

Minutes
Plan Commission
Meeting

December 17, 2018

Members Present: Bruce Fischer, Peter Bloechl-Anderson, Brad Czebotar, Dan Kolk, Tom Rogers
Members Absent: Jeff Sorenson, Cathy Kirby
Staff Present: Pauline Boness, Dan Evans

1. CALL TO ORDER

Czebotar called the meeting to order at 7:00 p.m.

2. PUBLIC APPEARNCES

None

3. APPROVAL OF MINUTES

- a. Review and approval of draft Minutes from the November 19, 2018 Plan Commission meeting.**

Czebotar called the minutes approved by unanimous consent.

4. BUSINESS:

- a. Review and possible action on a request by Lou Cheramy (BizyLou LLC) for a 2 Lot Certified Survey Map (CSM), to create a zero lot line duplex at 5764 and 5772 Lexington St., McFarland, WI. The properties are zoned R2, Single & Two Family Residence.**

Boness summarized this is a zero lot line, lot number 11; the proposal meets all the setback criteria. There is nothing unusual about this request.

Czebotar moved to approve a request by Lou Cheramy (BizyLou LLC) for a 2 Lot Certified Survey Map (CSM), to create a zero lot line duplex at 5764 and 5772 Lexington St., McFarland, WI. The properties are zoned R2, Single & Two Family Residence. Fischer seconded the motion. Motion carried 4-0.

- b. Discussion only - potential changes to the Municipal Code relating to conditional uses.**

Dan Evans, Village Attorney, reviewed some changes; he feels should be included in the Ordinance. The burden is on the applicant to make sure they provide the information needed; information needs to be required in writing and provide the proof of meeting substantial evidence. It should be clear in the ordinance that it is the applicant's responsibility to meet. As a standard, this will comply with other laws or regulations including but not limited to wetlands, municipal codes, noise violations, environmental standards to name a few. Czebotar inquired, by including this will it then be the applicant's responsibility to show evidence that they are meeting the standards? Evans replied, yes if the standard is applicable to the specific application. This is a cross reference of sorts where they are going to have to show they are complying with other state regulations. This way you do not find out after the fact, they have violated state law. If they did violate state law, they have then violated the CUP. You can tie it in to make sure they have gotten all other governmental approvals needed, i.e. if it was from the DOT or safety regulations through the state.

It is better to list the standards you might want to impose on every permit. Evans pointed out in the zoning code there are some DNR regulations, which need to be updated.

Kolk inquired about 62-111 – where it discusses diminished use of value and enjoyment. Does the applicant have to provide proof of no loss of property value or enjoyment? Evans replied, the applicant could not just say it will not affect, following the standard. They have to show how it would potentially affect or not impact something, just saying it would not, does not meet the standard. Kolk brought up issues of density, traffic or building height, while all were not CUP applications, but would a public statement have to need more substance to it? Evans replied yes, or personal experience would also have weight, i.e. "I live in this neighborhood and I know the traffic is busy at this time". Kolk is concerned about measurable testimony from an applicant, but not from someone opposed to something. He feels this is not just a change of an ordinance but a change of practice and how they do things. Evans replied he understands the concern of meeting substantial evidence, but something like a traffic study would hold more weight. Evans reviewed how the process would work, and how the Plan Commission would review the evidence. Czebotar summarized this is not just if something is added in the ordinance, state law now requires substantial evidence, and this will assist the applicant and the Plan Commission for applying the standards. Evans agreed and feels by putting it in writing that they have to produce something in writing this assists both the applicant and the reviewing board. Commissioners discussed who and how the evidence would need to be provided and by whom. How you cannot rule against something nor approve it just based on opinion. The applicant would have to show the application has merit to move forward to the Plan Commission. Approvals would have to have merit, and not just be opinion based. If the applicant has not provided enough information they would need to be held over to another meeting, no action has to be taken at a specific meeting. The Plan Commission can

require an applicant to provide a study, or provide additional information. Evans gave the example of an expertise report on noise levels. The Plan Commission also would have the option of picking their own, an independent, and have the applicant pay for it if they felt the applicants expert is showing favoritism for the applicant, and not acting as an independent. If the applicant choses to not use the party selected by the Plan Commission, the applicant can choose to not move forward with their proposal. Evans can also tweak a few parts indicating it has to be a qualified professional, and what certifications they would need. Evans added you could add information that evidence is applicable to both the applicant and the public. If the Commission feels something would be an issue or a concern you would need to provide them feedback that you are concerned about something and that you would want them to provide information to cover that concern.

Boness pointed out it appears this may no longer be a one meeting process. Commissioners will need to remember to separate out the conditional use issues versus site design. Boness stated in the past some of those items at a meeting became intertwined, Commissioners would need to pay more attention to what pertains to the site plan versus the conditional use. Boness is putting together a longer more detailed application, it will have a check list of what applicants need to provide, they can no longer say "see plan" for details. They will have to be more specific. Evans pointed out you will need to have good recordings of the meetings, keep records/copies of what was submitted, and in the minutes reflect how an applicant did or did not meet the standards. The best way is to articulate how the standards have been met, and the evidence to support it, or if not met, why and you need to keep a clear record. What was submitted or what was not submitted along with the recording of the meeting.

Czebotar inquired about having a party come in to "discuss only" whether a project would be a worthy one. People have come in and asked for an opinion prior to an actual application. Should Commissioners be concerned about how this is handled, is this something they should even be doing? Evans replied you could still have parties come in to indicate what they are thinking of proposing, you would not be able to give any feedback indicating any type of approval. You could indicate items, which may be of concern, but they would have to fill out the application and submit all paperwork through the process before you could comment on anything, which would be an indication of approval of any type.

Czebotar inquired if they wanted to go through the list of conditional uses, would they be better to get rid of the entire list and start over? Evans advised he had not thought about it that way, no municipality has done that, you also have to be careful of spot zoning. You would have to look at districts, their proximity to other zoning, residential or elderly neighborhoods. Evans advised he had not reviewed them for tonight's meeting. Boness advised she could circle some and send them to Commissioners to review; they would need to do so with a zoning map, and then review at a later meeting. Boness stated some of them came about to try to accommodate things moving into the area. Czebotar asked if there was a way for

Boness and other staff to go through this list, this way they could potentially avoid missing something. Boness replied yes she could do that and have some other staff help. Boness inquired if they make the change and take away a conditional use, would someone who was approved be legal, non-conforming. Evans replied yes as long as they continued that use. Evans will address the concerns about the experts, and draft something regarding evidentiary standards. As this is a first step if you had, other thoughts email them to Boness. Czebotar inquired if there could be a standardized process, or flow chart document as to how they will run a CUP application at meetings. Evans will put something together for the next meeting. Kolk feels once this is all complete, there should be a training session for Commissioners. Bloechl-Anderson questioned the CDA's involvement, as they will sometimes give opinions on what they would like to see when a presentation is before them. Boness replied moving forward they will need to stick to whatever is required by the standards for the TIF.

c. Retirement - Community Development Director

Boness stated she had brought this up at a prior meeting. She will be retiring as of July 5, 2019. Boness is trying to give everyone ample time to review the job description, how the department is layed out, if there are any changes they want to make and allow enough time for the hiring process. She hopes to have a smooth transition with whomever is hired.

5. STAFF REPORTS

- a. Highlights and updates – No comments
- b. Property maintenance – No comment

6. ADJOURNMENT

Kolk moved to adjourn, Rogers seconded the motion, motion carried. Meeting adjourned at 8:00 p.m.