

## PLAN COMMISSION MEETING Tuesday, December 6, 2016

Members present: T. Oberhaus, L. Krause, E. Kranick, K. Fitzgerald, G. Reich, C. Dundon

Also present: T. Barbeau, *Town Engineer*, E. Larson, *Town Attorney*, B. Cooley, *Town Board Member*, 10 citizens

Prior to the start of the scheduled Plan Commission meeting there will be a public hearing in front of the Town Plan Commission and possibly a quorum of the Town Board to solicit public input on the renewal of a Conditional Use Permit for Del and Debra Molkentin, W316 N895 STH 83, Delafield, WI (DELT0830-996-001) to operate a Hobby Kennel. The regularly scheduled Plan Commission meeting will begin immediately following the conclusion of the public hearing.

Chairman Oberhaus opened the Public Hearing at 7:04 p.m. and Engineer Barbeau read the Public Hearing Notice.

Del Molkentin explained that the boundaries of his property have changed since they bought the property. The west boundary was moved closer to their home and the Huckleberry boundary moved closer to the road. They have had problems getting a legal description. The neighbors to the east, the Showers, had stated that some of the property the Molkentins believed was theirs actually belonged to the Showers. The Showers obtained 11 ft. in court. He also resolved the property line question with the Magelis which resulted in the Molkentins having to keep their fence off of their northern property boundary. The original surveyor was asked for a correct legal description and didn't provide it. The Molkentins now have a surveyor who will attempt to provide one.

Engineer Barbeau said this hearing was to review the plan of operation for the hobby kennel and asked what their current plan of operation is and have there been any changes.

Mr. Molkentin said his wife has five show dogs; they usually have one litter of puppies per year; the operation hasn't changed in 10 years. They already have a kennel permit and have had the CUP since 1999. He thought he was here because of the changes in their property size. He states he has over 3 acres.

Engineer Barbeau explained that any change in land or premises of a property with a CUP automatically goes to a public hearing. He has no legal description or CSM showing the property boundaries.

### **Public Comments**

Todd Showers, W315N885 Hwy. 83, stated he is a neighbor and was at the public hearing for two reasons. He asked for clarification as to whether the Molkentin kennel is a hobby kennel or a commercial kennel and also asked for a definition of what each type of kennel is by Town standards. He said Sections 17.02 and 17.05 differ in their definitions and descriptions as to what is allowed. He said Section 17.05 talks about data for authorization for a CUP including a requirement for a 75 ft. minimum separation from the kennel to the property line. He believes the Magelis property is 20 ft. from the kennel. He believes the requirements have been overlooked.

Mr. Showers stated that there have been land disputes between 3 neighbors, including the Molkentins and believes the Molkentin property has been reduced below 3 acre minimum for operation of a kennel. He would like to see a current survey. As he reads the permit, it says dogs let outside the rear of the house must be kept a minimum of 56 ft. from the property line and 50 ft. from any other property lines and that dogs are not to be allowed in the front yard. He stated that the Molkentins do not use the back for the dogs. Mr. Showers also stated that Lake Breeze Waterdog Kennels also offers washing and grooming which makes it a commercial, rather than a hobby, kennel. In addition, he said that the dogs have come into the Shower's yard. He said he was bitten by one of the dogs but didn't report it and states that the Magelis have been bitten, as well. He feels the area is unsafe. He is concerned about property and resale values with this kennel being next to his property. He knows the Molkentins CUP was issued in 1999, but Showers weren't aware that the Molkentins had a permit when the Showers bought their property. He said another neighbor was unable to come to the public hearing but spoke with a Town representative about her concerns. He is asking the Plan Commission to reconsider the CUP.

Sherry Showers, W315N885 Hwy. 83, said the Molkentins never owned the 11 ft. of property that was disputed between the two properties - it's an easement. She stated the Molkentins submitted fraudulent documentation to

get the hobby kennel approval. She believes they treat the kennel as a commercial business because they have more than 2 litters of puppies per year and they boarded a dog for money.

*Debra Molkentin* stated that out of all the time they've lived there, a puppy ran across and went into the Shower's garage once and she went to get it. She said the Shower's dog attacked the Molkentin's daughter and came to the Molkentin's driveway and attacked someone on a bike. She said she's been operating the kennel for a long time and has 1-2 litters of puppies per year; sometimes they overlap. It is a hobby for her, not a business. She does grooming for dogs she has bred and the owners pay her for that service. She believes the neighbors are upset about the property disputes they have had with the Molkentins in the past.

*Del Molkentin* said he thinks there is resentment between the neighbors because of the lot disputes. He questioned why Mr. Showers had never in 10 years called the Sheriff if he was having problems with the kennel and the Molkentin's dogs. He said that at some point a dog may have gone out in the front yard. Mr. Molkentin stated that the Shower's dogs run loose and go at him. He said theirs is not a commercial business – it is his wife's hobby. She grooms dogs purchased from them for dog shows. He said he has had to fight legal battles for land they believed was theirs and doesn't know how to make the Showers happy. Mr. Molkentin said they get along with their other neighbors. He wants things done legally and will give the Town a survey but says the property hasn't changed drastically since the CUP was given. He hopes this agenda item will be tabled.

Mr. Oberhaus called Public Hearing to a close at 7:28 p.m.

**First order of business:** Call to Order and Pledge of Allegiance

Chairman Oberhaus called the meeting to order at 7:28 p.m. and led all in the Pledge of Allegiance.

**Second order of business:** Approval of the minutes of November 1, 2016

**MOTION BY MS. DUNDON, SECONDED BY MR. KRAUSE, TO APPROVE THE MINUTES OF THE NOVEMBER 1, 2016 MEETING. MOTION CARRIED.**

**Third order of business:** Communications (for discussion and possible action):

A. None

**Fourth Order of business:** Unfinished Business:

A. Town of Delafield Plan Commission,  
Re: Consideration and recommendation to the Town Board regarding amendments to Chapter 17.08 Signs of the Town Zoning Code (tabled 11/1/16)

**MOTION BY MR. REICH, SECONDED BY MS. DUNDON, TO REMOVE THIS ITEM FROM THE TABLE. MOTION CARRIED.**

Attorney Larson began explaining the items he submitted for the Plan Commission to review.

After discussion, Plan Commission members asked what other communities are doing, if there are any samples of similar ordinances, and what can be done to make the Town's ordinance simpler and more practical. They suggested a flow chart to help both Town officials and residents easily work through the regulations.

**MOTION BY MR. REICH, SECONDED BY MR. KRANICK, THAT THE PLAN COMMISSION AUTHORIZE ATTORNEY LARSON AND ENGINEER BARBEAU WORK TOGETHER TO PRESENT, WITHIN 3 MONTHS, DRAFTS OF A SIMPLIFIED, REVISED ORDINANCE AS THEY DEEM APPROPRIATE FOR THE PLAN COMMISSION TO REVIEW. MOTION CARRIED.**

**Fifth order of business:** New Business:

## A. Day Spring Baptist Church

Re: Consideration and possible action to determine if a public hearing is necessary for interior buildout of a mezzanine level within the approved building envelope, minor modifications to the south and west elevations and approval of the floor plan for said buildout.

Engineer Barbeau reported that Rev. Reehoff contacted him to discuss a potential buildout of a mezzanine level within the proposed church facility. It would not be part of their first phase of construction, but they want to design the structure such that it would accommodate the additional loading if and when a mezzanine is constructed. The changes to the exterior include a shift in a stone element to the west and a slight reconfiguration of windows on the south elevation, and one additional door on the west elevation. The changes are primarily dictated by the inclusion of an elevator shaft and fire exit stairs. The Conditional Use Permit has two conditions that relate to changes to the CUP. Based on the submittal, Engineer Barbeau did not consider the proposed mezzanine to constitute a change in the use of the facility. There will be no change in the physical premises, lands or ownership related to this design change. He also stated that the proposed improvements are minor in nature since they do not substantially affect the exterior appearance of the building.

Rev. Reehoff said they have been in contact with the Fire Chief regarding the proposed changes to the building.

**MOTION BY MR. REICH, SECONDED BY MS. DUNDON, THAT THE PLAN COMMISSION AGREES THE ADDITION OF A MEZZANINE WITHIN THE ENVELOPE ALREADY APPROVED IS AN AMENDMENT TO THE CUP AND DOES NOT REQUIRE A PUBLIC HEARING.  
MOTION CARRIED.**

**MOTION BY MR. KRANICK, SECONDED BY MR. FITZGERALD, TO ALLOW THE BUILDOUT OF A MEZZANINE WITHIN THE ENVELOPE OF THE APPROVED STRUCTURE AND TO APPROVE THE EXTERIOR ELEVATIONS SHOWN ON SHEET A2.0 OF PLANS PREPARED BY EXCEL ENGINEERING DATED NOVEMBER 4, 2016.  
MOTION CARRIED.**

## B. Del and Debra Molquentin, W316 N895 STH 83, Delafield, WI

Re: Consideration and possible action on a request for approval of a revised Conditional Use Permit to operate at Hobby Kennel at W316 N895 STH 83, Delafield, WI.

**MOTION BY MR. REICH, SECONDED BY MS. DUNDON, TO TABLE THIS ITEM.  
MOTION CARRIED.**

## C. Bill Meyers, Meyers Electric, S13W33752 Summit Avenue, Delafield, WI

Re: Consideration and possible action on a request for site plan, site grading plan, plan of operation and architectural drawings for a new storage building directly north of the existing Meyers Electric building.

Engineer Barbeau explained that Mr. Meyers owns this approximate 26-acre property which was zoned M-1 Industrial District in the Town and is now located within the Waukesha County Shoreland Zoning District (zoned C-1). Mr. Meyers conducts his business, Meyers Electric, Inc., on this property, which currently consists of one principal structure with paved parking and driveway areas. Access to the parcel is through an easement on the We-energies parcel. Mr. Meyers is proposing to construct a new accessory storage building and eight new parking stalls directly north of the existing building and two rain gardens along the north and south sides of the new building to address stormwater quality. Because this site is located within the Waukesha County Shoreland Zoning District, the Town cannot regulate structure offsets or the size of the building. The County requires that the Town review and approve the site plan, the plan of operation and the architectural plans. Comments from the Town will be incorporated into the County's formal approval.

Engineer Barbeau reviewed the Site Plan and the engineer that prepared the site plan addressed his comments. The only item that needed to be addressed is that the east and south driveways on the existing development had been expanded to the lot lines. Chapter 17.06 4 D of the Town's Zoning Code states that driveways shall be permitted in setback and offset areas, but not closer than three feet offset from an adjacent property. The owner acknowledged that additional pavement was added to within the offset and setback areas. Mr. Meyers planned to

request a variance to allow the additional pavement to remain. He added the pavement because he had problems with water and mud in that area of the property when it was only gravel. Engineer Barbeau stated that the variance process requires the owner to show a hardship.

The Plan of Operation is that the new building will be used to store equipment and materials used for daily business operations. The new hours of operation will be between 7 a.m. and 4 p.m. The approved hours for the existing development were between 7 a.m. and 3:30 p.m. During his site visit, Engineer Barbeau noticed that items were being stored outside of the existing building and requested that these items be moved indoors as was approved in the original plan of operation. Whatever is inside should be related to the business since this is not retail storage.

The Plan Commission is the Architectural Control Board for the Town and must approve the architectural plans. The architectural plans dated November 11, 2016 indicate that the new storage building will have metal siding and a metal roof with an approximate 3' high stacked stone veneer on the east side. There will be two overhead doors on the east side, two man doors on the west side, four transom windows and one door on the north side, and two man doors on the south side. No windows are proposed on the east, west, and south sides of the new building. The proposed colors will match the existing building.

**MOTION BY MR. REICH, SECONDED BY MS. DUNDON, TO APPROVE THE ADDITION OF THE NEW ACCESSORY STORAGE BUILDING WITH THE PROVISIO THAT THE PARKING AND PAVED AREA COMPLY WITH THE TOWN ORDINANCE STATING A 3 FT. SETBACK.  
MOTION CARRIED.**

- D. Donna and Anthony Meyer Trust, Owner, by Eliza Meyer Audley  
Re: Consideration and possible action on a request for approval of a Certified Survey Map for a land division and lot reconfiguration at N35W28256 Taylors Woods Road.

Engineer Barbeau stated that the current Meyer Trust property consists of 2 lots which are 29.9 and 8.42 acres respectively. Each lot contains one residence. A substantial part of each lot is in the environmental corridor. The owner desires to create one additional lot that will have direct access to Taylors Woods Road. Access to the "middle" lot (Lot 2 on the CSM) will remain as it is today and meets Town Code requirements. The surveyor has indicated that the private roadway easement exists, but only by reference in the deed; therefore they plan to create a new easement by separate document using the Town's private driveway agreement language.

The new lot configuration will result in three lots (Lots 1, 2 and 3) being 20.06, 10.30 and 8.91 acres, respectively. The lot sizes meet Town zoning requirements (where the Town has jurisdiction). Access to Lot 3 will be directly off of Taylors Woods Road. The zoning requirements to build on Lot 3 will be dictated by the Waukesha County Shoreland Zoning ordinance. Notes on Sheet 9 of 9 provide limitations to the disturbance of the Environmental Corridor and is the standard in Waukesha County's zoning ordinance. Engineer Barbeau's technical comments have been incorporated into the CSM dated 12/1/16. Waukesha County informed him that this land was set aside for a Town park. The family was unaware of this designation. Engineer Barbeau said the Town may need to do something to get this designation off the County map. Discussions have also been held regarding septic and sewer services on the three properties.

Dr. Meyer stated that the family intends to turn some of the property over to Waukesha County Land Conservancy through a conservation easement.

**MOTION BY MR. KRANICK, SECONDED BY MR. KRAUSE, TO RECOMMEND THAT THE TOWN BOARD CONDITIONALLY APPROVE THE MEYER CSM SUBJECT TO RESOLUTION OF THE FOLLOWING ITEMS:**

- **ADDRESS AND INCORPORATE ALL COUNTY REVIEW COMMENTS INTO THE DOCUMENT;**
- **PROVIDE AN EXECUTED PRIVATE DRIVEWAY AGREEMENT FOR ACCESS TO LOT 2 FOR RECORDING WITH THE CSM;**
- **PROVIDE AN EXECUTED SEPTIC EASEMENT AGREEMENT FOR THE SEPTIC IMPROVEMENTS ON LOT 3 OF THE CSM;**
- **REQUIRE A PUBLIC SANITARY SEWER CONNECTION FOR LOT 3;**
- **CREATE AN EASEMENT TO TAYLOR'S WOODS ROAD FOR LOT 2 FOR A POSSIBLE FUTURE CONNECTION TO PUBLIC SANITARY SEWER, AND**
- **PAYMENT OF ALL FEES AND CHARGES.**

**MOTION CARRIED.**

**Sixth order of business:**

Discussion:

A. None

**Seventh order of business:**

Announcements and Planning Items:

Next meeting - Tuesday, January 3, 2017 at 7 p.m.

**Eighth order of business:**

Adjournment

**MOTION BY MR. KRAUSE, SECONDED BY MR. KRANICK, TO ADJOURN AT 8:50 P.M.  
MOTION CARRIED.**

Respectfully submitted,

Lauren Beale  
Deputy Clerk/Treasurer

Minutes approved on: February 7, 2017