

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

MONTHLY & SPECIAL JOINT SESSION MEETING of the VILLAGE OF FONTANA PLAN
COMMISSION with the JOINT EXTRATERRITORIAL ZONING COMMITTEE

Monday, September 24, 2007

Chairman Spadoni 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: Roll call: McGreevy, O'Connell, Lobdell, Chairman Spadoni, Poivey, D'Auria

Plan Commissioner absent: President Pollitt

Also present: Larry Aasen, David Coates, FJ Frazier, Village Administrator Kelly E. Hayden-Staggs, Village Clerk Dennis Martin, Buddy and Gloria Melges, CDA Executive Director Joseph McHugh, Building Inspector Ron Nyman, David Rasmussen, Village Attorney Dale Thorpe

Visitors Heard

None

Announcements

Hayden-Staggs stated that monthly meeting of the Village Board will be held Monday, October 1, 2007, at 6:00 pm; the Village Board/Finance Committee budget meetings have been rescheduled for October 15 and 22, 2007, beginning at 5:00 pm; the monthly meeting of the CDA Board will be held Wednesday, October 3, 2007, at 6:00 pm; Toddler Time will be held at the Fontana Public Library on Thursday, October 4, 11 and 18, 2007, at 10:30 am; the Big Foot FFA Alumni 2 Mile Walk/Run will be held Saturday, October 13, 2007, at Big Foot High School; and the next monthly meeting of the Plan Commission will be held Monday, October 29, 2007, at 5:30 pm.

Approve Minutes

Commissioner Poivey/Commissioner O'Connell 2nd made a MOTION to approve the minutes for the meeting held August 27, 2007, and the MOTION carried without negative vote.

General Business

Mill Street Condominium Association PIP Amendment – Signage Proposal (Tabled 8/27/07)

Chairman Spadoni stated that the applicant did not meet with the Building and Zoning Department to work on the proposal as directed at last month's meeting, and nothing new was submitted.

Commissioner O'Connell/Commissioner Lobdell 2nd made a MOTION to table the matter, and the MOTION carried without negative vote.

Lakefront Zoning Ordinance Amendment Proposal Initial Review – Set Workshop Date

Thorpe stated that the preliminary draft document was put together by his firm using zoning regulations from other municipalities. Thorpe stated that the draft addresses concerns stated with the current lakefront zoning standards, but not the "McMansion" issue. Thorpe stated that if the Plan Commission members note any areas of concern, or if they have any questions during their initial review of the draft, they should contact him prior to the special workshop meeting. Following discussion, the Plan Commission members were in consensus that the workshop meeting should be

held Saturday, October 20, 2007, beginning at 11:00 am. Also following discussion, the Plan Commission members were in consensus that owners of lakefront parcels should be contacted after the workshop meeting, when a working document to be presented at a public hearing will be ready for distribution.

Commissioner O'Connell/Commissioner Poivey 2nd made a MOTION to schedule a workshop meeting on Saturday, October 20, 2007, beginning at 11:00 am to prepare a draft of proposed amendments to the Municipal Code to address lakefront zoning regulations, and the MOTION carried without negative vote.

CUP Application Filed by Country Club Estates Association to Move Structure From Previously Approved Location – Set Public Hearing

Country Club Estates Association President FJ Frazier stated that the conditional use permit application was filed in order to amend the previously approved CUP. The initially approved wood frame structure, to be used as a beach house and storage room with a bathroom, was located too close to the existing fence. Frazier stated that if constructed in the initially proposed site, the building would have created a congested situation between the building and the sidewalk. The current CUP application moves the building five feet to the west. In response to a question from O'Connell, David Coates, the project architect, stated that the proposal will make the new building more conforming to the standard setback requirements of the zoning code. In response to a question from Frazier, Hayden-Staggs stated that the proposed new site for the building requires a new CUP, and the CUP process includes the holding of a public hearing before the Plan Commission and final consideration by the Village Board.

Commissioner Poivey/Commissioner O'Connell 2nd made a MOTION to hold a public hearing on Monday, October 29, 2007, beginning at 5:30 pm, and the MOTION carried without negative vote.

Pending Items for Future Plan Commission Agendas

1. BSOP Filed by Kimberly Dabertin for All For Ewe, 148 Fontana Boulevard
2. Abbey Springs Clubhouse Renovation – PIP Amendment Proposal (Tabled 1-29-07)
3. Abbey Springs Boat Storage Expansion – PIP Amendment Proposal (Tabled 12-18-06, 1-29-07)

Adjourn Plan Commission

Commissioner O'Connell/Commissioner Lobdell 2nd made a MOTION to adjourn the Plan Commission meeting at 5:43 pm, and the MOTION carried without negative vote.

Joint ETZ Committee Chairman Poivey called the meeting of the ETZ Committee to order at 6:00 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

ETZ Committee members present: Roll call: Walworth Township representatives Jim Van Dreser, Ken Magowan and Dennis Jordan (arrived at 6:01 pm), Linn Township representatives John Zils, Jerry Polek and Larry Aasen, ETZ Committee Chairman Mike Poivey and Village of Fontana representatives Derek D'Auria and Sarah Lobdell

Also present: James Gray, Administrator Kelly E. Hayden-Staggs, John Maier, Village Clerk Dennis Martin, Buddy and Gloria Melges, CDA Executive Director Joseph McHugh, Building Inspector Ron Nyman, Scott Rookus, Village Attorney Dale Thorpe

Approve ETZ Committee Minutes

Village of Fontana representative Lobdell/Town of Walworth representative Magowan 2nd made a MOTION to approve the minutes as submitted for meetings held June 25, 2007, July 30, 2007 and August 27, 2007, and the MOTION carried without negative vote.

ETZ Committee Public Hearing

Public Hearing on Petition to Amend the Zoning Code Section 18-278 (n), B-2 ETZ General Business District – 6:00 pm

In response to a question from Van Dreser, Thorpe stated that although there was a quorum of the Joint ETZ Committee members present at the July 30, 2007, and the votes on the motion to recommend approval of the proposed amendment to the B-2 ETZ General Business District were approved by a majority vote, the votes did not meet the super-majority standard required to recommend approval of amendments to the Zoning Code. Thorpe stated that in order to approve motions to recommend Village of Fontana Board of Trustees approval of proposed zoning code amendments, the Joint ETZ Committee motions must be approved by four of the six representatives from the Village of Fontana and Walworth Township, and by four of the six representatives from the Village of Fontana and Linn Township, respectively. Thorpe stated that the motion approved following the first public hearing on the proposed amendment on July 30, 2007, did not meet the super majority standard. In response to a question from Magowan, Thorpe stated that the ETZ Committee voted last month to hold another public hearing on the proposal to amend the total height maximum in the B-2 ETZ General Business District from 55 feet to 45 feet. Chairman Poivey opened the public hearing at 6:04 pm. John Maier, the attorney representing the owners of the Fontana Country Inn and Suites property on Brick Church Road in Walworth Township, stated that his clients still oppose the proposed amendment. Maier stated that he submitted their objection in writing on two occasions and he also spoke at the initial public hearing. Maier stated that the ETZ Committee should vote to maintain the current height limitation of 55 feet, which is consistent with the Walworth County zoning code. Maier stated that the Walworth County zoning code was adopted in 1974, and if the regulations in the B-2 ETZ General Business District are amended, it will adversely affect the value of his client's property. Scott Rookus stated that he and James Gray purchased the property based on the longstanding zoning regulations that were in place at the time of the purchase. No other comments were made before Chairman Poivey closed the public hearing at 6:10 pm.

ETZ General Business

ETZ Recommendation on Petition to Amend the Zoning Code Section 18-278 (n), B-2 ETZ General Business District

Jordan stated that he is opposed to the proposed amendment, which is a good example of why the creation of the Extraterritorial Zoning District was a lousy idea when it was approved by the Town of Walworth, Town of Linn and Village of Fontana. Jordan stated that the ETZ District creates one class of citizens who own property in the district and one class of citizens who own property in the rest of the townships that are not located within the ETZ District. Jordan stated that he personally does not care for some of the provisions of the Walworth County Zoning Code, but all of the standards should remain consistent and all of the properties should be treated in the same manner. Jordan stated that owners of township property located within in the ETZ District do not have an elected official representing them on zoning matters, and it is not fair. Jordan stated he also is opposed to the proposed amendment because the owners of the Fontana Country Inn and Suites acted in good faith that the zoning standards that were in place when they purchased the property would still be in place when they submit a redevelopment proposal. Aasen stated that he is opposed to the proposed amendment for the same reasons that he stated at the public hearing held on July 30, 2007. Aasen stated that if approved, the zoning amendment would affect all of the properties located within the B-2 ETZ General Business District, not just the Fontana Country Inn and Suites property. Aasen stated that he understands the concerns of the neighboring property owners with regard to the proposed redevelopment of the Fontana Country Inn and Suites property, but he is also concerned about the owners of other B-2 ETZ General Business District parcels. Poivey stated that the proposed amendment was forwarded to make the total building height standards of the B-2 ETZ General Business District equivalent to the rest of the Village of Fontana and ETZ District Zoning Code. Polek asked if the zoning code amendment is approved, will the owners of the Fontana

Country Inn and Suites file a lawsuit against the municipalities. Thorpe stated that he does not have knowledge of a lawsuit being threatened under the provisions of the vested rights state statutes; however, development proposals are governed by the zoning regulations that are adopted at the time an official application is filed. Van Dreser stated that he has the same concerns that were stated by Jordan and Aasen. Van Dreser stated that although he may support the proposed amendment to some degree, it does not seem fair to be amending the B-2 General Business District zoning regulations when the new owners of the Fontana Country Inn and Suites want to seek approval for a development proposal. Magowan stated that the Town of Walworth voted to enter into the ETZ Zoning District with the understanding that the Walworth County zoning regulations would be adopted for the district. Magowan stated that he thinks the zoning standards should remain the same as in the Walworth County code, and there have been no good arguments presented for adopting the amendment. Hayden-Staggs stated that there were many residents in the audience who supported the proposed amendment at the July 30, 2007 public hearing. Hayden-Staggs stated that the residents wanted their properties to be protected from the potential redevelopment of the Fontana Country Inn and Suites property. Lobdell stated that the ETZ Committee members should consider the proposed amendment based on what is the best use of land in the entire ETZ District, not just based on one potential development. Poivey stated that he also thinks the ETZ Committee members should keep in mind that the amendment was presented to address the entire ETZ District, and they are not just talking about one project. D'Auria stated that an official application has not been filed with the Village and the new owners purchased the property three years ago. D'Auria stated that as a resident of Fontana, he believes the total height restriction should be consistent throughout the zoning code in order to protect the integrity of the entire village and ETZ District. D'Auria stated that 45 feet is a reasonable height limitation. Van Dreser stated that he would like to table consideration of the proposal for about eight months until the approval process for the redevelopment for the Fontana Country Inn and Suites is complete. Van Dreser then made a motion to table the proposed zoning ordinance amendment for eight months, but the motion failed because it did not receive a second. Jordan then made a motion to recommend against approval of the proposed zoning ordinance amendment.

Town of Walworth representative Jordan/Town of Walworth representative Magowan 2nd made a MOTION to recommend against approval of the proposed zoning ordinance amendment, and the Roll Call vote followed:

Town of Walworth representative Jordan – Yes

Town of Walworth representative Magowan – Yes

Town of Walworth representative Van Dreser – No

Town of Linn representative Aasen – Yes

Town of Linn representative Zils – No

Town of Linn representative Polek – No

Village of Fontana representative Poivey – No

Village of Fontana representative D'Auria – No

Village of Fontana representative Lobdell – No

The MOTION failed on a 2-4 vote of the Town of Walworth and Village of Fontana representatives and on a 1-5 vote of the Town of Linn and Village of Fontana representatives.

Chairman Poivey then asked if any of the committee members wanted to make another motion.

Town of Walworth representative Magowan/Town of Walworth representative Jordan 2nd made a MOTION to table consideration of the proposed zoning ordinance amendment for one year, and the Roll Call vote followed:

Town of Walworth representative Jordan – Yes

Town of Walworth representative Magowan – Yes

Town of Walworth representative Van Dreser – Yes

Town of Linn representative Aasen – Yes

Town of Linn representative Zils – Yes

Town of Linn representative Polek – No

Village of Fontana representative Poivey – No
Village of Fontana representative D’Auria – No
Village of Fontana representative Lobdell – No
The MOTION failed on a 3-3 vote of the Town of Walworth and Village of Fontana representatives and on a 2-4 vote of the Town of Linn and Village of Fontana representatives.

Chairman Poivey then asked if any of the committee members wanted to make another motion. Village of Fontana representative Lobdell/Village of Fontana representative D’Auria 2nd made a MOTION to recommend approval of the proposed zoning ordinance amendment as presented, and the Roll Call vote followed:

Town of Linn representative Aasen – No
Town of Linn representative Zils – Yes
Town of Linn representative Polek – Yes
Town of Walworth representative Jordan – No
Town of Walworth representative Magowan – No
Town of Walworth representative Van Dreser – No
Village of Fontana representative Poivey – Yes
Village of Fontana representative D’Auria – Yes
Village of Fontana representative Lobdell – Yes

The MOTION failed to earn approval by the required super majority vote of the Town of Walworth and Village of Fontana representatives on a 3-3 vote. The MOTION did earn approval by the required super majority vote of the Town of Linn and Village of Fontana representatives on a 5-1 vote.

Thorpe stated that since one of the two super majority votes of the township and village representatives did not meet the minimum standard, the Village of Fontana Board of Trustees can not vote to adopt the proposed ordinance amendment. Thorpe stated the proposal is a finished matter, unless the ETZ Committee votes to set a public hearing and initiate the approval process again.

Adjourn Joint ETZ Committee

Town of Walworth representative Magowan/Town of Walworth representative Jordan 2nd made a MOTION to adjourn the meeting of the Joint ETZ Committee at 6:40 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 and Joint ETZ Committee, the official minutes will be on file at the Village Hall.

APPROVED: 10/29/07 - PC