

**PLAN COMMISSION MINUTES
MAY 9, 2016**

CALL TO ORDER: 6:30 pm

ROLL CALL: Chairman Dean Wolter, Trustee Representative David Baum, Commissioners Mary Ellen Gray, Peter Nilles and Tony Laszewski were present. Commissioner Bill Shadid was absent and excused. Also present were Village Planner Jeff Retzlaff and Planning Assistant Lori Johnson.

PUBLIC INPUT: None

APPROVAL OF MINUTES: *MOTION Baum second Gray to Approve the minutes from 4-25-16.*

MOTION carried unanimously.

Riversbend Golf Course – N96 W18034 County Line Road. Charles Schmit, property owner, is seeking approval of a Temporary Use Permit to continue the seasonal operation of the Riversbend Golf Course. Planner Retzlaff said staff does not support the perpetual use and operation of a golf course operation from a mobile office building and portable toilets for a third season, given the type and quality of existing adjacent development. The recommendation is to approve the Temporary Use Permit with conditions to help move the development in the direction to complete the permanent improvements.

Chuck Schmit, Riversbend Golf Course, spoke. He said only one neighbor complained last year about seeing the trailer and headlights and he hasn't heard any complaints this year. He indicated he would have trouble meeting the conditions to approve the Temporary Use Permit and said all he wants is to run the golf course one more year and if it's not profitable he will sell it to MMSD.

Robert Eastman, W179 N9773 Riversbend Circle West, cited several complaints with the Buffalo Wild Wings restaurant, but said the Riversbend Condo Association supports Mr. Schmit and the golf course operation. He presented a letter from Randy Wollert, President Riversbend Owners Association, stating the same. Commissioner Gray asked Mr. Eastman if he is saying the residents are content with the trailer and landscaping. Mr. Eastman said they were and that their concern is if Mr. Schmit sells to MMSD what will happen to the property. Mark Eilers, Riversbend, said he bought his condo because of the golf course and doesn't know what MMSD will do with the property. He said he and the residents are all in favor of the golf course staying there. Chairman Wolter clarified if MMSD is interested in the property it is to manage water upstream. He said it will more than likely go back to a more natural state to absorb more water and will not have development on it. John Clemens, Riversbend, was concerned how much tax base would be lost if MMSD buys the golf course. Discussion continued. Mr. Eastman again cited complaints with Buffalo Wild Wings. Commissioner Gray asked Mr. Eastman if he was ok without requiring additional landscape screening. Mr. Eastman said additional trees will not buffer anything more. Planner Retzlaff added that permits are not required for MMSD to acquire the property and that typically their intent is to revert the land back to what it was with some minimal maintenance requirements. He stated most of the land is in a floodplain and no development could be proposed.

MOTION Baum second Nilles to Approve a Temporary Use Permit to Charles Schmit to continue operation of the Riversbend Golf Course for the 2016 golf season located at N96 W18034 County Line Road subject to the following conditions:

- 1. The property owner/operation shall submit a revised site, grading and landscape plan to the Plan Commission that enhances the buffer between and view of the mobile trailer & portable toilet areas and the residential area location. Said plan to be considered as an interim development plan until such time as the property owner/operator submits revised site development plans for a permanent golf course clubhouse and facility as was originally intended. Said plan to be submitted no later than June 1, 2016.***
- 2. The property owner/operation shall submit a \$20,000 cash bond or letter of credit as a financial guarantee to ensure that the site, grading and landscape plan is implemented as planned, or, to ensure that the temporary structures and facilities are properly removed and the building pad area is properly graded, seeded and generally restored to a safe and nuisance-free condition no later than May 1, 2017. Said financial guarantee shall be submitted to the Village prior to issuance of the temporary use permit.***
- 3. The property owner/operation shall obtain a letter of approval from the adjoining commercial/retail property owner(s) who share parking and access regarding the continued operation of the golf course using a mobile office building and portable toilet. Said approval letter shall be submitted to the Village prior to commencement of the operation;***
- 4. The property owner/operation shall obtain a letter of approval from the Riversbend Condominium Association regarding the continued operation of the golf course using a mobile office building and portable toilet. Said approval letter shall be submitted to the Village prior to commencement of the operation.***

MOTION to Amend Baum second Nilles to eliminate Planners Recommendations #1 and #2.

Planner Retzlaff explained when the original site plans were presented for approval residents came to the meeting and expressed their concerns about the development. He said the expectation was that there would be a club house and not a mobile office trailer on a gravel parking lot and a toilet with a privacy fence around it. He said he will issue the permit with the understanding that those neighbors who thought they were getting something different are ok with what is proposed.

Trustee Baum said his intent is to eliminate Conditions 1 and 2 and keep Conditions 3 and 4 but accept the letter received today as Condition 4 with the new owners from the other buildings granting approval for one more year. Chairman Wolter said it would better to keep the property as an operational golf course for sale.

MOTION to Amend carried unanimously.

MOTION to Amend Baum second Nilles to accept and maintain items 3 and 4 and for item 4 accept the letter presented this evening from Randy Wollert as meeting condition 4 stating the owners of the condominiums have accepted the trailer/toilet and temporary facility for a period of 1 more year.

MOTION to Amend carried unanimously.

Mr. Schmit said he was ok with what was approved and that he would contact the new owners. Planner Retzlaff said he would help Mr. Schmit with that.

MOTION to Approve as Amended carried unanimously.

Chairman Wolter called a recess at 7:15 p.m.
Meeting reconvened at 7:17 p.m.

Village of Germantown – Municipal Code Chapter 17 (Zoning) and Chapter 18 (Subdivision & Platting) Code Amendments. Planner Retzlaff summarized the amendments.

Amendment #1: Section 17.48(5) provides an allowance for non-conforming residential structures to be enlarged or expanded subject to certain limitations. The intent is to expand this allowance to also include agricultural structures. Commissioner Nilles asked if the code defined residential and agricultural structures. Trustee Baum said those definitions should be brought forward on a future amendment.

MOTION Baum second Gray to Approve Amendment #1:

17.48(5) NONCONFORMING CHARACTERISTICS OF RESIDENTIAL AND AGRICULTURAL STRUCTURES.

Subject to subsection (3)(c) above, residential and agricultural structures which encroach upon setback and other yard requirements, but which met setback and yard requirements at the time of construction, may be structurally altered and expanded provided that:

- 1. Said structure is not located in any right-of-way;***
- 2. Such alteration or expansion does not create a greater degree of encroachment;***
- 3. The extent or size of any such alteration or expansion (measured in square feet), either separately or cumulatively when combined with a previous alteration or expansion, does not exceed 50% of the footprint (in square feet) of the structure at the time said structure became nonconforming.***

MOTION carried unanimously.

Amendment #2: Section 17.08(48) defines what a “double frontage lot” is and how said lots are viewed in terms of which yards (i.e. front, street, rear and side) are what for purposes of determining setbacks and other applicable building restrictions. Staff’s recommendation is that the definition of “double frontage lot” be revised to include the same language as the “old” 1978 definition. Trustee Baum said he’d like to add language “and the other frontage should be considered a rear yard” to clarify the definition.

MOTION Baum second Gray to Approve Amendment #2 with the additional language to specifically state that the property facing the second road is the rear yard or some language to that effect.

17.08(48) LOT, DOUBLE FRONTAGE. A lot having a pair of opposite lot lines along 2 more or less parallel public streets and which is not a corner lot. ~~On a through lot, both street lines shall be deemed front lot lines.~~ For the purpose of this ordinance, double frontage lots in residential districts shall be deemed to have one front yard on the street to which the dwelling faces and from which principal access is provided.

Terry Bessler, W157 N9780 Glenwood Road, spoke in favor of the amendment.

MOTION carried unanimously.

Amendment #3: On land located in the Village's two agricultural zoning districts (A-1 and A-2), specifically Sections 17.12(2)(m) & (gg) and Sections 17.13(2)(s) & (mm), property owners are eligible to apply for a conditional use permit that would allow them to use such land for the storage of recreational vehicles, boat storage, commercial vehicles and similar equipment provided such storage is "...completely enclosed within a building". Typically, such storage is done on a "commercial" basis where storage space is leased for a specified period of time and fee as agreed upon by the property owner and leasee. The amendment would allow storage outside and the CUP review and approval process would decide what conditions should be attached to that proposal.

MOTION Gray second Baum to Approve Amendment # 3:

A-1: Agricultural

17.12(2)(m) Recreational vehicle and boat storage if ~~completely enclosed within a building.~~

17.12(2)(gg) Storage of commercial vehicles and equipment if ~~completely enclosed within a building.~~

A-2: Agricultural

17.13(2)(s) Recreational vehicle and boat storage if ~~completely enclosed within a building.~~

17.13(2)(mm) Storage of commercial vehicles and equipment if ~~completely enclosed within a building.~~

MOTION carried unanimously.

Amendment #4: Section 17.33(1) specifies the types of uses that are allowed "by right" in the M-1: Limited Industrial Zoning District. The M-1 District is the primary zoning district within which manufacturing, fabrication, warehousing, distribution and other "light industrial" uses are allowed to operate in the Village. The M-1 District includes the Germantown Industrial Park, Germantown Business Park, Willow Creek Business Park and numerous other parcels scattered through the Village. The amendment would revise the M-1 regulations to specifically include commercial "self-storage" buildings where items are kept within a building as a permitted use and where items are allowed to be stored outside of a building as a conditional use.

Trustee Baum was concerned that sometimes outdoor storage is not entirely screened behind a fence and should include some taller landscaping. Planner Retzlaff said that could be addressed as part of the CUP review process.

MOTION Baum second Nilles to Approve Amendment #4:

17.33(1)(d) Commercial self-storage buildings where all storage is conducted within an enclosed building or individual unit within a building.

17.33(3)(e) Commercial self-storage buildings where storage is conducted within an enclosed building, individual unit within a building, or outside of a building but within a secure area screened from view.

MOTION carried unanimously.

Amendment #5: Consistent with Wis. Stats. Chapter 236, Section 18.02 provides a series of general provisions governing the platting and division of land in the Village. By statute, the Village's subdivision and platting regulations must contain the same, minimum requirements as Wis. Stats. Chapter 236, but can be more restrictive. Basically, the division of land into lots or parcels is accomplished in one of three ways: (1) recording a Subdivision Plat (used to create 5 or more lots or parcels); (2) recording a Certified Survey Map (used to create 4 or fewer parcels); or (3) recording a deed. As provided under Wis. Stats. Chapter 236, both Subdivision Plats and CSM's are required to be reviewed and approved by the Village under Section 18.

Also consistent with Wis. Stats. 236, Section 18.02(1) specifically exempts certain land divisions from the requirements of and regulation under Section 18 of the Village Code. The land divisions that are exempt from Section 18 can and typically are processed with the recording of a deed. It's fair to say that while all exempt land divisions are recorded with a deed, not all land divisions that can be recorded with a deed should be exempt from regulation. Like many communities in Wisconsin, Staff is recommending that the Village revise its subdivision and platting regulations to require Subdivision Plats or CSM's for all land divisions that are not explicitly exempt from regulation by Wis. Stats. Chapter 236

MOTION Baum second Nilles to Approve Amendment #5:

18.02(2a)Division of Land Other than a Subdivision or Minor Land Division.
Any division of land, other than a subdivision or minor land division as defined herein, shall be surveyed and a certified survey map prepared and recorded as provided in Wis. Stats. Chapter 236.34. Such land divisions shall also comply with the requirements and applicable procedures for the review, approval and recording of certified survey maps set forth in this chapter.

18.03(7)(a) Certified Survey Map Required.

When it is proposed to divide land into not more than 4 building parcels or lots, any one of which is less than 20 acres in size, or when it is proposed to create by land division not more than 4 lots within a recorded subdivision plat without changing the boundaries of said block, lot or outlot, or as required under Section 18.02(2a), the subdivider shall may subdivide by use of a certified survey map. The subdivider shall prepare the certified survey map in accordance with this chapter and shall file the required number of copies 6 copies of the map and a letter of application with the Village Planner at least 15 days prior to the meeting of the Plan Commission as specified by the Village Planner.

18.03(7)(b)4.

The Village Board shall approve, approve conditionally or reject such map within ninety (90) 60 days from the date of filing of the map unless the time is extended by agreement with the subdivider. If the map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the subdivider.

Planner Retzlaff said the amendment brings the code into consistency with the State Statutes. Commissioner Gray asked if a Certified Survey is required when a property is sold. Planner Retzlaff said a Certified Survey Map is only required if a property is divided.

MOTION carried unanimously.

Amendment #6: The division of land in the Village using a Subdivision Plat or Certified Survey Map (CSM) requires the preparation of a preliminary plat or CSM containing specific data and information, including the location and boundary of any environmentally sensitive areas such as floodplains and wetlands. Similarly, the development of lots or parcels regulated under the Zoning Code also requires the location and boundary of environmentally sensitive areas including floodplains and wetlands.

The calculation of wetland (as well as floodplain) areas and the boundaries of both are used when determining the location of suitable areas for new lots and development. Moreover, as the result of recent changes to the Village's Zoning Code last year, wetland areas are also used in the determination of the number of development units allowed in certain residential zoning districts. The Wisconsin DNR typically only accepts wetland delineations for purposes of evaluating development proposals for compliance with their rules and regulations if such delineations are less than five (5) years old. Staff is recommending that Sections 17 and 18 be amended to include a five (5) year "validity period" for wetland delineations based on current practice implemented by the DNR.

MOTION Baum second Laszewski to Approve Amendment #6:

18.03(9) Wetland Delineation Requirements.

The delineation of wetland boundaries required herein shall follow current recommended procedures and practices of the Wisconsin Department of Natural Resources (DNR) as specified under Admin. Code NR103 and NR352 (as may be amended). The boundaries of wetlands presented on Subdivision Plats and Certified Survey Maps required under this section for purposes of reviewing and approving land divisions shall be based on wetland delineations conducted no sooner than five (5) years before the date of submission of a Subdivision plat or Certified Survey Map application unless it is determined by Village staff that significant physical changes have been made to the wetland area(s) being delineated or the upland area(s) adjacent thereto, or, other circumstances exist that can reasonably be expected to have affected the extent of such wetland(s). In which case, a new wetland delineation shall be required.

17.43(3a) Wetland Delineation Requirements.

The delineation of wetland boundaries required herein shall follow current recommended procedures and practices of the Wisconsin Department of Natural Resources (DNR) as specified under Admin. Code NR103 and NR352 (as may be amended). The boundaries of wetlands presented on Site Plans required under this section for purposes of reviewing and approving development shall be based on wetland delineations conducted no sooner than five (5) years before the date of submission of a Site Plan application unless it is determined by Village staff that significant physical changes have been made to the wetland area(s) being delineated or the upland area(s) adjacent thereto, or, other circumstances exist that can reasonably be expected to have affected the extent of such wetland(s). In which case, a new wetland delineation shall be required.

Commissioner Laszewski asked if there were certain areas where floodplain didn't change much and the delineation would not be necessary. Planner Retzlaff said there are locations where the 5 year requirement is erroneous. But the code requires that wetlands are delineated on an entire property, even though no development will occur on part of the

property. However, staff may waive the delineation and require that the CSM state that no development can occur until a wetland delineation is completed.

MOTION carried unanimously.

ANNOUNCEMENTS: None

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:08 p.m.

Respectfully submitted,

Lori Johnson
Planning Assistant