

PLAN COMMISSION MEETING Tuesday, June 7, 2016

Members present: T. Oberhaus, L. Krause, E. Kranick, C. Dundon (arrived at 8:14 p.m.), P. Kanter, G. Reich
Also present: B. Cooley, *Supervisor*, T. Barbeau, *Town Engineer*, 23 citizens

Public Hearing

Prior to the start of the scheduled Plan Commission meeting there was a public hearing in front of the Town Board and Plan Commission to solicit public input on a proposed amendment to the Town of Delafield Zoning Map at the request of Linda Rogers, W297 N3063 Oakwood Grove Road, Tax Key No. DELT 0811-995-003, to rezone her property from A-2 Rural Home District to R-1 Residential District. The regularly scheduled Plan Commission meeting began immediately following the conclusion of the public hearing.

Chairman Oberhaus called the Public Hearing to order at 7:07 p.m. The Clerk read the public hearing notice.

Linda Rogers explained that she wants to rezone her land so that, in the future, a buyer will have the option of buying the house with either some land or all of the land. She is not splitting the land at this time, but would like the option for the future.

Engineer Barbeau explained the property, zoning of the surrounding properties, and the request.

Public Comments:

Mark Hughes, W297N3066 Oakwood Grove, is a neighbor. He expressed multiple concerns:

- To whom will the property be sold?
- What will be the restrictions on the property?
- How will this affect the aquifer? He stated some of the wells in the area are over 400 feet deep.
- What will be the configuration of the future home on the property?
- He stated that others have sold their properties since they were unable to divide the property.
- He likes the quiet area by the lake. It is peaceful. He bought there because he didn't want to live where there was a "subdivision" feel. This is a great area. He wants to keep the area the same way and the land the same way.

Judith Toor, W297N3020 Oakwood Grove Rd., has been living elsewhere but plans to move back into this address where her daughter now lives. She will be adding onto her home. She is concerned about the aquifer, as well, since here property ran out of water at one point and a new well was needed. She is also concerned about the wildlife in the area and would like to have the property remain as rural as possible.

Sheila Rocha, N29W29816 Shel-Mar Dr., lives next to the land being discussed. She is concerned about the aquifer. She has a large property and is totally against the rezoning for same reasons as previous two speakers, as well as because she questions what it will do to the value of homes in the area.

Michelle DuBord, W297N3046 Oakwood Grove Rd., has lived in her home for 45 years. She is totally against this rezoning and expressed concerns regarding the aquifer. She prefers the larger lots be left as they have always been.

Richard Rogers, Linda's husband, stated that the intent of the proposed action is simply to offer potential buyers of the property, sometime in the future, an option to purchase a smaller acreage so that the buyer can purchase either all or part of the land involved. He and his wife have no intention of selling the property at this time and hope they will not need to do it for years. They are trying to prepare for the future.

Chairman Oberhaus called the Public Hearing to a close 7:21 p.m.

Plan Commission Meeting

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

Second order of business: Approval of the minutes of May 3, 2016

**MOTION BY MR. REICH, SECONDED BY MR. KRANICK, TO APPROVE THE MINUTES OF THE MAY 3, 2016 MEETING.
MOTION CARRIED.**

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

- A. Meadows of Waterville Board (Summit) (5/31/16)
Re: Hunt Club Farms development and response by staff.

Chairman Oberhaus stated this was an opportunity for the citizens from Summit to speak. No one came forward.

- B. Arenz, Molter, Macy, Riffle & Larson, S.C. (4/26/16)
Re: Updates for Sign Regulations

MOTION BY MR. KANTER, SECONDED BY MR. KRAUSE THAT, IN RESPONSE TO THE RECENT U.S. SUPREME COURT’S DECISION REGARDING REGULATION OF SIGNS, THE PLAN COMMISSION ENCOURAGES THE TOWN BOARD TO AUTHORIZE

- A REVIEW OF THE TOWN’S SIGN CODE AND
- PREPARATION OF A DRAFT OF A MODIFIED ORDINANCE FOR CONSIDERATION BY THE PLAN COMMISSION AS SOON AS POSSIBLE; AND
- REQUIRE THAT THE TOWN ATTORNEY APPEAR BEFORE THE PLAN COMMISSION ON JUNE 21ST TO REVIEW HIS RECOMMENDATIONS FOR MODIFICATIONS TO THE ORDINANCE.

MOTION CARRIED.

Fourth order of business: Unfinished Business:

- A: Ernesto Villarreal, N27 W30328 Grandhaven Drive, by Carl Tomich, Westridge Builders, (tabled May 3, 2016)
Re: Consideration and possible action on a request for an entrance monument/fence greater than 3 feet located in the front yard.

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

Engineer Barbeau explained that at the last meeting, there was discussion regarding whether entrance monuments and associated fences should be considered fences. The interpretation by staff is that the proposed entrance improvements are considered a fence (defined in the code as a structure which is used as a boundary or means of protection, screening, barrier, confinement or architectural treatment).

He performed the open space calculations for this property. The required open space is 80%, the existing open space is 84.7%. The proposed entrance monuments on each side of the driveway are proposed to be between 3.5 feet and 7 feet in height and will extend 12 feet outside of the driveway on both sides. The owner is requesting that the Plan Commission allow the increase in the height of the driveway entrance monuments to the elevations shown on the plans. Based on a site visit to the property, he does not believe that the entrance gates will be a detriment to the neighborhood. The frontage on the property is 319 feet so it will not create a substantial “prison wall” in front of the property. He recommended approval of the driveway monuments as proposed.

Mr. Villarreal stated that he moved to Grandhaven subdivision because it is a gated community and his priority is safety for his family. The Grandhaven gates, however, are open during the daytime. He is asking to have a driveway gate with two columns that curve out to make it appear that his property is secure. The property across the street has the same amount of street frontage with double the size of monuments that Mr. Villarreal is requesting. His home is also about a mile from a public road so the general public won’t be seeing his monuments. The main floor of his home is 10 ft. above the road, so he doesn’t believe this will look out-of-place. He planted trees along his property to wall it off with landscaping and for curb appeal, but would like the proposed entrance monuments in the front of his property.

**MOTION BY MR. KRANICK, SECONDED BY MR. KRAUSE, TO GRANT THE REQUESTED EXCEPTION AND APPROVE THE MONUMENT AS PRESENTED.
MOTION CARRIED 3/2 WITH MR. OBERHAUS, MR. KRAUSE AND MR. KRANICK VOTING "YES" AND MR. REICH AND MR. KANTER VOTING "NO".**

B: Meadows of Delafield subdivision, Michael Neimon, President of the Meadows of Delafield Homeowners Association, (tabled May 3, 2016)

Re: Consideration and possible action on a request for a new monument sign at the entrance to the subdivision located at STH 83 and Meadows Drive.

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

At the last meeting, Engineer Barbeau raised a concern that the proposed sign is located in the Town right-of-way. He had an opportunity to discuss the matter with Town Attorney Larson, who agreed that subdivision signs within the medians of subdivision entrances happen in many communities. The following options are available: enforce the code as it stands; change the code to allow certain signs in the median entrances of the subdivisions; have the Town provide easements for the signs and/or consider the signs a Town sign and assign the maintenance of the signs to the homeowner's association. Chapter 17.08 7. F. does not provide the flexibility to allow the Town to put signs in the right-of-way other than those used for guidance or warning of traffic.

Engineer Barbeau explained that Attorney Larson stated the sign can be called a government or Town sign with the condition that the Homeowner's Association needs to maintain it in all ways and pay for it, landscape it, keep the surrounding vegetation down, etc. The Town Code says signs for guidance and traffic are allowed in the right-of-way. This sign is for guidance to the subdivision. (In order to avoid this situation in any future subdivisions, the median with the subdivision sign will be made an outlot of the subdivision so that the area is privately owned and maintained by the Homeowner's Association.)

MOTION BY MR. KANTER, SECONDED BY MR. KRANICK, TO ACCEPT THE ATTORNEY'S RECOMMENDATION TO APPROVE THE REQUESTED SIGN AS A GOVERNMENT SIGN PROVIDING GUIDANCE INTO THE SUBDIVISION. MAINTENANCE OF THE SIGN, THE COST OF PLACING THE SIGN, AND ALL RELATED AND FUTURE MAINTENANCE COSTS MUST BE PAID BY THE SUBDIVISION. THE SIGN MUST INCLUDE THE WORDS "TOWN OF DELAFIELD" ON THE FACE OF THE SIGN.

MOTION TO AMEND THE MOTION BY MR. KANTER, SECONDED BY MR. REICH, TO INCLUDE THAT THE PLACEMENT OF THE SIGN IS CONDITIONED UPON CONTINUED MAINTENANCE OF THE ISLAND THAT IT SITS ON MUST BE DONE BY AND AT THE EXPENSE OF THE MEADOWS OF DELAFIELD SUBDIVISION.

Mr. Neimon stated he has issues with the motion because the island, in his opinion and in the opinion of the Subdivision's attorney, is the property of the subdivision as part of an outlot. He said the ownership may not be shown on the plat map but it was deeded in 1978 and recorded in documents recorded by the Register of Deeds, as part of the Homeowner's property. He also stated that the wording on the sign already has "Delafield" on it so "Town of Delafield" should not be included. The extra cost involved in added engraving is an issue. It is their sign and they don't want the extra cost. The Town logo is already on the street sign. The HOA's request is simply to replace their sign in the same footprint and in the same location with the proposed sign. He appreciates the amendment and stated that they have already been maintaining it for over 35 years. They will continue to maintain it.

Engineer Barbeau stated that the Town Attorney received all the packet materials which the Plan Commission received. The recorded final subdivision plat, as reviewed by the Town Attorney, does not have this island included as an outlot. There is no tax key assigned to that island – only a statement in a document. The recorded plat is the legal document relating to this request. The Town's legal opinion is that the land is not owned by the subdivision. Any further action regarding legal clarification of the recorded plat relating to the ownership of this property is up to the Meadows of Delafield HOA.

Since the sign is already in place and the Town has allowed other subdivisions to replace signs in the median, Engineer Barbeau recommended that the sign be allowed and requested that clarification of this allowance be incorporated into a revised sign ordinance (which will be required pursuant to the letter from Attorney Larson noted in the communication section of the June 7, 2016 agenda).

MOTION ON THE AMENDMENT CARRIED.

MOTION CARRIED AS AMENDED.

Fifth order of business: New Business:

- A. Linda Rogers, W297 N3063 Oakwood Grove Road,
Re: Consideration and possible action on a request to rezone a parcel of land located at W297 N3063 Oakwood Grove Road from A-2 Rural Home District to R-1 Residential District.

Engineer Barbeau explained that Mr. & Mrs. Rogers own 3.95 acres of land at the southwest corner of Franciscan Road and Oakwood Grove Road. The lot contains one single family residential home. They are requesting to rezone the property from A-2 Rural Home District (3 acre minimum lot size) to R-1 Residential (1.5 acre minimum lot size). They are not proposing to split the land at this time. Adjacent zoning includes R-1 PUD to the north (Woodridge Estates subdivision), A-2 adjacent to the west, R-1 to the south and R-3 to the east. The property is currently in the Lake Pewaukee Sanitary District and is served by public sanitary sewer. The lot was created in 1974 through a split of 4 lots south of Franciscan Road and east of Maple Ave.

The land use designation for this property is Suburban I Density residential, 1.5 to 2.9 acres of land per unit. The proposed rezoning meets the Land Use Plan designation. The property has 553 feet of frontage along Oakwood Grove Road that will allow a land split that meets the lot width requirements (minimum 200 feet) for R-1. The amendment does not spot zone this property since adjacent lands are zoned with a similar designation. Engineer Barbeau recommended approval of the proposed rezoning amendment.

Mr. Kanter stated that since the owner stated that it is not their intention to split the land, this request is to accommodate a possibility that may or may not occur in the unknown future and is, therefore, premature. The rezoning should take place when a land split is going to happen and should be presented with a cogent plan of how the split will occur. Mr. Reich, Mr. Kranick and Mr. Krause agreed that the rezoning and land split should take place at the same time.

MOTION BY MR. KANTER, SECONDED BY MR. KRAUSE, TO RECOMMEND TO THE TOWN BOARD THAT THE PROPOSED REZONING OF THE PARCEL OF LAND AT W297N3063 OAKWOOD GROVE ROAD BE DENIED.

MOTION CARRIED.

- B. Karen Nimz, 6704 W. Wisconsin Avenue, Wauwatosa, WI
Re: Consideration and possible action on a request for an exception to the minimum floor area of 1,500 square feet in accordance with Section 17.03 5.A.3. on a vacant property located at the southwest corner of Elmhurst Road (CTH G) and Bryn Drive.

Engineer Barbeau explained that the applicant is requesting an exception to Section 17.03 5. A. 1. regarding minimum floor area for a single family home at the southwest corner of Bryn Drive and Elmhurst Road. Section 17.03 5. A. 3. of the Town Code states that *"the Plan Commission may grant an exception to permit a single story building or structure of less than the required minimum floor area where the grant would not be contrary to the spirit or intent of the chapter, and provided the proposed building or structure would not be of such character or quality as to depreciate the property values of the surrounding area and provided further that in no case shall a minimum floor area of less than 1,100 square feet be permitted."*

The lot is 3.58 acres in area and the proposed house will be located on a flat portion of the lot in the eastern portion of the land. The land rises to the west to a peak near the west lot line that is 46 feet higher than the existing ground at the house. It is anticipated that the driveway will be located off of CTH G pending County approval. Engineer

Barbeau explained that the land is zoned A-1 at this point. It should be rezoned/updated to current Town zoning of A-2 but can be legal, non-conforming with its current zoning.

The minimum floor area for a single floor building in the A-1 district is 1,500 square feet (sq.ft.). The code allows a reduction in the first floor area for 1 ½ story and 2 story buildings by taking the difference between the minimum floor area (in this case 1,500 s. f.) and the proposed total floor area (in this case 1,568 sq.ft.), multiplying that by 1.5 and subtracting it from the 1,500 sq.ft. For this case, that would result in allowing a reduction of the first floor area by 68 sq.ft. $\times 1.5 = 102$ sq.ft. Hence the minimum first floor area would be 1,398 sq.ft. The proposed first floor area is 784 sq.ft. and the total floor area is 1,568 sq.ft. In the matter before the Plan Commission, the applicant is requesting approval for a house that has a total area of 1,568 sq.ft. and a footprint/first floor of 784 square feet.

Engineer Barbeau explained that exceptions of this nature depend on the Plan Commission considering the findings, evaluating the proposal against the purpose and intent of the chapter and making a decision whether an exception is acceptable.

His findings relating to this requested exception were:

Not contrary to the spirit or intent of the chapter:

The intent of the chapter is to put in place a minimum floor area in certain zoning districts to meet the purposes stated in Section 17.01 4. B. of the zoning code. One of the purposes of the zoning code is to “preserve the community’s heritage and rural character.” Based on the zoning of the property, A-1, the minimum floor area is 1,500 square feet. If the house was to be placed in the R-3 or R-L district (minimum first floor area of 1,200 square feet), it would meet the first floor area and total area requirements.

Should not be of the quality or character to depreciate the property values of homes in the surrounding area:

Land to the north is part of the former Williams farm and will be preserved. The two lots south of this parcel are vacant. Across the street from this parcel, the values range from \$218,000 to \$394,000 (land and improvements). I do not know the proposed value of the home on this lot will be, but the land is assessed at \$152,000.

In no case shall a minimum floor area of 1,100 sq. ft. be permitted:

The proposed total floor area is 1,568 sq. ft.

Ms. Dundon’s written comments to the Plan Commission noted that a garage is required by the Town.

Mr. Kanter stated that the Plan Commission can approve this house with reduction in size but it can’t be approved and built without a garage.

Niac Carnahan, 6528 W. North Ave., Wauwatosa, spoke on behalf of the requester. He explained that the property has been in Ms. Nimz’s family a long time. The design of her proposed home includes siting the house on the property within the area that had already been disturbed while also working with the set-back requirements. They are placing the house within the ruins where the farmhouse and barn were located, but don’t want the house to dominate the ruins. They want to maintain the history and rural feel of the property. Ms. Nimz didn’t desire a garage. He stated that a garage could be designed that would be detached like the old farm would have had. The estimated construction cost is \$316,000 – 400,000 plus the land. This is a year-round residence. Once the buckthorn is cleared, portions of the house may be visible from the road.

(Ms. Dundon arrived at 8:14 p.m.)

**MOTION BY MR. KRAUSE, SECONDED BY MR. REICH, TO GRANT AN EXCEPTION TO THE MINIMUM FLOOR AREA RATIO AND APPROVE THE PROPOSED HOUSE THAT HAS A TOTAL OF 1568 SQ. FT. AND A FOOTPRINT ON THE FIRST FLOOR OF 784 SQ. FT. BUILDING PERMITS WILL NOT BE ISSUED UNLESS A GARAGE IS INCLUDED IN THE PLAN.
MOTION CARRIED.**

- C. Ernestina Cousland Life Trust, by Jon Spheeris, Hunt Club Farms, LLC,
Re: Consideration and possible action on a request for preliminary plat approval and lot allocation for a 16 lot subdivision on 83.3 acres of land owner by Ernestina Cousland Life Trust located south of Abitz Road, approximately 1,500 feet west of Cushing Park Road.

Mr. Spheeris handed out additional materials to the Plan Commission members which provided additional comments and a revised plan with retention ponds. Lots 12, 13, and 14 changed; lot 12 became larger. The outlots are just for stormwater and are owned in common by the homeowners. The driveway will service Lots 7 and 8; there will be a gate on Four Seasons Road where it connects to the private drive; there will be a sign on Abitz Rd. indicating that it is a private drive; Four Seasons Rd. will eventually serve the neighboring property to the east. He requested approval of the Preliminary Plat subject to Waukesha County approval.

Engineer Barbeau explained that he received the revised plat today. The stormwater is still being worked through with Waukesha County, so he is not comfortable that the size of the outlots will handle the ponds. Lot 14 will have a pond in the middle of it. The lot is odd shaped now but does meet the width requirement. He suggested making the pond area and the strip of land on the east side of it all one outlot. He is not ready to approve the plan since he hasn't seen the approval from the County. He suggested tabling this item until he receives comments from Waukesha County.

Engineer Barbeau explained that the two lots not on a public road will need to be approved by the Town Board.

**MOTION BY MR. KRANICK, SECONDED BY MR. KANTER, TO TABLE THIS ITEM FOR TWO WEEKS.
MOTION CARRIED.**

- D. Dan Reehoff, Pastor, Day Spring Baptist Church,
Re: Consideration and possible action on a request for Architectural plan approval for a church building approved as part of a Conditional Use Permit approved by the Town Board on March 8, 2016 and recorded on April 14, 2016 located south of Silvernail Road approximately 1,800 feet west of Elmhurst Road (CTHG)

On April 14, 2016, the Conditional Use Permit (CUP) was recorded for the DaySpring Baptist Church. Condition C. of the CUP stated that the Stormwater Management Plan, Landscaping Plan, Architectural Plans and exterior materials has to be approved by the Plan Commission (acting as the architectural review body) prior to issuance of any building permits. At this time, they are seeking approval of the architectural plans.

Features of the proposed architectural plans include:

- Wood and natural wood looking finishes at the front entrance of the building
- Fiber cement cladding system, horizontal ribbed metal panels and aluminum storefront system on the front elevation.
- Flush metal panels on the other three sides of the building along with fiber cement cladding system.
- Large windows in the front elevation for an open feel to the interior lobby area
- A canopy at the front entrance for drop off.
- Architectural treatment on all four sides of the building; however, they note that minimal expense is being put into the south elevation wall since that would be where an expansion could take place in the future.

Engineer Barbeau requested clarification on the following items:

- Where will the mechanicals be? Will there be anything sticking up out of the roof that needs to be screened and if so, what type of screening?
- Will there be mechanicals on the sides of the building that need to be screened.
- The submittal states that the front will be "wood and natural stone looking finishes" I would want the materials to be actual stone. What would the "wood" material be?
- More detail on the cladding is needed since it is being used on all sides of the building.

Rev Reehoff explained the proposed plan and the materials to be used on the building. Some of the building will have a cedar look but won't need painting. Mechanicals will be on the top of the building, similar to the OAW building. There will be a playground in the back of the building. The church is asking for approval so they can

proceed with engineering and state approval. The cross is white and will be back-lit. They are not looking for sign approval at this time but stated that they are looking at a back-lit sign similar to that used at OAW. The south side of the building will have metal cladding and a wood look. The property is being farmed this year but the members are excited to begin building.

Plan Commission members expressed concerns regarding the look of both the southern face of the building and the over-all look of the design. Since it will dominate Silvernail Rd., be very visible from I-94, and the building should be there for a long time, commissioners are concerned about the structure fitting into the community architecturally rather than having a "strip mall or car dealership" appearance. They understood that the southern face of the building is where future expansion may occur, so the church doesn't want to put a lot of money into the exterior on that side.

They stated that their comments have nothing to do with what a church should or should not look like; they were concerned that the building be appropriate for the Town. It should be something that what would continue to be appropriate even if the church was not successful and moved out in the future. Plan Commission members said they did not see significant changes to the previously presented design, other than the exterior materials. Plan Commission members did not have a favorable response to the originally presented drawing. Members stated that the structure needs to fit into the Town's residential community. They emphasized that it is not the Plan Commission's responsibility to design the building, simply to react to the design on behalf of the Town residents. The church is joining this community and should their building should be designed accordingly.

Rev. Reehoff stated that the church buildings being built today do not look like those built in years past. They are modern, multipurpose buildings. The congregation is building this for the parishioners who are active in their church. This style of building is what the next generation is coming to today. The current design has two levels of windows divided by a strip of black, decorative metal with grooves. People want a building with lots of light. They want their facility to be an asset of the community and the members desire to be good neighbors.

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

Sixth order of business: Discussion: None

Seventh order of business: Announcements and Planning Items:

Next meeting - Tuesday, June 21, 2016
Waukesha County Shoreland Zoning Advisory Committee at the Town Hall on
Thursday, June 23, 2016 from 6 – 8 p.m.

Eighth order of business: Adjournment

**MOTION BY MR. KANTER, SECONDED BY MR. KRAUSE, TO ADJOURN AT 10:02 P.M.
MOTION CARRIED.**

Respectfully submitted,

Lauren Beale
Deputy Clerk/Treasurer

Minutes approved on: August 2, 2016