

**WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
ADMINISTRATION CENTER, ROOM AC 255/259
THURSDAY, SEPTEMBER 15, 2022 - 1:00 P.M.**

CALL TO ORDER

Mr. Siepmann, Chairperson, called the meeting to order at 1:00 p.m.

Commission

Members Present: James Siepmann Thomas Michalski
 Robert Peregrine Richard Morris

Commission

Members Absent: William Groskopf

Staff

Members Present: Jason Fruth, Planning Manager
 Sandy Scherer, Senior Planner
 Kathy Brady, Support Staff Supervisor

CORRESPONDENCE: None.

MINUTES: Approval of the August 18, 2022, Minutes.

After discussion, Mr. Morris moved, seconded by Mr. Peregrine and carried unanimously for approval, of the August 18, 2022, Minutes, as presented.

PUBLIC COMMENT: None.

• **CU78 (Lakeside Road Property Trust/David Davis Jr), Town of Delafield, Sections 12 and 13**

Mr. Fruth pointed out the location of the property at W285 N3136 Lakeside Road in the Town of Delafield on the aerial photograph. He indicated the request is to establish legal non-conforming use status for an existing summer cottage to allow for remodeling in excess of 50% of the equalized value.

Mr. Fruth indicated the property is located on the north shore of Pewaukee Lake. The parcel contains 2, seasonal residences (cottages). The petitioner is requesting to make improvements to the cottage he utilizes. The ordinance requirements state that legal non-conforming uses are limited to 50% of the value in improvements over their lifetime. The Town Assessor valued the cottage at \$15,000 which would only allow \$7,500 in improvements. The Conditional Use designation would eliminate the 50% cap. The Town of Delafield Plan Commission was concerned with setting a precedent with other properties around the lake with 2 residences, however, they voted to approve the Conditional Use request with several conditions:

1. The cottage shall not be utilized as a rental unit.
2. The cottage shall not be utilized for year-round use.
3. Upon the sale of the property, one of the existing residential structures shall be removed.

Mr. Fruth indicated the Waukesha County Board of Adjustment approved a variance request for the petitioner on September 14, 2022, permitting a vertical and lateral expansion of the one-story cottage. Mr. Fruth said the petitioner is proposing to remodel the cottage with a new interior layout, vertical expansion to vault the roof system and a lateral expansion to add a covered entryway. The Planning and Zoning Division Staff Recommendation added a sentence to Condition No. 2 stating “The cottage shall

only be used from May 1 to October 31 of each year” for clarification. Mr. Fruth also suggested adding a sentence to the end of Condition No 3 stating that “No further vertical or horizontal expansions of the northerly summer cottage shall be authorized beyond the improvements depicted on Exhibit B (Building Plans) of the Staff Report and Recommendation”.

Mr. Michalski asked if the sentence “The cottage shall only be used from May 1 to October 31 of each year” means that on an afternoon day during the winter the petitioner could not visit the property? Mr. Fruth responded that it means going inside and using the cottage for any purpose. He added, someone could visit the property but the idea is that the home is not to be utilized overnight during the winter months because it is a legal nonconforming use and predates the ordinance. The petitioner is proposing to maintain the cottage as seasonal.

Mr. Morris moved, seconded by Mr. Peregrine for approval. Discussion continued.

Mr. Davis, petitioner explained that he is a third generation owner of the property. In the past, the cottage has been completely shut down over the winter. The request for improvements is to enable him to keep the heat on and he noted that neither of the cottages are lived in year round. He indicated he had no issues with any of the conditions. Chairperson Siepmann interpreted the term “seasonal use” to mean that there would be no overnight stays from November to April but if the petitioner wanted to check on the property or have a repairman come to the property that would be allowed. Mr. Morris suggested that the wording “for overnight occupancy” be added at the end of the sentence, to the second bullet point in Condition No. 1. Mr. Fruth and the Commission agreed.

Mr. Davis said in reference to Condition No. 3, the last sentence states “No decks or patios will be permitted to be attached to or in the vicinity of the northerly summer cottage”. He indicated that it was not a condition discussed at the Town Plan Commission meeting nor discussed with him before this meeting. He said the 1.2 acre property is restricted to the amount of non-permeable surfaces which are allowed. Mr. Fruth clarified that properties which abut waterways are subject to impervious surface regulations. Mr. Davis said he understood why an attached deck/patio would not be allowed because it would be a way to expand the structure. He questioned the restriction on building a patio and he was unsure of what “in the vicinity” meant. He also questioned if the condition was necessary, what is the intent and how is it determined what area is “in the vicinity”. Mr. Fruth explained this is a legal non-conforming use with 2 principle structures on a parcel and the conditions are an attempt to control the intensity of what exists today, and is what was asked for by the petitioner on the application. In addition, Mr. Fruth indicated the Staff Report had been sent out a week in advance of today’s meeting. Chairperson Siepmann clarified that the condition states you cannot construct a deck or patio, if one is not already there. Mr. Fruth replied, “Yes”, and clarified that the reason for the term “vicinity”, could be construed to mean that a deck or patio could be constructed 1 ft. away from the cottage and not attached, but clearly serving the cottage in the same way. Chairperson Siepmann asked if there were any concerns from the Commission based on that statement, to which there were none.

Chairperson Siepmann asked if there currently is a deck or patio near the cottage? Mr. Davis, petitioner replied that there is an open area “outdoor space” between the 2 cottages in which an outdoor dining table, grill and yard furniture are located. There is also some asphalt immediately east and north of the building that he is considering removing and he is aware of the site limitations. Chairperson Siepmann asked if the petitioner could work with the Planning and Zoning Division staff if they wanted to put in a patio and remove other asphalt? Mr. Fruth said according to Mr. Davis, it seemed likely that people would spend more time lakeside of the structures and that was part of the thought process as well. Chairperson Siepmann said it would take more discussion than what the Commission should do at this meeting. He said the petitioner has 2 options, approve the motion as it stands or table the matter, work

with the Planning Division staff and come back at a future meeting. Mr. Davis said he would choose for approval of the motion. Mr. Fruth said the petitioner could come in and talk with the planning staff regarding his proposed removal of hardscape.

After discussion, Mr. Morris moved, seconded by Mr. Peregrine and carried unanimously, for approval, as conditioned, in accordance with the “Staff Report and Recommendation”, with revisions to Conditions No. 1 and 3 which will now read:

1. Prior to the issuance of any permits, a Deed Restriction shall be recorded with the Waukesha County Register of Deeds with the following conditions:
 - The cottage shall not be utilized as a rental unit.
 - The cottage shall not be utilized for year-round use. The cottage shall only be used from May 1- October 31 of each year for overnight occupancy.
 - Upon the sale of the property, one of the existing residential structures shall be removed.

3. The northerly summer cottage building footprint shall be limited to the existing building footprint, except that if the Waukesha County Board of Adjustment authorizes the pending variance (BA 130) to allow for a covered entry, as depicted on Exhibit B, said expansion will be deemed acceptable. No decks or patios will be permitted to be attached to or in the vicinity of the northerly summer cottage. No further vertical or horizontal expansions of the northerly summer cottage shall be authorized beyond the improvements depicted on Exhibit B (Building Plans) of the Staff Report and Recommendation.

The approval of this request will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.

• **CU80 (Lad Lake Waterville Homeowners Association), Town of Ottawa, Section 2**

Mr. Fruth pointed out the location of the property in Section 2 of the Town of Ottawa on the aerial photograph. He indicated the request is for land altering activities associated with dredging Waterville Lake in the Village of Summit and the placement of the spoil material on the Lad Lake property in the Town of Ottawa.

Ms. Scherer, Senior Planner, indicated the spoil site is located south of the Glacial Drumlin Trail where it enters the Lad Lake property and west of Waterville Road. No more than 1 acre of the 28 acre site will be utilized for the spoil materials. At the public hearing, a question was asked regarding if the spoils were hazardous as they were concerned about contamination of their shallow well. The Department of Natural Resources deemed that the spoils are non-hazardous for land spreading. The dredged material would be used to fill in a minor depressional area (approximately 3.5 ft. of the 7 ft. depression) on the Lad Lake property. Topsoil would be scraped back to create a berm and then the area would be seeded. Another comment at the public hearing was the possible filtering of sediment into the groundwater and into the surface water. It was explained that because of the type of soils on the Lad Lake property, precautions being taken with berming and that it would be filling in a depression, the material would not be allowed to escape and, therefore, not a concern to the public. The Town of Ottawa Plan Commission approved the request unanimously subject to conditions.

Mr. Morris asked what is the nature of the dredged material and if it was mostly water, to which Ms. Scherer replied “Correct”. Chairperson Siepmann asked where the dredging would take place on Waterville Lake? Ms. Scherer pointed out the location on the aerial photograph, in the southeast corner

where Scuppernong Creek comes into the lake. Chairperson Siepmann asked how would the material be transferred to a truck? Ms. Scherer indicated from a property to the north of the bay to be dredged. Mr. Gotter, applicant, said the dredging process would not be hydraulic but rather mechanical dredging. They would lower the lake and let the sediment material (mainly silt and leaves) dry out and then the mechanical dredger would be working from the north shore, pulling the material out and loading it onto the sealed trucks and transporting it all the way around Waterville Lake on Waterville Road and slightly crossing STH 18 to the Lad Lake property. He referred to Exhibit B of the Staff Report showing the access to the Lad Lake property and the area where the spoils would be deposited. Chairperson Siepmann suggested they contact the Village of Summit regarding the trucking of materials for this project. Mr. Gotter said they had spoken with Ms. Barrows, Village Planner, early on regarding the project. He indicated he would touch base with the Village again. Mr. Morris asked how many truckloads of material would there be? Mr. Gotter replied, approximately 10 yards per truck which would be approximately 300 truckloads. Mr. Morris asked what is the reason for the dredging this particular portion of the lake? Mr. Gotter responded that there are 4 houses which are located in the inlet area and it is very shallow compared to what it normally would be because sediment has built up (approximately 3.5 ft.). Beyond the inlet itself the sediment would be carried further into the lake and then property owners further to the west would be affected by the sediment.

After discussion, Mr. Morris moved, seconded by Mr. Michalski and carried unanimously, for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.

- **PPC22 013 (Mark Schwellinger), Town of Merton, Section 19**

Mr. Fruth pointed out the location of the property W335 N6552 Lakeview Drive and along CTH K in the Town of Merton on the aerial photograph. He indicated the request is for a road right-of-way width reduction and a lot not abutting a public road.

Mr. Fruth indicated the petitioner currently owns 4 parcels which he is proposing to combine and divide into 2, single family residential parcels via Certified Survey Map. Lot 1 would be located to the east, which contains a large area of wetland and high groundwater soils. According to the Waukesha County Land Resources Staff, a home site with septic could be achieved on Lot 1.

Mr. Fruth explained a 3 ft. reduction in a portion of the right-of-way of Lakeview Drive from 66 ft. to 63 ft. and a lot not abutting a public road is being requested. Mr. Morris asked where is the proposed building envelope, to which Mr. Fruth responded that an area had been discussed, but until there is a final resolution of the style of home to be constructed, the groundwater conditions will dictate the location.

After discussion, Mr. Michalski moved, seconded by Mr. Peregrine and carried unanimously, for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.

- **2022 Election of Officers for the Park and Planning Commission**

Mr. Fruth reminded the Commission that since the Park and Planning Commission by-laws were approved in June 2022, the Chairperson, Vice Chairperson and Secretary positions would remain in effect until June 2023, rather than prior elections in October of each year.

ADJOURNMENT

With no further business to come before the Commission, Mr. Morris moved, seconded by Mr. Michalski to adjourn the meeting at 1:47 p.m.

Respectfully submitted,

Richard Morris

Richard Morris

RM:kb