the existing gravel. After a question posed by Attorney Thorpe, it was pointed out that there is a sunset clause which requires the development to be initiated within 365 days and operational within 730 days of final approval. Any requests for extension would be required to come back to the Village Board. McCarthy went over the other conditions that are recommended in the staff report. Trustee Petersen asked about the removal of pavers from the driveway. McCarthy stated that was an exception asked for in the CUP and is recommended for approval by staff with four conditions including that existing gravel drive shall be removed and a new layer of gravel shall be installed and maintained prior to the start of operation, and in addition, three-feet of apron will be installed by the Village as part of scheduled road work and will be asphalt; the applicant is responsible for any remaining apron connection to the existing driveway. Geneva Pointe Condo Association President Todd Lizak stated pavers were removed and appear to be on the adjacent Geneva Pointe property in an area that was the access road to the Lewis property. Lizak stated he has questions on exactly where the division line is between the Lewis property and Geneva Pointe and he is concerned about noise and lights especially if there will be tournaments at the Tennis B&B. He asked whether a PA system would be installed and whether residents would be able to hear announcers and asked about the noise ordinance and end times. Lizak asked if there would be any special events at the premise and stated another concern is whether

they will expand the existing tennis court, and if so, would additional lighting be added. He asked about emergency service providers and their ability to respond to future calls as it does not appear there is enough clearance for fire trucks at the driveway entrance. McCarthy replied that Fire Chief Wolfgang Nitsch reviewed the proposal and reported at a staff meeting that there are no fire and rescue related concerns with the proposal as filed, but staff will check with Nitsch again to make sure the driveway is not a concern for emergency vehicle access. Geneva Pointe property owner Marty Green has concerns about the proposal for a total of 10 parking spaces and asked if there are additional vehicles, where would they would park and if additional parking has been planned. Geneva Pointe property owner Betty Russo stated she is concerned about noise and there needs to be clear markers where the Lewis' property ends and the Geneva Pointe property begins and has requested a fence be installed or a boundary of some kind between the two properties so there is no encroachment on either side. Coletti agreed to have a surveyor mark the property lines before the matter is heard at the Village Board meeting scheduled for Monday, August 7, 2017. Geneva Pointe property owner Terry Burns asked if there is any intention to develop additional tennis courts on the property, and if so, would permission need to be granted from the Village Board. Martin confirmed that if the initial CUP is approved, any future proposed changes would need be approved via a CUP amendment, and the current plans do not call for any additional tennis courts. Geneva Pointe property owner Jay Babowice stated he is opposed to the whole project due to noise concerns and stated several times that tennis is not a quiet sport. He is also concerned with the requested amount of exemptions because the zoning ordinances are put in place for a reason. Martin stated CUP exceptions are not a variance to the zoning code, they are part of the CUP process and must be presented for a staff recommendation and approval or denial. McCarthy provided answers to several of the questions that were posed during the public hearing. If the Lewis' want to host weddings that would need to be an approved use, as of right now, the only proposed used is for a Tennis B&B. The tennis court is existing so people would be allowed to play on it. Rex Lewis stated he has coached tennis amongst other sports and disagrees that it is a noisy sport. He stated they will not be hosting tournaments and there is no intention to expand or to erect outdoor lights on the tennis court. Their target market would likely play tennis in the mornings and afternoons, and then go out for dinner and drinks in the evening. He does not believe there will be late afternoon tennis matches occurring on a regular basis. There are no plans to change the exterior lighting, install a PA system, or have spectators attend special tournament events; and overflow parking would be directed to the street. He offered to split the cost of a fence that would run along the property line with the Geneva Pointe Association, and then agreed to erect some type of fencing at his expense in the area requested by the former access driveway. McCarthy stated additional smoke and fire detectors which will be interconnected and monitored by a registered alarm company have been recommended and will be included as an added condition. The public hearing was closed at 6:01 pm.

Remove Zoning Code Ordinance Sections 18-246(n) and 18-246(o) Regarding Conditional Use Permit Requirements

The public hearing was opened at 6:02 pm. Provision 18-246(n) requires staff to file an approved CUP with the county register of deeds, which is the applicant's responsibility, and 18-246(o) requires Plan Commission notice to the DNR. The two provisions were added during the 2012 zoning code rewrite and are not necessary. The public hearing was closed at 6:04 pm.

General Business

Recommendation on Conditional Use Permit Application Filed by Rex & Diane Lewis for the Property Located at 650 S. Main Street for Proposed Bed & Breakfast

Trustee Petersen/Commissioner Lobdell 2nd made a MOTION to recommend Village Board approval of the CUP, as submitted, with the following exceptions and conditions:

- (1) Exception to the minimum side yard setback of 20' to the existing nonconforming 3.86'
- (2) Exception to the minimum 50' street frontage to the existing nonconforming 36'

- (3) Exception to the blanket eighteen foot (18') driveway [Sec. 18-211(k)] with the following conditions:
- (a) a passing lane to facilitate two-way traffic, as depicted on the site plan, shall be installed prior to the start of operations.
- (4) Exception to the paving of the driveway and parking area to the existing gravel with the following four (4) conditions:
- (a) pavers throughout the existing gravel drive shall be removed and a new layer of gravel shall be installed prior to the start of operations and shall continue to be maintained.
 - (b) A 3-feet of the apron (as measured from the edge of road toward the front property line) will be installed by the Village as part of the scheduled road work and will be asphalt; the applicant is responsible for any remaining apron or connection to the existing driveway
 - (c) additional code compliant lighting along the drive shall be installed prior to the start of operations leading to the proposed Bed & Breakfast parking area; a lighting plan requires further review and consultation with the applicant
 - (d) the gravel drive and parking area shall be reviewed regularly by the village and, if found not to be properly maintained, may be ordered to be asphalted
- (5) The east "circle drive" shall remain free of parking at all times and shall be dedicated as a fire lane. A minimum of two signs shall be erected prior to the start of operations to alert guests and visitors of this dedicated fire lane. (Signs may be decorative in nature but must be visible and font legible.)
- (6) A covered entryway at the east side of the building is required and shall be established prior to the start of operations.
- (7) An existing shed, which adjoins the farm building to the south and currently encroaches over the property line, shall be removed and relocated to a conforming location, prior to the start of operations.
- (8) Alcoholic beverages shall not be sold as part of the bed & Breakfast operations.
- (9) ADA access in and out of the building may be required.
- (10) State of Wisconsin license approval for a Bed & Breakfast use is required.
- (11) Approval shall only be for a maximum of up to sixteen (16) guests, occupying guest rooms #1 through #6. Future guest rooms #7 and #8, which will increase the maximum occupancy by 4 for a total of 20 guests, as noted on the submitted plans, shall require separate occupancy by the building department and amendment to the conditional use permit approval.
- (12) The road drainage culvert shall be maintained as required; the village reserves the right, but not the obligation, to make necessary repairs at the expense of the property owner
- (13) Due to the age and unique character of the existing structure, a professional opinion of the existing electrical and other mechanicals, as required by the Village Building Inspector, shall be conducted by a Village approved contractor at the expense of the property owners.
- (14) This approval shall continue to conform to the requirements of 18-56(i), bed and breakfast establishment, and all requirements of Article II of Chapter 70, in regards to Room Tax reporting.
- (15) This conditional use permit shall conform to requirements of Section 18-246, specific attention shall be given to subsection (m) and subsection (r), as quoted below:
- 18-246(m) *Time limits on the development of conditional use.* The start of construction of any and all conditional uses shall be initiated within 365 days of their approval by the village board and shall be operational within 730 days of said approval. Failure to initiate development within this period shall automatically constitute a revocation of the conditional use. For the purposes of this section, "operational" shall be defined as the granting of an occupancy permit for the conditional use. Prior to such a revocation, the applicant may request an extension of this period. Said request shall require formal approval by the village board and shall be based upon a showing of acceptable justification (as determined by the village board).
- 18-246(r) *Change in ownership.* All requirements of the approved conditional use shall be continued regardless of ownership of the subject property. Modification, alteration, or expansion of any conditional use without approval by the village board shall be considered in

violation of this chapter and shall be grounds for revocation of said conditional use approval. For bed and breakfast land uses, the granting of a conditional use permit shall be valid while said property is owned by the owner at time of conditional use approval.
(16) Fencing shall be installed on the property line at the access easement location (approximately 10' in length) to prohibit guest access to the Geneva Pointe Association property.
(17) Smoke and fire detectors and alarms shall be interconnected and monitored by a registered alarm company.
The MOTION carried without negative vote.

Recommendation on Removal of Zoning Core Ordinance Sections 18-246(n) and 18-246(o) Regarding Conditional Use Permit Requirements

Commissioner Grant/Commission Lobdell 2nd made a MOTION to recommend Village Board approval to remove Zoning Code Ordinance Sections 18-246(n) and 18-246(o), and the MOTION carried without negative vote.

Adjournment

Commissioner Grant/Commissioner Lobdell 2nd made a MOTION to adjourn the meeting at 6:04 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: 10/30/17