

**PLAN COMMISSION
MEETING MINUTES
Monday, July 03, 2023**

Meeting was called to order at 6:09 P.M. by President Koleski.

1. Roll Call.

Present:

President Koleski
Trustee Stuckert
Ms. Becker
Mr. Fronberry
Dave De Angelis, Village Manager
Hector de la Mora, Village Attorney
Katherine Gehl, Assistant Manager/Zoning & Planning Administrator

Absent:

Mr. Kujawa
Mr. Cashin
Ms. Wynia-Smith

2. Review and act on meeting minutes dated June 05, 2023.

**MR. FRONBERRY MOTIONED TO APPROVE THE MEETING MINUTES AS REVISED.
TRUSTEE STUCKERT SECONDED. MOTION CARRIED 4-0.**

3. Review and provide a recommendation to the Village Board of Trustees on Floodplain Zoning Ordinance Amendment.

Mr. De Angelis explained that Federal Emergency Management Agency (FEMA) and the Department of Natural Resources (DNR) went through Waukesha County to update the FEMA firm panels which are regulatory panels that we have to abide by for floodplain management. Firm panels are required to be in our local floodplain in order for the Village to enforce them and are part of floodplain management requirements for things like insurance. There is no change to the flood map; however, Mr. De Angelis noted that the Village recently had added properties to the 500 year floodplain.

Tonight we are looking for the Plan Commission to make a recommendation to the Village Board so the Ordinance can be approved.

**TRUSTEE STUCKERT MOTIONED TO RECOMMEND APPROVAL OF THE FLOODPLAIN ZONING ORDINANCE AMENDMENT TO THE VILLAGE BOARD OF TRUSTEES.
MR. FRONBERRY SECONDED. MOTION CARRIED 4-0.**

Prior to moving on to the next agenda item, Village President Koleski noted that he has been in contact with the Elm Grove Lutheran Church following the most recent Plan Commission meeting and said that he will be the church's point of contact as they move forward.

4. Review and act on a request by Jonathan and Theresa Kapke, 13405 Juneau Boulevard, for an exemption from §335-88D(6)(k)[2] as it relates to the permitted location of Play Structures in residential areas.

Property owners Jonathan and Theresa Kapke were present before the Commission to represent their request.

Mr. Kapke presented scaled drawings for location A and D and noted that these were the ideal location for the play structure. However, Mr. Kapke explained that location A is preferred based on safety of children's use and their current yard situation.

When considering where to locate the play structure the Kapke's determined that the optimal location of the play structure would be 8' from rear line and 10' at closest from side lot line.

The Kapke's took existing power lines into consideration and noted that as long as they have good separation of the structure and the lines they are okay with utilities.

Location D would be 15', 20', 25' from lot lines but it is less desirable because of an existing retaining wall. It was noted that this location would be complaint with setbacks in regards to the neighbors to the west's properties but not entirely in compliance.

The adjoining neighbor to the east, Ms. Mildred Schoos, and her daughter and son were present before the Commission.

Ms. Schoos presented on the definition of elder abuse. Ms. Schoos has been working in healthcare for 34 years and stated that her daughter has cerebral palsy which causes her to have a limp. She opined that if the Kapke's child requires surgery, a play structure would not be used for rehab. For this reason, Ms. Schoos proposed that the Kapke's install a smaller play structure.

Mr. Richard Schoos, Ms. Mildred Schoos' son, stated that he does not believe the survey the applicants have provided the Village are 100% accurate and does not believe that the proposed 15' is an accurate measurement for the distance of the play structure from the property line.

Mr. Schoos stated that his mother is not objectionable to a play structure itself but would like a play structure that complies outright with the Ordinance.

The Kapke's noted that they are confident in the recent survey that was done and would ask that the Plan Commission take a vote based on the current lot lines shown in this new survey.

Mr. Fronberry visited the property today and noted that the Kapke's showed how the structure would be hidden from Ms. Schoos' property. Mr. Fronberry believes the size of the structure is moot point. He explained that Ms. Schoos stated she may be removing arbor vitae planted along the lot line that create a visual barrier; however, this does not matter in regards to this decision. Mr. Fronberry believes location A would be the best location for the play structure.

Ms. Becker is in favor of Location A. She noted that it is an irregular lot and believes a variance would be appropriate for the setbacks. Location A is the location that takes into consideration the neighbor's concerns.

Trustee Stuckert concurs with the other Commission members. She believes it would be the best location in consideration of Ms. Schoos' concerns. Trustee Stuckert noted that there is a concern that there is a dispute in regards to the survey but believes it's important to note the confidence property owners of the recent survey.

MR. FRONBERRY MOTIONED TO APPROVE LOCATION A AS SUBMITTED BY THE HOMEOWNERS AND THAT THE LOCATION OF THE PLAY STRUCTURE CONFORM WITH THE CLOSEST SIDEYARD SETBACK OF 10' FROM THE EAST PROPERTY LINE, THE CLOSEST REAR YARD SETBACK OF 8' ON THE SOUTH PROPERTY LINE, AND THE CLOSEST SIDEYARD SETBACK OF 10' ON THE WEST PROPERTY LINE AND SHALL HAVE A GREEN AWNING AND THE INSTALLATION BE IN REFERENCE TO THE SURVEY SUBMITTED. MS. BECKER SECONDED. MOTION CARRIED 4-0.

5. Review and act on a request by ZA for a Plan of Operation pursuant to §335-85 for Restaurants, except drive-in restaurants or restaurants with drive-through windows with take-away service pursuant to §335-22A(50), located in the B-1 Local Business District at 13300 Watertown Plank Road.

Attorney John Fuchs was present before the Commission representing request on behalf of the applicant. Attorney Nicholas Fuchs was also present before the Commission representing the applicant.

Attorney John Fuchs noted that there is proposed to be outdoor seating but it would just be a few tables.

He also explained that the Plan Commission expressed concern regarding this restaurant fitting into the neighborhood but explained that there is current screening from residential properties and it will operate as a restaurant and it is not intended to have loud music or bands.

Attorney John Fuchs also noted that there was concern about the drawing being to scale. He stated that the drawing is to scale and explained that the tables and chairs on the plans are superimposed but were put in to scale. However, he stated that the actual number of persons permitted in the space would be under the prevue of the Fire Department upon inspection.

President Koleski asked about outdoor seating. Attorney Nicholas Fuchs stated that 8 bistro tables are proposed but believes that there will still be sidewalk space maintained.

Mr. De Angelis noted that it would be up to the Finance Committee to review whether the outdoor space needs to be enclosed because of the alcohol that will be served at the restaurant. Attorney John Fuchs noted that he anticipates those conversations.

Ms. Becker noted that she would like to see the diagram of tables for the outdoor seating. Attorney Nicholas Fuchs stated that it could be provided but explained that they would follow ingress and egress requirements.

Mr. Fronberry inquired about space for pick-up/delivery. Attorney Nicholas Fuchs stated that the bistro tables would not block the entrance and/or exit. He further explained that the outdoor seating is intended to be under the awning and there will still be sidewalk space – 50% of the sidewalk will be outdoor seating and will be fenced in.

President Koleski asked if Hours of Operation will be maintained as the same as the restaurant for the outdoor seating. Mr. Zierath noted that it will be 9 p.m. closure for outdoor seating.

President Koleski noted that it's clear the applicant desires to move forward with the application but has the understanding that they will have to come back with materials for outdoor seating.

Ms. Becker noted that she lives very close to this property and believes that outdoor seating would be welcome and feels that closing outdoor seating at 9 p.m. would alleviate concerns. Ms. Becker stated that she has concerns about accessibility if there is outdoor seating and believes that scaled drawings should be provided to the Commission which note the width of tables, the size of the awning, the size of the sidewalk used for seating, and the size of the sidewalk used for access.

Attorney Nicholas Fuchs stated that the 2 spaces closest to the handicap spaces are intended for delivery/pick-up spots.

Attorney Nicholas Fuchs looked at parking space requirement 1 space per 150 square feet, 20 spaces are required based on size of space. In their review they separated out employee parking, 10 at any given time, and looked at gross floor area and outdoor space and with that it would be 34 parking spaces. 37 spaces are being proposed which includes parking behind the building and 20 spaces leased by Town Bank. It would be 37 parking spaces including the drive and pick-up spaces.

President Koleski asked about the previous plan that was presented to use Zisters parking for employee parking. The Applicant noted that the owners of the Zisters property were against that so they revised their plan.

Attorney Nicholas Fuchs noted that the parking standards are met.

Attorney Nicholas Fuchs noted that the property owner is present and they have the right to lease the space. The property owner, Mike Klein, stated that he has been in conversation with Town Bank and they have been supportive of the plan. Mr. Klein noted that Elm Grove Street is clearly marked as "Vantage Parking Only" so ZA is unable to utilize it. Employee parking is behind the building. He also explained that he does not see noise and light as an issue but there is an existing tree line separating the property from the northern residential properties. Mr. Klein noted that there are 12 public parking spaces owned by the Village west of the property that could be used as well.

Ms. Becker stated that she is in favor of the application.

Trustee Stuckert is excited to have an Italian restaurant in the Village.

Mr. Fronberry would like an updated Plan of Operation submitted that is signed-off on by Mike Klein, the property owner.

Attorney de la Mora inquired why the parking lease started at July 1, 2023. Mike Klein stated that they thought a new tenant would have been in sooner.

MS. BECKER MOTIONED TO APPROVE THE PLAN OF OPERATION FOR ZA PIZZERIA BASED ON DOCUMENTATION DATED JUNE 19, 2023 NOTING THAT A REVISED PLAN

FOR OUTDOOR SEATING BE SUBMITTED AT A LATER DATE FOR REVIEW AND APPROVAL. TRUSTEE STUCKERT SECONDED. MOTION CARRIED 4-0.

President Koleski noted that the parking agreement with Town Bank for ZA should be added to the Town Bank file.

6. Review and act on a request by Zisters for an amended Plan of Operation pursuant to §335-85 for Restaurants, except drive-in restaurants or restaurants with drive-through windows with take-away service pursuant to §335-22A(50), located in the B-1 Local Business District at 13425 Watertown Plank Road.

Attorney John Fuchs was present before the Commission representing request on behalf of the applicant. Attorney Nicholas Fuchs was also present before the Commission representing the applicant.

Attorney John Fuchs explained that this is an application to install a tiki bar on the west side of the existing patio to be centered in front of existing arbor vitae. The tiki bar has been superimposed onto the site plan to show the proposed location.

Attorney de la Mora asked if it would be a permanent structure. Attorney John Fuchs noted that it would not be removed seasonally but it could be taken down. Attorney de la Mora asked if the applicants were aware of the dumpster storage to the west of the property.

Mr. De Angelis noted that because it's in a Downtown District it has a 0' setback requirement.

President Koleski asked about the hours of operation.

Mr. Zierath stated that they were approved to operate until 10 p.m. but the restaurant currently closes at 3 p.m. They would like to keep the option to stay open until 10 p.m.

Mr. De Angelis stated that the Plan of Operation should be revised to say 7 a.m. – 10 p.m. and property owner needs to sign as property owner on the form.

Ms. Becker believes that adding a bar is a good idea. She believes that a "tiki" bar may be at conflict with the existing feel of restaurant but understands that this would be a Building Board consideration. Trustee Stuckert and President Koleski were in agreement.

The patio was previously approved for outdoor speakers so they would be able to do that if they desired.

Trustee Stuckert is supportive of overall concept.

MS. BECKER MOTIONED TO APPROVE THE PLAN OF OPERATION FOR AN OUTSIDE BAR WITH THE HOURS OF OPERATION BE REVISED TO REFLECT 7AM TO 10PM, THE PROPERTY OWNER SIGN THE PROPERTY OWNER LINE ON THE APPLICATION FORM, AND SCALED DRAWINGS OF THE LOCATION OF THE BAR BE SUBMITTED TO STAFF. TRUSTEE STUCKERT SECONDED. MOTION CARRIED 4-0.

7. Discussion and possible recommendation regarding Downtown Master Planning.

TRUSTEE STUCKERT MOTIONED TO TABLE THIS DISCUSSION UNTIL THE AUGUST PLAN COMMISSION MEETING. MR. FRONBERRY SECONDED. MOTION CARRIED 4-0.

8. Other Business

None.

9. Adjournment

TRUSTEE STUCKERT MOTIONED TO ADJOURN. MS. BECKER SECONDED. MOTION CARRIED 4-0.

Meeting adjourned at 8:06 P.M.

Respectfully Submitted,

Katherine Gehl
Assistant Village Manager/Zoning & Planning Administrator