

VILLAGE OF EAGLE PLANNING COMMISSION
“APPROVED” MINUTES – MAY 26, 2009

President Richard Spurrell called the monthly meeting of the Eagle Village Planning Commission to order at 7:00 p.m. The secretary confirmed Open Meeting Law requirements. Roll was taken: Larry Wilkinson, Rick Block, Roger Couch, Steve Deegan, Spurrell – present; Jeff Steinbach and Jeff Lisiecki – excused. Vince Budiak, the Village Building Inspector, and other interested parties were also in attendance.

Minutes of the April 28th monthly meeting were reviewed. Moved by Deegan to approve; Block seconded. Under further discussion, President Spurrell noted that in the 4th paragraph regarding the CSM for Dretzka Investments, there was a motion by Couch to approve, Steinbach seconded; it should include “motion carries”. Deegan amended his motion to include the addition; Block seconded. Motion carries.

There were no citizen comments or concerns.

Robert Buchta, Oliver Construction distributed plans for an addition to the existing test building for Generac, 211 Murphy Drive in the Industrial Park. The plans call for a 90’x51.6’ metal building addition that will sit on the existing concrete slab on the west side of the building. Overhead doors will be located on the North and South sides. John Piasek, General Power Systems, Manufacturing Service Manager, further explained the plans indicating that instead of storing materials out in the weather, the 4635 sq. ft. building would be used for cold storage. Upon a question from Couch, Piasek stated that the building would not be heated, but fully insulated. Moved by Wilkinson to approve; Block seconded. Under further discussion, President Spurrell clarified that the Planning Commission is a recommending body, and that the motion to approve will be recommended to the Village Board. Motion carried on a 4-0-1 vote, with Spurrell abstaining.

Tracie Berndt, 108 Waukesha Road, displayed a plat map showing existing fencing which extends from the garage to the barn, the barn to the edge of the water tower property and from the garage back. President asked for clarification as to whether she was requesting a conditional use or a rezoning (The agenda indicates conditional use, however a request for rezoning was filed, however what to rezone it to was not filled in). Ms. Berndt indicated that at present she has both mercantile and residential on her property. She stated that the County was unable to find a conditional use for an area indicated on the plat that also included a subdivision that is not there. She reported that the Town has “rural residential” zoning and the Village has nothing to address properties that are more than three (3) acres as far as fulfilling the purposes of Smart Growth principles, mixed land use, preserve open space, farmland etc. The Village has zero as far as agricultural zoning. She also stated that as a result of the surveys sent out by the Village, 69% responded in favor of preserving the natural character and that she believes her request is in that line. The question was then raised as to what she wants, conditional use or rezoning. Ms. Berndt wants to keep her horses, through a conditional use or rezoning, however the Commission wants to address it.

President Spurrell clarified that horses are not listed as a conditional use. Berndt stated that the Village does not have a zoning to address this. President Spurrell then stated that in terms of Smart Growth regarding keeping open spaces and maintaining our environment, Smart Growth also addresses a development aspect; you want to have community walking distance, a higher density to maintain an open space. Higher density would be your cities and villages. Ms. Berndt then stated that at one point, Eagle becomes one, there are no borders. President Spurrell stated that from a community aspect, he did not believe we look at it as borders, but from a legal aspect there are very distinct borders; Villages and Towns have different State Statutes to follow. He also stated that if she is asking to keep her horses in the Village, it is illegal. The only place they can be kept is in agricultural zoning which the Village does have along Hwy 59 in the land that was annexed.

Ms. Berndt presented various zoning classifications in other areas that would permit horses in a residential district, however it was noted that these were found in townships, not villages. She again stated that there is no zoning in the Village to address her issue and that horses were kept there in the past when it was zoned residential. Spurrell indicated that since this was before his term, proof would need to be provided. Berndt stated that she wants the Commission to address this and that she has signatures from all the residents that touch her property in addition to the nearby businesses. When questioned, she also stated that the horses were brought in under an emergency condition; the place where she boarded her horses was foreclosed upon; Berndt herself is suffering from financial problems as well. Spurrell indicated that this places the Commission and Board in a somewhat peculiar situation; by legality horses are not allowed in the Village. If the rules are changed in this situation, other residents will follow, thus the next time someone else does something illegal, they will also want the Commission and Board to change the rules to make it legal. Ms. Berndt stated that the County could not find termination of the conditional use permit that was originally issued. Under further discussion, Ms. Berndt stated that she is requesting to keep her two (2) horses at her property and that she has no intention of adding more. All the facilities are there and have been there for years. Her property encompasses 4.78 acres. The option to rezone to an A-2 (Limited Agriculture) zoning was reviewed as well as the number of livestock (horses) that would be allowed if a conditional use was granted (1 horse per every 2 ½ acres). The discussion also included what the Smart Growth process and plan entail in terms of the Village of Eagle. Trustee Couch questioned what her (Berndt) recourse is, at which President Spurrell indicated that if her petition for rezoning does not pass, she has to take the horses off the property. Berndt then responded that she has 90 days to send a certified registered letter to the Village for the issue to be challenged in court. She again stated that horses have been permitted in the past. President Spurrell indicated that because it is not known under what zoning it was allowed, proof (the conditional use permit or other applicable documentation) needs to be obtained.

President Spurrell stated that while he understood her situation, he did not feel it was in the best interest of the Village to rezone it to agriculture and made a motion to deny. After the third and final call for a second, motion fails for lack of a second.

Trustee Block then made a motion to table the issue until the next Planning Commission meeting; Couch seconded. Under further discussion, Deegan asked the purpose of tabling; Block indicated that it would provide time to gather the requested information which sounds unlikely, but also it allows for another month of time with her horses or to come up with a secondary plan.

Further discussion followed and Couch withdrew his second. Again, after three (3) requests for a second and there being none, motion fails for lack thereof.

Wilkinson then made a motion to deny with the proviso that Berndt is allowed 15 days to come up with the previous conditional use applied to this situation; if she cannot come up with the paperwork within 15 days, it is denied. President Spurrell noted that the denial would be a recommendation to the Board which meets in 17 days. Wilkinson then amended his motion to indicate that the recommendation is to deny the request unless Berndt comes up with the paperwork before the Board meeting. Couch seconded. Motion carries on a 4-1 vote with Spurrell being opposed. The next Board meeting is June 11th.

The next item for consideration is the rezoning of the property at 229 E. Main Street. Debra Dunn, Shorewest Realtors, introduced herself and also Ron Beilfus who is a managing partner for DSN Realty. The paperwork with the fee was submitted to President Spurrell. They have an accepted offer from a family who wants to move in and have the mother and sister in the back building. With that, she indicated that they would like to have it rezoned from B-1 (Central Business) to duplex residential (RD-1) which Attorney Reilly had initially recommended. Packets of information, including a memo from Reilly dated November 26, 2002, were distributed. In the memo, Reilly states it is his opinion that the use of the front house as a single family residence is a legal use of the property under the B-1 zoning classification; it is the back building that creates the zoning questions.

Dunn reported that they were supposed to close on the property a week ago, however the buyer just found out that he can only get commercial lending because of the property's zoning classification. The buyer's intention is to use it as residential.

President Spurrell for clarification asked Mr. Beilfus for identification to prove he is a DSN realtor and part landowner, to which he responded that he did not have any documentation with him. A discussion followed regarding the zoning of the surrounding properties which is institutional to the west (Eagle Historical Society), residential in the back, with the remaining being B-1 (Central Business) even though they are being used for residential purposes (legal non-conforming). Again, they have a family that wants to buy the property and are requesting the property be rezoned. President Spurrell clarified that her request was for rezoning (she filled out a Board of Appeals application).

Spurrell went on to say that he understood that she (Dunn) was a little upset last week because someone inquired what the process was and that she had called back (the next day) saying she was upset that she was not on the agenda. He continued by stating that every inquiry about the process does not put someone on the agenda; someone has to be asked to be put on the agenda and/or submit the required forms. Ms. Dunn rebutted by saying that the buyer's attorney had requested to be on the agenda, to which Spurrell corrected her and stated he inquired about the process and never asked to be on the agenda. Dunn then stated that the buyer told her directly that he was denied even though there was 48 hrs.; that is what prompted her call on Friday. Without getting into a debate about "she said" "he said", Spurrell stated that there seems to be a demand that this office (the Village) has to accommodate them for this sale; he apologized but indicated that the Village does have a process and that they came before the Planning Board requesting for rezoning, yet the right application was not filled out and the gentleman (Beilfus) has no identification to prove he is the landowner. She stated that she was not asking for an urgent plea on behalf of them, but to find out what needs to be done so that he

(Beilfus) does not lose his first potential sale and she is more than willing to fill out the correct papers.

Beilfus explained that he wants to sell the property and it would better for the Village then it being left vacant or selling it to investors; it has not sold in six (6) years. He has a buyer who is more than willing and able if the property can get rezoned to residential. Further discussion followed regarding the B1-A and RD-1 zoning and their requirements. During that discussion, Mr. Budiak, Village Building Inspector, indicated that he spoke with an individual at M&I who stated they (M&I) would not be reluctant for a loan with the B1-A zoning. Square footage of the property is 13,345; it does not meet the required minimums under either classification (B1-A is 20,000 sq. ft., RD-1 is 24,000 sq. ft.). Selling the property for the purpose of renting has been pursued in the past but has not been what residents want or proven to be beneficial to the Village. The possibility of granting a conditional use was also reviewed, however, the question is would the loan be considered commercial or residential and under what zoning classification. Various other options, considering it would be a substandard lot under either of the classifications, were reviewed but with no concrete answers. President Spurrell indicated that at this point, he needs to investigate the situation further; possible rezoning on a non-conforming lot. Due to the urgency of a closing date, timelines were discussed; a Class 2 notice is required for a rezoning, multiple certified letters need to be mailed, and without knowing what the property is being rezoned to, it is not possible to set a date for a public hearing particularly before the June Board meeting. Discussion continued. Motion by Couch to recommend to the Board to proceed with the rezoning if it is possible; Wilkinson seconded. Under further discussion, President Spurrell indicated that he will contact Attorney Reilly and let the parties know whether it is feasible or not. Motion carries.

Vince Budiak, Village Building Inspector, distributed a suggested fee schedule to members of the Commission based on fees in other communities. He then presented an overview of a memo that indicated what the split percentage is, what the relationship has been with the Village and changes they are proposing. He stated that with the times as tough as they are now, everyone is trying to save money. Currently the split is 90/10 (Wisconsin Building Inspections – 90%, Village 10%.) They are going to decrease that to 75/25. The fee schedule would be placed on their website following approval by the Village Board. Trustee Couch indicated he had this placed on the agenda following his own experience with the Town concerning their fees and also their schedule of procedures. Also, with everything else going up, he thought it a good idea to look at the Village's fees.

Couch also stated that he thought a lot of time was spent at both the Planning Commission and Village Board meetings with the deck(s) for the Dooley's. He would like to have a uniform direction or procedure established particularly for commercial work. Couch believes the building inspector should receive "detailed" construction plans and that any/all approvals from the various agencies should be in place prior to being presented to the Planning Commission and Village Board. Discussion followed and it was suggested that perhaps a set of procedures could be put on the website detailing what procedures applicants need to follow. Mr. Budiak also stated that he is more than willing to attend any Planning Commission meeting; there is no charge. Moved by Wilkinson to recommend approval of the suggested fee schedule as submitted; Block seconded. Motion carries.

Mike Rice, Village Trustee and member of the Smart Growth Committee, indicated that the recommended changes to Ch. 5 (Community Facilities & Utilities) were made. The revisions were reviewed and President Spurrell noted a few additional changes in both the chapter portion and summary. Rice indicated that the Commission should have two (2) additional chapters to review at their next planning meeting.

President Spurrell drafted a Planning Commission Policy to give a guideline for last minute agenda items, e.g. plans get dropped off the afternoon of the meeting; no one has a chance to review them; something similar to what Couch had stated earlier. Spurrell suggested that Tuesday, the week before the meeting, be the deadline for requests to be placed on the agenda including all pertinent paperwork. Any requests after that would be directed to the chairman of the Planning Commission who would review them and decide on a case by case basis, whether or not to revise the agenda. The policy can be placed on the website so that everyone can have access to it. Spurrell also indicated that he would like to see this implemented at the Board level as well. Moved by Wilkinson to recommend to the Village Board the Planning Commission Policy as drafted; Couch seconded. Under further discussion adopting a similar policy for Board agendas was reviewed. Motion carries.

There being no further business, Wilkinson moved to adjourn; Block seconded. Motion carries. President Spurrell adjourned the meeting at 9:02 p.m.

Respectfully submitted,

Shirley Mealy
Planning Secretary