

PLAN COMMISSION MEETING MINUTES
TOWN OF GRANT
April 7, 2021

PRESENT: Thomas Reitter (Chairperson), Charles Gussel, Ron Patterson, Nathan Wolosek (Commissioners), Kathleen Lee (Secretary)

EXCUSED: Marty Rutz

CITIZENS: Melanie Kasun, Brian Kasun, Nate Zuelke, Charles Reckman

CALL TO ORDER

The meeting was called to order at 6:31 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 N Wolosek and seconded by R Patterson to approve the March 17, 2021. The motion passed with unanimous ayes.

CITIZEN INPUT

Nate Zuelke, owner of Double Down Pub, is inquiring regarding the need for a Conditional Use Permit (CUP) for erecting an inflatable, 100 x 150 foot dome on property zoned commercial. He explained his intent and described the structure. His desire is for year-round volleyball with leagues playing in the dome during winter months and outside during summer months. The dome would be taken down in the summer. He would be bringing power and gas to the structure. A 24-inch concrete trough would provide the base for the structure. Additionally there would be cement slabs for the generator and air handling unit. Mr. Zuelke shared a proposal from Arizon Structures Worldwide, LLC.

- A CUP is required in the Commercial District for structures greater than 5000 square feet and for sports complexes. It was questioned if the 5000 sq ft “conditional use” applies if this is not a permanent structure. It was also questioned if a “sports complex” designation would trigger the need for a CUP as a sports complex already exists based on the current outdoor volleyball courts. A sports complex would not be new to the property. N. Wolosek stated the Plan Commission needs to determine how to classify a temporary building. Should it be considered a structure for purposes of zoning?
- Height would need to be considered. Commercial zoning allows for 45 foot height maximum for an accessory building. This proposed dome would be 39 feet. The structure would need to be 15 feet from the property line.
- Mr. Zuelke will need to supply the labor for erecting the dome. Arizon Building Systems would provide a technician on-site to supervise the installation of the air structure and components.
- There are no plans for summer storage of the dome materials at this time. The dome would fold up “like an accordion” to allow for storage.
- Mr. Zuelke was questioned if he has talked with his insurance provider regarding a structure that could potentially deflate with people in side. He said safety cables provide protection from collapse. No specific conversations have taken place with his insurer.
- The total cost of the project could be \$500,000 with \$286,816 from the dome itself.

- It was asked if this is taxable. Because the structure is temporary, Arizon Structures Worldwide states it is classified as personal property and not real estate property. It would therefore not be subject to property taxes. That claim needs to be verified with assessor, Claude Riglemon.
- Mr. Zuelke was directed to contact Marty Rutz, Zoning Administrator (ZA). The Plan Commission will also need input from the ZA.
- The Plan Commission desires to protect persons inside, particularly during a weather event.
- The generator is for backup for the auxiliary inflation fan only. An emergency cable system is present to provide additional support to the structure.
- There would be a three-leaf aluminum revolving door, plus two emergency exit doors and one double emergency exit door.
- It will heated with natural gas.
- The amount of noise generated was questioned. Mr. Zuelke said it is quiet and he did not notice noise with a similar dome. The information in the proposal does not list decibels.
- Information that needs to be verified includes how it would be taxed, associated noise, safety concerns related to a possible collapse.
- When asked, Mr. Zuelke is amenable to a snow sensor and a wind sensor. The dome can reportedly withstand 80 mph winds.
- Mr. Zuelke would like to be able to start fall volleyball leagues in September. It would take approximately 3 weeks for plan approval and 12-14 weeks for shipment. During that 12-14 weeks, he would do the prep work, such as concrete, power, and gas.
- C. Gussel suggested involving the state building inspector. Mr. Zuelke stated the plans would be approved by the State.
- Mr. Zuelke was invited to return to our next meeting on May 11, 2021. If it is decided that a CUP application is required, he should submit one prior to the meeting.

K. Lee has received several emails from a citizen regarding the catering and food delivery business CUP recommended for approval and forwarded to the Town Board at the last meeting. The citizen, Greg Hakala, is a neighbor of the Kasuns. Mr. Hakala's concerns include customers at the site of the business, the potential for septic failure from grease, business garbage being allowed at the transfer station, hazardous materials being used for cleaning and rodent control, and smoke from smoking meats with its associated health impacts. He questioned the Plan Commission's due diligence in these areas. Mr. Hakala plans to bring his concerns to the public hearing on April 14th. The Kasuns were made aware of the concerns so they could respond during the public hearing. Melanie and Brian were in attendance at this meeting and shared a letter to address some of the concerns that have been cited.

- The smoker is capable of holding three pigs. It is located on the food trailer. T. Reitter stated if the smoker is located on the trailer, it is not a point source and is not subject to regulation. Mr. Kasun has been smoking food for approximately 5 years. Between May and October, the smoker is operated twice a week. He is only use a fraction of the smoker volume at this time. As business increases he will use more of the smoker space, but not increase the frequency of use. He stated if they surpassed smoking two times per week the business would have expanded beyond what they could operate from their home. He has not used the smoker since last November. Mr. Kasun has not talked with the DNR and was encouraged to do so. T. Reitter stated that the Town does not have jurisdiction over the air laws.

- The Kasuns attempted to talk to the neighbors in the 94th street cul-de-sac today. Only 1 of the 3 home owners was home. The person they talked with, reportedly did not have concerns with the business.
- The Kasuns were questioned about the use of a grease trap. Mr. Kasun said from his experience working at a local restaurant, grease was dumped into a collection container and disposed of. An alternative would be to sell used oil. The Kasuns do collect the fat coming off the smoked meat. Some of it is used in food preparation and the rest is disposed of properly. They are not using fryers. They use approximately two cans of Crisco per month.
- When they take the food trailer out on a weekend, they typically serve 20 to 50 persons. On a very good day, 75 to 300 are served.
- T. Reitter stated the Plan Commission has demonstrated due diligence in understanding what the Kasuns would like to do, recognizing that this is a small operation, identifying the business as smaller than one that would be regulated by the State for smoke, and that the Plan Commission has encouraged him to continue working with Portage County Health Dept.
- N. Wolosek questioned the septic inspection process and if the inspection is different for a business when compared to a residence. T. Reitter questioned the age of the system, stating his septic system is newer and does include grease traps. The Kasuns were encouraged to contact the company that last inspected their system and determine if their system does include a grease trap. The Kasuns could also talk with a plumber regarding under sink grease traps that could be connected to the plumbing system.
- C. Gussel recommended the Kasuns contact the Portage County sanitarian regarding grease traps. N. Wolosek said they could call Portage County Planning and Zoning Department and ask for private onsite waste treatment system (POWTS) person. That person could provide guidance regarding septic needs for his type of operation. T. Reitter stated the Plan Commission anticipated the Health Department would have provided guidance regarding the septic system needs in the process of issuing a license for the kitchen. Septic systems come under County jurisdiction and not the Town.
- The Kasuns plan to reach out to neighbors on 95th Street and Lake Road.

N. Wolosek is taking orders for the new Portage County Plat books. The books are available from the 4-H Leaders Association. The cost of the plat book is \$40. The book is published by Rockford Map. Checks should be made out to Portage County 4-H Leaders Association. The photos on the cover were submitted 4-H by participants. Contact Nathan if you want a book.

Positions on the Plan Commission were discussed. We are not certain of the positions that expire in 2021. C. Gussel and R. Patterson started in 2019 and N. Wolosek's appointment was renewed in 2020. The secretary position is an annual appointment. Having someone from the Town Board on the Commission works well. That person is able to hear the complete discussion that takes place during the meetings. When something is forwarded by the Plan Commission to the Board for public hearing, a town board member is aware of the total discussion that has taken place if they are a Plan Commissioner.

ZONING ADMINISTRATOR REPORT

A written report was submitted by the Zoning Administrator. There were 9 permits for a total of \$525. This includes one deck, 4 accessory buildings, one driveway, one accessory building/address, one raze, and one UAP 21-02.

ZONING ORDINANCE

T. Reitter has taken some time to learn more about Act 67 and how it applies to the work the Plan Commission in developing the zoning ordinance. The information comes from a presentation entitled “Conditional Uses – Balancing Community Values, Local Discretion, and New State Rules.” Key points of what he learned and the Commissioner’s comments follow.

- A state map showing which areas have county, town, city/village or no zoning was reviewed. A town may adopt general zoning following adoption of village powers or if no county zoning exists.
- A zoning ordinance must include a map and a body of text.
- Permitted uses are permitted by right, conditional uses are permitted if certain conditions are met, and prohibited uses are not allowed. An activity is prohibited if it is not listed as permitted or if it is explicitly stated as being prohibited. N. Wolosek is concerned by the limitation on what is allowed by these definitions. Our fallback statement has been “other similar and compatible uses, which are determined by the Planning and Zoning Commission to be in accord with the purpose of this district.”
- Past and current zoning situations were briefly reviewed including maintaining a rental residence in the commercial district and how to address hoop or inflatable structures. Commercial kitchen is not listed as a conditional use in high-density residential, but home occupation is listed. N. Wolosek will contact a property owner in an adjacent township to determine how their hoop structure is viewed by their town. It is not possible to list all future building types in our permitted and conditional uses.
- There is a long list of court cases related to conditional uses. More recently in 2017, the term “conditional use” was defined in state statues related to zoning, resulting in Act 67.
- The Plan Commission is being asked to write permits in sufficient detail so they can be defended in court. Conditions need to be reasonable, measurable, and understandable.
- The *ALLEnergy v Trempealeau County* case (2017) was summarized. The Wisconsin Supreme Court supported the decision to deny the permit, but the dissenting opinion argued for less discretion for local governments.
- The Plan Commission should avoid using the word “approve” regarding a CUP. The Town Board approves or denies the permit following a public hearing. We should say “we recommend to approve” the application.
- Decisions are not popularity contests. The credibility of the information presented must be weighed. Substantial evidence (facts and information) supporting a decision to grant or deny the permit must be provided. Specific standards and evidence relied upon should be cited. A decision can be postponed if more time or information is needed.
- We need to be able to weigh the pros and cons. It is a challenging balance. We need to use our zoning ordinance to guide us and we need evidence to back our decisions.

Meeting adjourned at 9:24 pm

Respectfully submitted,

Kathleen D. Lee

Plan Commission Secretary

Approved 5/11/2021