

**PLAN COMMISSION MEETING MINUTES
TOWN OF GRANT
November 17, 2021**

PRESENT: Thomas Reitter (Chairperson), Charles Gussel, Nathan Wolosek, Ron Becker, (Commissioners), Kathleen Lee (Secretary)
EXCUSED: Ron Patterson (Commissioner), Marty Rutz (Zoning Administrator)
CITIZENS: Sharon Schwab, Scott Provost

CALL TO ORDER

The meeting was called to order at 6:35 pm by T Reitter.

STATE OF PUBLIC NOTICE

It was stated that the agenda was posted at two posting stations (the Grant Town Hall and the Grant Transfer Station) and on the Town's website.

MINUTES

It was moved by R. Becker and seconded by N. Wolosek to approve the October 20, 2021 minutes. The motion passed with unanimous ayes.

LIVING CONDITIONS QUESTION FROM A CITIZEN

Town Chair, Sharon Schwab had forwarded an email to the Plan Commission from a concerned citizen regarding a person living in a shed at a neighboring property. The citizen expressed concern regarding sanitation and safety in low temperatures. The same email was shared with members of the Town Board. The citizen was directed to contact Portage County Planning and Zoning Department by S. Schwab. When he did, he was told septic did fall under county jurisdiction and that they would look into it. Via email, Supervisor Grys-Luchet suggested an Adult Public Service contact may be indicated. Via, email, Supervisor Prost said it is a County issue regarding Private Onsite Wastewater Treatment System (septic system). This property has a history of similar complaints/concerns. The Zoning Administrator was asked to check out the property. During the day, there was no evidence of anyone being there. At 6:00 in the evening, a light was on. Most recently it was reported to S. Schwab that the person living in the shed had left the property. The commissioners believed the Plan Commission does not have a jurisdiction in this situation. It was motioned by R. Becker and seconded by N. Wolosek to table discussion on this matter.

FOLLOW-UP FROM OCTOBER MEETING

K. Lee contact Case Schoepke from McCain Foods regarding a possible CUP for a meteorological tower. He reported the team is not ready to move forward at this time. We will wait until they contact us rather than contacting them.

The October Plan Commission minutes stated short-term rentals would be discussed at a future meeting. It was decided to table discussion until work on the zoning ordinance was completed following a motion by R. Becker.

CITIZEN INPUT

Supervisor Scott Provost suggested that the Plan Commission not spend any more time on the living conditions topic discussed earlier. He stated without a sanitary permit, people cannot live there. N. Wolosek stated the Town's role is to notify the County if someone is living there without a sanitary permit.

On November 6, K. Lee had forwarded an email from Greg Hakala regarding the noise from dirt bikes being ridden on a property at 9110 Lake Road. G. Hakala questioned if a CUP was needed and suggested applying Portage County's noise ordinance. R. Becker stated a noise ordinance may be a way to proceed, but he would like to see the zoning ordinance completed first.

S. Schwab reported the Town Board has passed Domestic Fowl Ordinance. It will be effective once posted. The anticipated posting date is 11/19/2021. A cost-free application form will need to be submitted to the Town which includes proof of Wisconsin Department of Agriculture, Trade and Consumer Protection registration.

S. Schwab reported the Board is working on a Dangerous Weapons and Firearms Ordinance. It will address town premises. The proposed ordinance will be placed on the website to allow for comment.

S. Schwab attended the recent drainage district meeting. The assessment per acre will remain at \$3.50 per acre. This level was supposed to be a temporary assessment level with a plan to return to \$1.75, but the return to \$1.75 will not take place for 2022. Most of the proposed work by the Drainage District will take place in the Town of Grant (west of County Road F) in 2022. Limited work has been conducted by the drainage district over the past few years as a legal case was being addressed.

N. Wolosek is concerned that the Domestic Fowl Ordinance was passed despite the objection of Plan Commission and that the ordinance contradicts the Zoning Ordinance. He is concerned that the Plan Commission is not being allowed to do its job and questions the role of the group. He is worried that his voice is not being heard. (Previous PC discuss took place during the September meeting. Following the discussion, C. Gussel moved and N. Wolosek seconded that the Plan Commission not take an action on discussion. Aye: Wolosek, Gussel, Patterson, Reitter. Nay: Becker. The motion passed 4:1.) R. Becker stated that there are limited changes that will need to be made to the zoning ordinance based on the Domestic Fowl Ordinance. He believes the ordinance provides good detail and guidance. Having the ordinance eliminates the need for each individual to request a conditional use permit. He does hope that the Board always takes into consideration what the Plan Commission says, but realizes compromise is necessary. N. Wolosek continues to believe the ordinance was not necessary.

The cell tower light discussed in October has not been prepared. M. Rutz was not available to answer questions about the status of the tower.

C. Gussel commented that while ordinances can be passed, if we do not intend to enforce them, we might as well not have them. He added it is possible to over restrict.

A tentative date of December 8th has been set for a presentation on renewable energy projects by Matthew Johnson. S. Schwab will notify PC members when the date is confirmed. All members are invited to attend. The meeting can be accessed via Zoom.

FUTURE MEETING DATES

December 15, 2021

January 19, 2022

February 16, 2022

March 16, 2022

ZONING ADMINISTRATOR REPORT

M. Rutz submitted a written report of building permits and fees for the previous month. In October, there were seven permits for a total of \$410. This includes a new residence, one address, one accessory building, two driveways, a raze, and a UAP. He has sent a letter to a citizen in the Leisure Living Estates subdivision who recently put up an accessory building without a permit.

ACT 67 OVERVIEW

Documents obtained by C. Gussel from Mike Pagel, Chair of Portage County Unit of the Wisconsin Towns Association were reviewed.

T. Reitter summarized the “Act 67 CUP Analysis” document. The definition of substantial evidence was emphasized. A clear Conditional Use Permit (CUP) process is needed and must be followed. R. Becker expressed concern regarding our process which includes a “recommendation to approve” the conditions set forth by the Plan Commission before a public hearing which could provide substantial evidence. He thought we may be tying the Board’s hands. N. Wolosek believes the Town is using an appropriate procedure as the Board considers our recommended conditions, but is also able to add and subtract from them. K. Lee suggested revising the process if we find a weakness in it upon further review and that following the process is key.

T. Reitter believes the Plan Commission does not need to make a “recommendation” as part of the process. We need to listen to the input from the citizens. We need their input before a decision is made. K. Lee stated that input must provide substantial evidence, not simply opinion. T. Reitter stated and R. Becker agreed this would require educating the public.

R. Becker stated that on the 4th page it states the applicant must provide substantial evidence that the conditions will be met. It goes on to say conditions placed by the local government must be related to the purpose of the zoning ordinance and based on substantial evidence. He would like to see wording in the ordinance that the burden is on the applicant to provide enough information for us to understand what they want to do. This would allow us to set up appropriate conditions.

The conditional use/rezoning application form was discussed including the questions that need to be answered by the applicant. It will need to be decided if it is appropriate to combine conditional use and re-zoning into one application form. There are 15 questions that should be answered by the applicant. T. Reitter said we need to take more time going through the questions and less asking questions on the fly. Directions for the form must make it clear to the applicant that they need to provide as much information as possible.

C. Gussel wanted to remind everyone about “hardship” as it relates to Act 67 and variances. In response to his comments, it was said hardship is not a factor in the CUP process.

The “Conditional Use Permits after Act 67: Frequently Asked Questions” was discussed. This document shows we are compliant in most areas, but also provides guidance as what to

review in each of our districts to ensure we are saying what we intend to say. The Town's procedure does include the steps stated in the document. T. Reitter does question if we need to send a "recommendation" to the Town Board. With a recommendation prior to the public hearing, the Board could be predisposed to listen to the Plan Commission over the citizens. He suggested that the commissioners render a recommendation after the public hearing and provide agreement with the Board's decision regarding approval or denial. R. Becker suggested the Plan Commission hold the public hearing, but others disagreed as it is the Board that makes the approval decision.

S. Provost stated Act 67 comes into play if there is a denial.

N. Wolosek brought attention to the statement: "If they are neither allowed nor conditional they are presumed prohibited." He believes the conditional use found in most of our districts of "other similar and compatible uses, which are determined by the Plan Commission to be in accord with the purpose of the district" is useful and needed to avoid having uses be prohibited. T. Reitter suggested including public hearing and Town Board consideration in addition to the Plan Commission in that statement. He would like to see community involvement in process. R. Becker prefers the conditional use as currently stated. The Plan Commission could make the initial judgement that it is compatible. That could be disputed at the public hearing and if the Board agrees with the public input, the conditional use could be denied.

T. Reitter stated the final set of conditions should be determined after all involved parties (Plan Commission, Town Board, and citizens) have been heard. He stressed a collaborative approach. S. Schwab stated changes to conditions have been made in the past following a public hearing.

T. Reitter believes there has been some defensiveness regarding making changes to the zoning ordinance that take into consideration Act 67. He would like an ordinance that honors the character of the surrounding area, the opinions of the people that live there, and includes sufficient number of conditional uses for an applicant to select from.

R. Becker believes we need to make a few changes to the process. N. Wolosek added we need to include substantial evidence when those amendments are made. Although he thought in some circumstances substantial evidence does not come into play. For example, there may be no substantial evidence when considering a large accessory building. R. Becker said that is when "to the extent practicable" comes into play.

T. Reitter is concerned about unsubstantiated statements being made during the process that are hurtful to applicants.

Recent CUP applications and inquiries were discussed. They showed the importance of receiving complete information from the applicant. There have been multiple situations when the applicant was not sure of what they wanted to do.

T. Reitter emphasized the importance of defensible decisions. The court will allow the town's decision if we execute our process. R. Becker pointed out a paragraph in the "Act 67 CUP Analysis" document and the qualifier "to the extent practicable." Measurable requirements may not always be possible. Standards such as public health, safety, and general welfare are still valid under Act 67. It would be possible to defend a denial using those standards. T. Reitter said it is important that conditions be reasonable and measurable.

K. Lee suggested what needs to be done as we proceed and will add them to the December agenda:

1. Add definitions

2. Review and improve wording in CUP process so it is reflective of Act 67 language
3. Review intents of each district
4. Review permitted uses and conditional uses

It was agreed that we need to make tweaks without a major overhaul. The process needs to be respectful of the talents of the Plan Commissioners, the talents of the Board members and the public input received.

We need to convince the Board of the need for the “other similar and compatible uses, which are determined by the Plan Commission to be in accord with the purpose of the district” wording.

We need to look at the wind generator wording under conditional uses. N. Wolosek suggested using “alternative energy farms” as substitute term. He is wondering if the Board is interested in a stand-alone alternative energy ordinance as opposed to including it as a conditional use. Discussion took place regarding wind farms, it was thought they are not likely in our area at this time.

Everyone should re-read Act 67 material before the next meeting. We will extract things from the readings and incorporate them into our revisions of the zoning ordinance.

ADJOURNMENT

The meeting was adjourned at 9:03 pm.

Respectfully submitted,

Kathleen D. Lee

Plan Commission Secretary

Approved 12/15/21