

**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 BOARD OF TRUSTEES

Monday, January 31, 2011

Chairman Spadoni called the monthly meeting of the Village of Fontana Plan Commission to order and President Petersen called the special meeting of the Board of Trustees to order at 5:30 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Plan Commissioners present: Roll call: Chairman George Spadoni, Micki O'Connell, President Arvid Petersen, Harry Nelson, Sarah Lobdell

Plan Commissioner absent: Derek D'Auria, Mike Poivey

Trustees present: Roll call: President Petersen, Micki O'Connell, George Spadoni, Tom McGreevy, Cindy Wilson

Trustees absent: Peg Pollitt, Pat Kenny

Also present: Administrator/Treasurer Kelly Hayden, Brandy Howe, Rob Ireland, Alex Koldeway, Library Director Nancy Krei, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, Building Inspector/Zoning Administrator Ron Nyman, Rick Pappas, David Rasmussen, Mike Slavney, Village Attorney Dale Thorpe, Ernie Tuchscherer, Director of Public Works Craig Workman

Visitors Heard

None

Announcements

1. CDA Board Monthly Meeting – **Wednesday, February 2, 2011, 6:00 pm**
2. Village Board Monthly Meeting – **Monday, February 7, 2011, 6:00 pm**
3. Spring Primary Election – **Tuesday, February 15, 2011, 7:00 am to 8:00 pm**
4. Library Board Meeting – **Wednesday, February 16, 2011, 10:00 am**
5. Plan Commission Staff Meeting – **Wednesday, February 16, 2011, 1:00 pm**
6. Park Commission Meeting – **Wednesday, February 16, 2011, 6:00 pm**
7. Assessor Village Hall Office Hours – **Friday, February 18, 2011, 10:00 am to 2:00 pm**
8. Protection Committee Meeting – **Monday, February 21, 2011, 5:45 pm**
9. Lakefront and Harbor Committee Meeting – **Wednesday, February 23, 2011, 4:30 pm**
10. Plan Commission Monthly Meeting – **Monday, February 28, 2011, 5:30 pm**

Approve Minutes

President Petersen/Commissioner Nelson 2nd made a MOTION to approve the minutes for the Plan Commission meetings held December 28, 2010, and January 10, 2011, and the MOTION carried without negative vote.

Plan Commission Business

Geneva Lake Dream Homes Easement Proposal for 138 Fontana Avenue – Consider Action: Right-of-Way Easement Approval Per Section 18-21 (a)

Village Attorney Thorpe stated that there are three platted lots at 138 Fontana Avenue and the proposed easement would provide access to two of the lots located at the back of the parcel that are not abutting the street. Thorpe stated that provisions for the approval of easements to access land-locked lots are provided for in Chapter 18 of the Municipal Code. Thorpe stated that the proposed

easement has been favorably reviewed by the chiefs of the Fontana police, fire and rescue departments, and the initial comments from members of the Plan Commission professional staff have been addressed. Thorpe stated that all of the changes requested by the staff members have been made and the proposed easement has been deemed to provide adequate, safe and convenient access to the two lots. Thorpe distributed a draft of a Plan Commission resolution that if adopted, would provide for final approval of the easement. The resolution includes an easement diagram exhibit and an easement maintenance agreement exhibit. Property owner Ernie Tuchscherer of Geneva Lake Dream Homes has submitted conceptual land use plans for one single-family home to be developed on each of the lots. In response to a question, Thorpe stated that the three lots already are platted, that they have existed for more than 70 years, and that they comply with the zoning ordinance for proposed single-family home sites. Thorpe stated that zoning and building permits will have to be applied for and issued prior to the commencement of construction; however, the only matter that the Plan Commission will have to consider is the proposed easement and whether it provides adequate, safe and convenient access to the existing lots. Lobdell asked if the staff reviewed the proposed maintenance agreement and if it is adequate. Thorpe stated that maintenance agreement was reviewed and it is very detailed and adequate. O'Connell stated that she was concerned the Shared Driveway and Utility Easement and Maintenance Agreement is more like a condominium association declaration than a maintenance agreement. Attorney David Rasmussen, representing the applicant, stated that the agreement was drafted to be very detailed to make sure that there are no questions or disputes between property owners in the future and to provide a guarantee to the Village that the easement area will be maintained. O'Connell asked what the impervious surface ratio will be after single-family homes are constructed. Thorpe stated that the conceptual site plan submitted by the applicant actually is not relevant to the easement approval and the plans distributed do not show an accurate depiction of what may end up being developed. Thorpe stated that the applicant will have to draft specific plans for the construction of the homes and they will have to be in compliance with the zoning code in order to be approved by the Building and Zoning Department. O'Connell stated that when the back two lots were platted there wasn't an access road constructed because the area is a wetland. O'Connell stated that she has a problem with approving access to the back lots and that single-family homes may not be appropriate for the lots. Thorpe stated that the lots have been platted and assessed by the village as buildable lots for several decades. Thorpe stated that the Southeastern Wisconsin Regional Plan Commission will have to stake the delineated wetlands on the back of the lot in the spring after the snow has melted, and there are parameters of the zoning code that will dictate the setbacks and impervious surface ratio standards that have to be met on each of the lots. Spadoni asked Thorpe if the Plan Commission has a legal basis to deny the easement proposal. Thorpe stated that the zoning code charges the Plan Commission with reviewing and approving access easements on a subjective basis taking into consideration if the proposed easement provides adequate, safe and convenient access. Thorpe stated that the Village staff members have all favorably reviewed the proposed easement and there are no concerns that have not been addressed. Following questions on wetland overlay districts and garbage collection, Spadoni stated that the Plan Commission was charged with just considering the easement proposal and if it would provide for adequate, safe and convenient access to the back lots. Rick Pappas stated that he thinks that the lots are not legally conforming lots and do not technically exist until access is granted, so the proposal can not be considered while the moratorium is in effect. The Plan Commission and Village Board approved a temporary moratorium or stay on the acceptance, review and approval of rezone, land division and subdivision applications and condominium plat applications on village properties following a public hearing on January 10, 2011. Thorpe stated that the lots are platted and existing and no land is being divided, and that the easement is not subject to the moratorium Thorpe stated that the easement is a Chapter 18 zoning issue since the lots are already platted, and the sections of the code in Chapter 17 that were cited by Pappas do not apply. Thorpe stated that if it weren't for Section 18-21 (a) of the code that dictates the Plan Commission has to review access easements and determine if they provide adequate, safe and convenient access to the back lots, the proposal would not have had to receive any special approvals other than going through the building permit process.

Hayden stated that an important distinction to keep in mind is that the lots have been platted and approved by the Village Board several years ago; the proposal is not to create two brand new lots, they already are existing lots. Thorpe stated that the applicant has attended three meetings and staff has worked with the applicant's attorney to amend the proposed easement and maintenance agreement several times to address some initial concerns. Spadoni stated that there are emailed messages on file from Fire Chief Wolfgang Nitsch and Rescue Squad Chief Jon Kemmett, and Police Chief Steve Olson has provided verbal approval of his review and all three chiefs have agreed that the easement provides adequate, safe and convenient access. Petersen stated that he has a concern that that easement does not call for an unobstructed driveway to the back two lots, so he is opposed to the proposal. Building Inspector Ron Nyman stated that the Village has previously approved a driveway access easement to the developers of the Westgate property and that roadway is only 10-foot-wide. Nyman stated in order to address the need for an unobstructed driveway for emergency access, a condition was added to the approval that no parking be allowed in the Westgate easement area and that "No Parking" signage be erected in the easement area. Thorpe stated that the chiefs were asked specifically about providing for an unobstructed easement area, and it was not a concern. Spadoni asked if the applicant would be opposed to adding a provision to the easement agreement that no parking be allowed in the easement area; and Attorney Rasmussen replied that it would not be a concern to prohibit parking in the easement area. Thorpe stated that he will add to the Plan Commission resolution a clause that states there shall be no parking in the easement area and that "No Parking" signage will be erected.

Commissioner Nelson/Chairman Spadoni 2nd made a MOTION to approve Plan Commission Resolution 01-31-11-01 as presented, with the condition that a clause is added that states there shall be no parking of automobiles in the easement area and that "No Parking" signage shall be erected. The MOTION carried on a 4-1 vote, with Commissioner O'Connell opposed and Commissioners Poivey and D'Auria absent.

Joint Session Business

Municipal Code Chapters 17 and 18 Rewrite Project Calendar & Kickoff Meeting

Village Planner Mike Slavney stated that he and Brandy Howe of Vandewalle and Associates, Madison, needed to get some initial feedback on the project calendar and then go over some items and receive initial direction on the project to rewrite Chapters 17 and 18 of the Municipal Code. Following discussion, the Village Board and Plan Commission members directed staff to schedule a public workshop for Saturday, March 5, 2011 from 9:00 to 10:30 am. Slavney stated that he will start the rewriting process by reviewing all the Zoning Ordinance Questionnaires that were emailed to all the village committee and commission members as well as distributed for the meeting. People who still have not turned in or completed the initial questionnaire can submit them to village staff or email them directly to Slavney within the next few weeks. Slavney stated that an initial memo written by Thorpe in an excellent document that addresses areas of concern that Thorpe recommends should be addressed in the rewrite. Slavney also distributed a memo he wrote dated January 31, 2011 that lists priorities and insights on some of the areas of the chapters that he would recommend be addressed in the rewrite. Slavney stated that it is best to start with all the potential ideas or problem areas identified and then work them out, or drop them if they are not carried through. Slavney stated that the rewrite project will commence with a draft customized for the Village of Fontana from other existing zoning codes and it will be taken from that point based on direction from the village officials. Slavney stated that one of the goals of the rewritten chapters is to eliminate the patchwork nature of the current code and to incorporate terminology and strategies that are as clear and as organized as possible. The Plan Commission and Village Board members directed Martin to send out the questionnaire again to all the committee and commission members and to urge them to complete the questionnaire and turn it in within the next few weeks. The public workshop meeting notice will be published in the Regional News, posted on the Village website and sent out to the village homeowner associations.

Adjournment

Commission Lobdell/Commissioner Nelson 2nd made a MOTION to adjourn the Plan Commission meeting at 6:21 pm, and the MOTION carried without negative vote.

Trustee O'Connell/Trustee Spadoni 2nd made a MOTION to adjourn the Village Board meeting at 6:21 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 Village Board, the official minutes will be on file at the Village Hall.

APPROVED: 2/7/11 – VB; 2/28/11 – PC