

Village of Weston, Wisconsin
OFFICIAL PROCEEDINGS OF THE PLAN COMMISSION

held on Monday, July 13, 2020, at 6:00 p.m., in the Board Room, at the Municipal Center

AGENDA ITEMS.

1. Meeting called to order by Plan Commission (PC) Chair & Village President Sparks. At 7:15

2. Roll Call of Village PC by Secretary Parker.

Roll call indicated 6 Plan Commission members present.

<u>Member</u>	<u>Present</u>
Sparks, Wally	YES
Maloney, Mark	YES
Cronin, Steve	YES
Gau, Duane	NO - ABSENT
Guernndt, Gary	YES
Jordan, Joe	YES
Meinel, Steve	YES

Village Staff in attendance: Donner, Higgins, Wodalski, Wheaton, Chartrand, and Parker.

There was 1 audience members present.

3. Approval of minutes from June 8, 2020 PC meeting

Motion by Maloney, second by Jordon: to approve the June 8, 2020, PC Meeting minutes.

Yes Vote: 6 No Votes: 0 Abstain: 0 Not Voting: 1 Result: PASS

<u>Member</u>	<u>Voting</u>
Sparks, Wally	YES
Maloney, Mark	YES
Cronin, Steve	YES
Gau, Duane	NOT VOTING
Guernndt, Gary	YES
Jordan, Joe	YES
Meinel, Steve	YES

COMMUNICATIONS

4. Opportunity for citizens to be heard.

None

5. Written communications received.

None

UNFINISHED BUSINESS

6. Project #20200127 – Jim Pinsonneault, 5002 Arrow Street, Weston, requesting a Conditional Use Permit to allow an Outdoor and Vehicle Repair and Maintenance Use within the B-2 (Highway Business) Zoning District at 3702 Schofield Avenue (PIN 192-2808-174-0883).

Jim Pinsonneault was present in the audience.

a. Action on request by Applicant for additional 60-day extension of Plan Commission Review Period for Conditional Use Permit Action, Per Sec. 94.16.06(6).

Motion by Maloney, second by Jordan: to approve the 60-day extension, per Staff recommendation.

Yes Vote: 6 No Votes: 0 Abstain: 0 Not Voting: 1 Result: PASS

<u>Member</u>	<u>Voting</u>
Sparks, Wally	YES
Maloney, Mark	YES
Cronin, Steve	YES
Gau, Duane	NOT VOTING
Guernndt, Gary	YES
Jordan, Joe	YES
Meinel, Steve	YES

b. Discussion of provisions of sidewalk for the Patriot Auto Site Plan.

Donner stated after last PC Meeting, staff worked with Pinsonneault to go over some the deficiencies found on the plan, based on PC's feedback and based on the code and the requirement to comply with the zoning code for the CUP. We got hung up when it came to talk on the sidewalk issue. This has turned into a unique situation. He stated his initial recollection, and after looking at the development agreement and the commercial and development to north between Emmerich and Drewek. He mis-read the statement, thinking it stated a requirement of an easement on the west side of Mount View, that connects Schofield Avenue to the mid-point of Mount View Avenue. When the statement meant from Sternberg to the mid-point of Mount View Avenue. It then goes back to the requirement on the site plan, where when we have new commercial development with existing curb and gutter that the commercial development should put in public sidewalk. He stated the other requirement is there needs to be pedestrian accommodations on the site, connecting to the public facilities.

Donner stated he suggested Pinsonneault put in a private sidewalk on his side of the property, parallel to Mount View Avenue. His request for action from PC is what should we do? He stated there is multi-family development to north, there will be a commercial development south of those apartments, and just recently met with a developer for a potential commercial project to the east of Pinsonneault (Zastrow property), for mixed-use and apartments. Donner stated there is sidewalk on the east side of Mount View Avenue. He stated the street is offset on the right-of-way on the west side because of the gas easement that runs parallel to Mount View Avenue. The easement that is there is for utilities not for sidewalk.

Maloney stated he met with Pinsonneault and discussed with Pinsonneault that he is adamant we should have sidewalks. Maloney brought up, from our previous Joint PC and PW&U meeting, the discussion on multi-use paths and wondered if this is something we could entertain here on the east side.

Donner stated sidewalk on the east side of Mount View Avenue goes to north and ends at the entrance for the Mountain-Bay Apartments. He stated it was supposed to go to the west side of the property. He discussed the dedicated easement to the Village, which is between The Pines at Mount View and Mountain-Bay Apartments, between Mount View Avenue and Sternberg Avenue, along with the north side of Mount View Avenue, along that curve. Donner stated the question tonight is if we should require sidewalk or make provisions to extend that sidewalk on the west side.

Maloney commented how we are advocating to put sidewalk through to Sternberg, but if you go two properties to the west, there is no sidewalk on Gordon. He stated it does not make sense, unless we are doing this on everyone's property. Maloney is concerned that if we don't put sidewalk in, we would be asking the people living in the apartments on the west side of Mount View Avenue to cross the road there to get to the sidewalk on the east side. He feels there should be sidewalk on both sides.

Donner added there will be some commercial development in this area too, which may lead to more pedestrian traffic.

Cronin agrees, and in staying with the ordinance we discussed in the previous meeting.

Donner stated the Village does not own this. Donner stated we would need to negotiate purchasing part of the property for a sidewalk easement. Meinel questioned why the Village should be responsible? Donner stated we can't just force him to do this, as it would be considered a Taking. It was stated that along Pinsonneault's property, there is only 1.6 feet of right-of-way that tapers up to about 4.3 feet.

Wodalski stated in the packet, staff already laid out a rough estimate of costs to purchase right-of-way and install sidewalk up to the curve of Mount View, on the west side. Maloney questioned why we would not just be doing the sidewalk along Pinsonneault's, and the developer of the land north of him can take care of the sidewalk when that gets developed. Higgins stated the property north of Pinsonneault's has the same problem with lack of right-of-way.

There was discussion on what our cost would be to acquire the land and construct the sidewalk. Donner stated the ballpark figure was around \$100,000.

Meinel questioned who paid for the sidewalk on the east side? Donner stated the developer. Meinel questioned why it can't be handled the same for the west side. Donner explained the sidewalk on the east side is completely in the right-of-way.

Wodalski showed a map of the right-of-way in that area, and how along Pinsonneault's property, the right-of-way only goes in about 1.5 feet into Pinsonneault's property. In a perfect world, there would be about 16 feet of right-of-way there, and we would require the landowner to put the sidewalk in. He stated the issue is there is not enough right-of-way to require the applicant to put the sidewalk in.

Guerndt commented if we purchase the right-of-way and install sidewalk here, we should also purchase the right-of-way needed from Emmerich right now also, before someone looks at developing that lot. Donner feels if we commit to Patriot Auto, we need to commit there too. Donner stated we could put it on a future sidewalk or transportation map.

There was discussion on how this issue came about (with only sidewalk on the east side) Guerndt commented that perhaps when this road was planned, it was decided that since sidewalk is on one side of the road, that they did not need to plan for it on the west side. Guerndt stated there is always the option of a crosswalk, to get apartment residents from the west over to the sidewalk on the east side. Donner thinks that the reason we did not do this back then is because the right-of-way over there is only 50 feet.

Wodalski stated, regarding the gap in sidewalks, that when Mount View Avenue, west side of Birch Street, got reconstructed that was only 50 feet of right-of-way and has sidewalk on both sides and ends at Birch Street. He stated in the Comprehensive Plan, it states we want to prioritize sidewalk gaps for future projects. Currently the sidewalk on the east side ends at the curve. Wodalski stated through the development agreement with Drewek, they dedicated land to the Village to put in sidewalk when needed. Sparks confirmed there then is no other sidewalk until you get to Birch Street. Higgins stated this was done before the Complete Streets Policy was passed.

Pinsonneault commented, per the current ordinance, when this road eventually needs to be reconstructed, he would be mandated to put sidewalk in then. Wodalski stated in 30 years when the road needs reconstructed, in order for this to work, the Village would have to negotiate a purchase price. If we can't come to an agreement, then the Village would go through the eminent domain process to acquire it.

Maloney asked for a straw poll from the members on if they feel we should leave the sidewalk on just the east side or require it on both sides. Meinel feels it should be on both sides. Jordan stated just the east side. Guerndt and Cronin were undecided, and Sparks feels for now just the east side, as a crosswalk can be installed for those apartment residents. Cronin stated he feels if we don't do it now, it will be harder later, especially with the adjacent property to the north.

Maloney asked Pinsonneault what a dollar number would be that he would agree on. Pinsonneault commented that he will lose value of his property, because it will be smaller, and will have costs to re-engineer all of his plans and will have to resurvey his property, he would have to work with the bank as their paperwork reflects the current size property, the property deed would have to change.

Donner stated a previous acquisition project the Village did, all the costs for the right-of-way work, quick claim deed, and transferring of property all gets taken care of by the Village. The process, if done through eminent domain, also provides for the Village-paid appraisal and the owner has a right to their own appraisal. This is a route we would not want to take. Guerndt stated this is what we want to see happen for the future. Maloney commented on a death that occurred on Ross Avenue, before the multi-use path went in on both sides of that road, where there was a debate prior to construction of whether to put sidewalk in or not. The residents did not want it, and we listened to them, and then this death occurred. He does not want to see this happen again.

Sparks prefers we work with him on price.

Donner stated staff wants direction.

Sparks asked for another straw poll vote. All were in favor of sidewalk on both sides, with the exception of Jordan. Pinsonneault indicated he is in favor of sidewalk on both sides too.

Higgins gave some history of how the decision of sidewalk kept flip-flopping over the years with the Board.

Guerndt commented if we are allowing a 10-foot multi-path on one side of the road, in lieu of sidewalks on both sides, how are people getting across the road? Jordan commented on the path on Camp Phillips Road, which is the same, and a wide, busy road.

Sparks commented right now there is multi-family by this sidewalk on Mount View Avenue, so the developer is paying someone to shovel the sidewalk. Sparks stated we need to look at the best option here. We know that when the road is reconstructed, sidewalk will have to go in then. Sparks questioned to Pinsonneault if our buying right-of-way from him and putting in sidewalk there, if that will impact Pinsonneault's site plan. Pinsonneault stated he would have to shift the location of the building and parking lot, and he would be fine with that. Guerndt questioned if Pinsonneault would need to shift his building and parking lot, if the current location would meet the new setbacks.

Maloney commented that when people, walking along the north side of Schofield Avenue, cross the street at Mount View Avenue, how he feels that is almost more dangerous, with cars on Schofield Avenue turning onto Mount View Avenue. Maloney feels now that we should not add the sidewalk on the west side. He feels it would be less dangerous to install a crosswalk on Mount View Avenue, up by the apartments.

Higgins stated Pinsonneault's building is set back 40' from Mount View Avenue, and still would have 10 feet to play with, and not have to move his building.

Guerndt feels a possible option is that we could leave it be and let Pinsonneault construct, then we could require the sidewalk afterwards.

Cronen stated in 30 years when road gets reconstructed, it has to go in then.

Sparks is fine with it on one side. Pinsonneault feels the right thing to do is to put the sidewalk all the way up Mount View Avenue.

Wheaton stated Pinsonneault's plan does not meet the hard surface setback right now. Wheaton stated Pinsonneault has to adjust his plan regardless. Wodalski stated the pavement setback is 15 feet, and his plan shows it at 10 feet. If we are going to require the sidewalk, now is the time to add this so that Pinsonneault's plan only has to change once more.

Higgins stated if we do after the fact, we would be making Pinsonneault's property non-conforming. She stated it does have that ability if we take right-of-way later on. It was brought up that our putting in sidewalk will make the apartment building on the west side non-conforming. Higgins stated the new zoning code changed to make the setbacks smaller.

Wodalski stated the pavement on Mount View Avenue is currently 30 feet. We would shrink the road by 4 or 5 feet in the future, and the sidewalk would fit within the existing 50-foot right-of-way. He does not think the road will be reconstructed for 60 years though. Wodalski stated his opinion, based on our previous meeting, is that the two sides make sense, but we would have to acquire the land, he would modify the road to allow the correct right-of-way. However, he stated a lighted pedestrian crossing makes sense.

Jordon commented the path on Camp Phillips Road, how WPS is on one side and the path is on other.

Sparks stated if we do sidewalk on west, then we run it all the way up. May make the existing apartment out of compliance. Guerndt commented how Drewek will feel if we now require him to install sidewalk. Wodalski questioned do we take this in on as a Village project.

Sparks stated we should leave the sidewalk on the east side and put in a crosswalk across from the apartments. Sparks stated if sidewalk is mandated during reconstruction, then we do it then.

Motion by Maloney, second by Guerndt: to approve having sidewalk on the east side only. Q: Sparks questioned if we should include in the motion that we put cross walks in. Maloney stated we will put the crosswalks on the next meeting agenda. Meinel was opposed. Motion passed.

Yes Vote: 5 No Votes: 1 Abstain: 0 Not Voting: 1 Result: PASS

<u>Member</u>	<u>Voting</u>
Sparks, Wally	YES
Maloney, Mark	YES
Cronin, Steve	YES
Gau, Duane	NOT VOTING
Guerndt, Gary	YES
Jordan, Joe	YES
Meinel, Steve	NO

7. Acknowledgement of Amendment to Site Layout at SC Swiderski, Callon Avenue Project – River Estates II. This is adding two more duplexes. Higgins stated we said we would bring back.

Motion by Maloney, second by Jordan: to acknowledge the amended site plan.

Yes Vote: 6 No Votes: 0 Abstain: 0 Not Voting: 1 Result: PASS

<u>Member</u>	<u>Voting</u>
Sparks, Wally	YES
Maloney, Mark	YES
Cronin, Steve	YES
Gau, Duane	NOT VOTING
Guerndt, Gary	YES
Jordan, Joe	YES
Meinel, Steve	YES

NEW BUSINESS

8. Discussion of Potential Amendments to Chapter 94 Zoning – Sign Code.

Sparks stated Maloney had an issue come up with this by Graphics Plus and Tommy Wash. Sparks stated there had been some discussion between our sign code and Wausau’s sign code.

Higgins stated a revision was made in the zoning code to add a Special Exception to allow Plan Commission to look at and consider those old signs, on a case-by-case basis, and it gives the neighboring property owners a say, this was done so that these business owners would have some kind of option to pursue, versus just being told “no”. She stated Wheaton put together a comparison of Wausau’s sign ordinance, and we found that their new ordinance is more restrictive than ours.

Maloney commented on how the new Tommy Wash sign is hidden in the winter by the snowbanks, because it has to sit so low to meet code. He commented on how in Wausau, they have a 20 or 30-foot tall sign, and he thinks that sign is just beautiful. Maloney then brought up Graphics Plus, who in order to keep the sign they have, they have to move their sign farther into their property, which then when vehicles are travelling east, you can’t see their sign because of the Wiggly Field building. Higgins commented that they have a chance to come in for a Special Exception. Maloney commented that Rich Bartig (owner of Graphics Plus) changed their logo back in February, and now it’s July and they still do not know what to do. Maloney commented how Wheaton sent Bartig an e-mail about applying for the Special Exception through Evolve. Maloney stated that he has gone out to the Evolve site and gets confused and does not know what to do. We need to help him get this done.

Maloney commented about the Evolve site and how when he was getting ready to put up a shed, he was not going to get a permit because of how difficult the program is. He said he finally met with Maguire, who sat down with him and worked with him through the permit. Maloney stated that is customer service. He commented that the reader board is gone on that sign, and the sign will be smaller on the cement pad. Maloney stated that, yet, staff wants him to take the sign down and move it back. He stated also that something has to happen for Rolly Lokre for his sign. Maloney then commented how he talked to Fritz Schierl today about his sign off of State Highway 29. He stated Schierl got that tall sign okay’d 20 years ago. Higgins stated the Board allowed a sign that exceeded the code and therefore their ability to approve it that high. She commented on how she wrote a synopsis on that for a previous Administrator and that is why the sign has not had any additional signs added to it. The Plan Commission and Board at the time went above and beyond what they were allowed to give the way that the code was written at that time. Maloney stated how this is something that happened 20 years ago, and feels staff is still punishing him for it, by not letting him put anymore signs up there. He has a blank sign up there because it is non-conforming. She said there is not a one size fits all for every situation. Maloney asked how we can help Schierl? Higgins stated this is a totally

different subject that she would need time to look at. Higgins stated the Schierl sign is an off-premise sign, and the hospital never liked that sign, and how Putnam was fighting against it, and how the Village was stuck in the middle.

Maloney commented on how we need to help these people, as they need signs to be a profitable business. Higgins stated, in the Tommy Wash case, their sign was an afterthought. Typically, when designing the site plan, the signage is designed in there too. Their sign came in afterwards and was too close to the road, so they changed it.

Sparks commented on how, especially with our being shut down to the public, how everything is done electronically. Sparks feels we have lost customer service when we tell people to apply online. He gets that we are trying to make things more efficient, but has a problem with the fact that nobody can come in here and sit down with staff to work through the permit. He stated, with Graphics Plus, that sometimes there are so many hoops to go through that people decide they will just do the work and deal with the consequences after. Sparks thinks this is probably why 50 – 60% of people who do not get permits, because they feel our system is too cumbersome. Sparks stated he would rather hire a separate person just to sit down with people to complete their applications. He feels we are losing our customer service, which is the only reason why staff exists. He stated our residents should not have to learn a computer program. Higgins stated that our staff spends a lot of time walking people through their permits. People have the ability to come in here and meet with us. They just need to make an appointment to make sure someone who can help them is available.

Maloney stated he believes we do, but why did we not do this for Graphics Plus? Higgins stated she did not even know this one was going on. Parker stated in the Evolve system, she sees their sign permit was denied in December by Wehner. Maloney stated Wheaton had good correspondence with Graphics Plus in March. Donner stated that he received an e-mail from Sparks (personal e-mail account), where Graphics Plus asked to be put on the next Plan Commission agenda, which was in March, which got cancelled, and we did not have another meeting until May [*Clerk's note, the March 9th meeting was held, but the April meeting was cancelled*], and therefore the issue may have gotten lost. Higgins stated when she did the May agenda, she knew nothing about this. Sparks stated he feels the big issue is everything being on the computer now, and he feels the public does not like it. Higgins stated some do and some don't like it. She stated typically with sign permits, the sign company would have submitted the application, and many of these companies like this system. She stated that when the business owner tries to do it themselves, they feel it's hard because they are not familiar with it, but if they contact us, we would sit down with them and help them through it. She stated a lot of times, the e-mails we receive are a question with not much information. She stated we would answer their question, and then we may not hear back from them for 3 months. Higgins stated how we try to work with people, but if they are not conversing with us, there is nothing we can do.

Sparks feels the issues are amplified with the COVID-19. He stated we need to be able to meet people in person, you can't just tell people to call and make an appointment. When you make things too cumbersome, whether it's the software system or the Municipal Center being shut down, where people can't physically come in and meet with staff. Higgins stated that staff can be in meetings, which is why we ask people to make appointments. She said she could already be in a meeting with a developer or another applicant, and she does not see why it is so hard for people to make appointments. She commented on how someone will walk in to see her, stating they have just a simple question, but then the discussion ends up lasting two hours. That is not an efficient use of my time.

Wheaton stated that back in March, she e-mailed Bartig asking him to contact her at his earliest convenience, and she never heard back from him. She stated that she called him last week, and explained to him that he needs to apply for the Special Exception permit, and Bartig told her he would look into that. She said she then e-mailed him the link asking him to get in touch with her with any questions. Maloney stated he also e-mailed Bartig and told Bartig he could contact him with any questions, so that he knows he has a few people to contact, but Maloney has not heard back either. Maloney stated Wheaton's e-mail to Bartig was well written, and that he will probably reach out to Bartig to check in.

Guerndt commented on how Higgins is very black and white, and he stated how he talked to Bruce Flora this past winter regarding the Klasinski Insurance sign (on Business Highway 51), and how the pole for that sign is rusted out and ready to fall over, in order for Klasinski to replace with the same size sign, he has to move the sign back 20 more feet, which puts the sign into his only two parking stalls. Wheaton stated she told him if he replaces with the same size sign, that he is okay, since this would be considered maintenance.

Guerndt stated this is the same situation with repaving or striping a parking lot. If we are going to require, in those instances, that people have to submit a stormwater management plan, landscaping, curb and gutter, who is going to replace their parking lot?

Guerndt stated with some of those things that were done years ago, somehow we have to have a little bit of leniency, and have some sympathy and understanding for them.

Sparks stated he does not know all the ordinances, but it seems like everything has to be done this way, and it doesn't seem like there is any discretion given to staff. And how it's said if you give something to someone, everyone else will want it too. Sparks gave the example of law enforcement, where the law says you have to follow the speed limit, but if someone is just going 5 mph over, they probably would not write a ticket. He said it feels like staff feels there is no discretion. Higgins stated there is no discretion with the zoning code, so you have to build that discretion into the zoning code, and have to be willing to take on the consequences of whatever that is on all the properties. Sparks stated there must be some discretion, and Higgins stated the Special Exception was put in the code for that reason.

Donner brought up that we started going through this process last year, and gave the example of the hidden fasteners. Higgins stated the zoning code, like other ordinances, is a working document.

Sparks stated tonight we are discussing the signs and how there are a few people here that can't put their signs where they had them. Higgins stated when this was written, Plan Commission stated there were signs that were too close to the road, or were too high, etc. The thought process back then was that these old signs would phase out, which is why they are called legal non-conforming. Higgins stated the standards were stricter, where there was a sign set back and then you also had to move your sign back how high you went, with a height limit.

Sparks questioned how hard would it be to amend the ordinance to state for those existing signs, if they are changing their name or updating the sign, that they can do it. Higgins stated she would just need some direction from the Plan Commission and Board.

Maloney commented about having the Special Exception more prominent, for someone who has a roadblock, and how to they go about getting the Special Exception. Higgins stated we tell people about this, but most of the time they don't want to go through it, as they want their approval quickly. By having them apply for the Special Exception, it takes it out of staff's hands and puts it on the Plan Commission to look at this specific to a property and unique situation. Higgins stated by bringing it to the Plan Commission through public hearing, we may find that the person next door has concerns with the sign such as it blocking their business or sign.

Guerndt stated he has a situation with the fence he is putting up around his property. Guerndt stated in the code it requires a buffer. He stated he does not want to put in a buffer, as his fence will go along the outside of the property. He is being told he needs to put a 5-foot buffer strip of grass around the perimeter before the fence. He does not want grass along the fence as what will happen is the mowing company will come through and catch the fence and damage it, or you get weeds growing up along the fence that needs to be weedwacked. Higgins stated this is because there is a pavement setback. He stated that he then wants to come to Plan Commission with this because he does not want grass there. He stated how Higgins explained to him she has a code to follow, and how he can't just bring it to the Plan Commission, as they need to follow the code. He stated how Higgins has to follow that code that is black and white, and the hardest part is giving

her the authority to say “no, you’re right, that is not practical”. Guerndt stated he just went ahead and drew the plan the way he wants it. Higgins stated that will probably require a code revision, as he is in a unique situation. Until these things come up, we don’t know they exist and therefore can’t address them.

Sparks stated he feels there needs to be some discretion built into the code. He stated there is a letter of law and then there is an intent of the law. He stated in law enforcement cops have a lot of discretion. He stated with speeding, the intent of the law is to slow traffic down so you don’t have accidents where a lot of people get hurt. He stated if cops followed exactly the letter of the law and pulled everyone over for going 1 or 2 miles over the limit, people would blow a gasket. He feels we are getting the same response here where because the code says this, this is what we have to do, and we are not trying to find that grey area. Higgins stated that we are talking about property lines and property rights. Sparks stated he is not saying there should be discretion for everything, but there needs to be some latitude. You need to empower your employees to give them enough latitude to make some commonsense decisions. Sparks questioned what the purpose is for that 5-foot buffer by the fence, and to look at the intention of that what that ordinance is saying. Higgins stated it is a pavement setback, as you don’t want someone parking up to the property line. Higgins stated for this particular case, we just need to change that into the code. Sparks stated this is where we are very black and white.

Sparks stated we need to get rid of the black and white and explained to Higgins if she is empowered to use her discretion, then in Guerndt’s fence, or for those businesses that want to put up a new sign because they changed their name, she should have the ability to say “that’s fine you are using an existing pole...”. Sparks feels we are bogging this down so bad, to the point we need a public hearing.

Sparks stated that sometimes we have to say “no”, but there is an intent behind the law and the letter of the law, and we have to figure out how to differentiate between the two. He stated how now we have to call up the Plan Commission, who will look at the intent and say “yes, that is reasonable”. The goal is that we have orderly development, and we don’t want tin shacks and things falling around a property. He feels there are so many nit-picky things in our code that there needs to be discretion given to the Planning Department staff to be able to make those decisions.

Sparks stated a cop can give a person a warning for blowing a red light, and if that person kills someone, then the discretion is taken away when it becomes more severe, but there has to be some latitude and grey area, and not everything has to come back to Plan Commission, not everything has to go through public hearing, and not everything has to go to the Board. You have to look at the intent of the code. It’s there for orderly development.

Higgins reminded them that when she first started, things like sign permits had to be approved by Plan Commission and the Board. She stated the discretion has to be built into the code. Sparks feels she does not have enough latitude and discretionary decision-making.

Guerndt questioned perhaps the issue is that if staff allows something for one person, another person will want it too. Higgins stated there is a fine line, and there are things she can waive, but she wants it on record of why it is there and she wants it to come from the Plan Commission, as then it is not staff saying it.

Sparks stated it may be easier to do that, but it is not necessarily the right way. He stated if he told all of his cops if someone breaks the law that they have to write a ticket. Higgins stated in five years from now, we could have an entirely different Plan Commission who thinks a different way. Sparks stated she can’t view everything through black and white absolutes. He gave an example of if a sign is 2 inches off, we should not deny it.

Wheaton stated the difference between the two codes is that law enforcement code you are talking about people and a zoning code you are talking about a permanent structure that is going to be there for many, many years. Sparks feels it is the same, as you have people who are building these buildings, who are people. She

said that the point is we are talking about a project that will be there for 20 – 40 years, and the purpose of a zoning code is to ensure a safe and well thought-out and well-planned development. She stated with the law enforcement code, you can give a person a warning for speeding and hope they do better next time, with a zoning code this affects something going down the line. Sparks stated there are still some little things in there that you should have some discretion on. He stated that staff knows when there is something critical for someone's personal property, versus something that won't have any impact on anyone else.

Sparks stated there should be some discretion for when a resident puts something in, but they are off by a foot, where you can let it go.

Guerndt questioned Wheaton about what the purpose is to the 5 feet of grass on this inside of his fence, especially when the adjacent business wants to put a fence parallel his, and now they both have to have a 5-foot strip of grass on the insides of their fence. Higgins stated some of this is for greenspace requirements. Guerndt stated that he is meeting all his greenspace and stormwater and wants to know why he can't put gravel all the way up to his fence. Wheaton stated you never know who the neighbor is going to be. Guerndt stated they would not be able to see inside his property as he will have a screened fence. He stated these are the things that the Plan Commission wonders why they have to see this and why we are putting businesses through this. Higgins stated we are talking about a pavement setback. If they want this changed they need to direct staff. She stated this is a code that was approved by the Plan Commission and Board. Higgins stated this is not her code, but the Village's code, and her job is to enforce the code.

Meinel commented that by falling back on this code being approved back a certain time is just an excuse, as opposed to figuring out what can be done to help someone get to where they want to be with their project. He said he would like to see, for example, Wheaton going to Guerndt and saying this is what the code is, but this is what we can do to get this approved. Meinel feels this could be a short memo explaining what's going on, not a 32-page write-up. He stated when some of these reports are so involved and so lengthy, you get lost in the details and something as minor as Guerndt's issue, he would hope that there is a quick and easy way of saying that this is the difference and what we can do without going through an enormous analysis and dragging it out for months.

Guerndt commented that he did not mean to bring up his personal project, but was following with Sparks' comments about giving staff the ability and discretion. Higgins stated our zoning code is not built that way right now. She said it Plan Commission wants it built this way, then we have to change it.

Maloney brought up examples like requirements of a camera system or a bike rack. Maloney stated we need to change the ordinance. Higgins suggested the members all read the code and tell her what they do not like.

Donner stated we need to sit down and goes through the code section by section and talk to the Plan Commission.

Guerndt questioned if when there are these "no's" or these issues, perhaps that is an e-mail that goes out to the Plan Commission and Board and get their comments. Higgins stated these have to come to the meeting, otherwise there would be a walking quorum.

Sparks stated we are talking about let's modify the black and white. He stated the ordinance needs to include some discretion in there, and specifically address that staff has some discretion on relatively minor issues that won't impact people. Higgins brought up how this new code gave staff the latitude to approve things like sign permits, CSM, and site plans, without bringing through Plan Commission. Higgins stated maybe we are now to the point of revisiting the code again. We started the project in 2013 and it was adopted in 2015. That was over 5 years ago. Guerndt and Meinel do not think revisiting the code is the right way. Guerndt stated until you get a circumstance like this that says the 5-foot buffer inside a fence.

Jordan commented that he sat in the steering committee as a business owner. He stated Higgins is looking for some direction, to be able to make these decisions based on the zoning code and to be able to treat everyone the same. Jordan stated there has to be a way for staff to have the ability to deviate based on common sense. He gave the example of when he put the fence along Camp Phillips Road and had to go through a conditional use permit, and how someone helped him figure out how to do that. We need to come up with a way to help her use that power in a way that she feels good about, and where she is not being the “judge”, and then subject to criticism because of the decisions she is making.

Sparks stated, as opposed to telling someone they have to come back before Plan Commission, he would like to see, on minor issues (like Guerndt's fence issue), staff come back and say this is what the code reads, and this is what they would like to do, and it really would not impact anyone (such as a shed being off by a foot in a yard). He stated if staff really needs those final approvals from Plan Commission, then make those calls, when something does not make common sense. He stated there are enough very minor things that staff should be able to make discretionary calls on. Sparks stated how the Plan Commission this year has changed and how they are looking at it through a common sense lense. Need to build into ordinance some latitude discretion. He stated Higgins and Wheaton and their staff need to be able to make decisions when some minor thing is not hurting anyone or impacting adjacent property owners. He stated at the very least, make those discretionary recommendations to the Plan Commission.

Higgins discussed that our new Zoning Code was set up as a template from Roffers, and we went through the code and made changes to reflect our needs.

Guerndt commented on how he agrees it is not easy to have to enforce a zoning code, but we need to make things more efficient. Higgins stated how there are things Plan Commission can't just waive, such as setbacks. She explained how setbacks fall under a variance proceeding through the Zoning Board of Appeals. She stated this gets into legalities of peoples' property rights. She pointed out how Plan Commission may think 1 foot off is no big deal, but the neighbors will call and complain. You could also cause issues with the future sale of a property.

Wodalski stated we need to look at where there are exceptions. He stated most of the time we don't know about these until we encounter them. Wodalski stated we could put something in there that says you need a rear 5-foot setback, unless you have a fence, and then you can go right up to the property line.

Meinel commented we spent good money to have Roffers design this, he would like to see what Roffers' recommendation would be to lessen our frustration.

Donner stated currently staff is quite busy with site plans, etc. He is hearing from Plan Commission that they would like us to have Roffers look at this. Higgins stated she does have this built into her budget. Sparks stated at the next meeting talk to Roffers to see if he can build in some discretion into the code.

STAFF REPORTS

9. Acknowledge Report re: June 2020 Staff-Approved Certified Survey Maps and Site Plans.

10. Acknowledge Report re: June 2020 Building Permits.

11. Acknowledge Report re: May 2020 New Business Occupancy Permit Issuance.

Motion by Maloney, second by Cronin, to acknowledge Item #9, 10, and 11.

Yes Vote: 6 No Votes: 0 Abstain: 0 Not Voting: 1 Result: PASS

<u>Member</u>	<u>Voting</u>
Sparks, Wally	YES
Maloney, Mark	YES

Cronin, Steve	YES
Gau, Duane	NOT VOTING
Guerndt, Gary	YES
Jordan, Joe	YES
Meinel, Steve	YES

MISCELLANEOUS

12. Next meeting date

a. Monday, August 10, 2020 @ 6pm – Regular Meeting.

13. Remarks from Staff and Commission Members.

Higgins stated staff talked to a business who is interested in purchasing the Mashuda Pond and part of the parcel. The members agreed that a purchase of that property, trumps leaving it a public park. Higgins stated this will require a future Comprehensive Map Amendment as she did not include it in the one going to the Board on July 20th.

Guerndt commented how he is the one who talked to this dock business about purchasing that lot. Guerndt would like to put some fountains in that pond. Guerndt stated this business wants Guerndt to purchase the pond, as this business just wants the frontage, and to display his docks. Guerndt stated this business owner does not want to pay \$25,000 for the pond. Higgins stated that in our meeting with the business, Donner told that business owner, it could be a reduced price, but he just needed to let us know what he is willing to pay. Guerndt stated he believes this business owner would be taking the same 5 acres that he has.

Donner stated regarding the Dominika Street issue, there is some discussion going on between Joe Buska and Paul Durst, of County Land & Title. Donner stated the last time he talked to Buska was July 3rd. Maloney stated he shared this to Joe Muzynoski today. Donner stated Durst (who wrote the Quit Claim Deed) e-mailed him last Monday stating that he asked Buska to Quit Claim that land back, and so it seems this is getting into a legal battle.

Guerndt questioned what the members thought of a cost on the pond. Donner stated that would be a discussion for the Board. Guerndt stated that business owner wants 5 acres, without the pond. Higgins pointed out Donner will have this on Monday’s Board agenda. Guerndt stated he would take the pond and the business owner wants the frontage. Guerndt stated this guy wants to make an offer this week so this can get moving forward.

Sparks stated this is his last Plan Commission meeting.

ADJOURNMENT

14. Adjournment of PC

Motion by Maloney, second by Cronin: to adjourn at 9:00 p.m.

Wally Sparks, Plan Commission Chair and Village President
 Jennifer Higgins, Director of Planning & Development
 Valerie Parker, Recording Secretary