

**TOWN OF BROTHERTOWN
CALUMET COUNTY, WISCONSIN**

**Minutes of Plan Commission Meeting
April 29, 2024**

ROLL CALL

The meeting was called to order by Town of Brothertown (“Town”) Plan Commission Chairman Thiel at 6:05PM. All Plan Commission Members were present.

PUBLIC NOTICE

Secretary Popp confirmed the posting of the open meeting notice. Note: the legal notice was published as a Class 2 notice with insertions on April 11, 2024 and April 18, 2024.

APPROVAL OF MINUTES

A motion was made and seconded with unanimous approval of the March 18, 2024 meeting minutes.

PUBLIC HEARING CONCERNING GREG AND RACHEL PHILLIPS’ CUP APPLICATION

Chairman Thiel opened the public hearing and read the legal notice. Greg and Rachel Phillips briefly described their conditional use permit (“CUP”) application, which concerns the construction of an accessory structure on the Phillips’ property located on Driftwood Beach Road. The Phillips are seeking a CUP in accordance with Zoning Ordinance § 10.3(1) for purposes of constructing an accessory structure that includes a “bathroom group” and other plumbing or running water other than a flood drain.

Following the Phillips’ presentation, members of the Plan Commission addressed questions to the applicants concerning their plans for installation of a bathroom, laundry, and a kitchenette inside the accessory structure. The Phillips explained that their residence is a “small place” and lacks storage and laundry facilities. The Phillips’ builder also discussed the plans and efforts to comply with Town ordinances.

The Commission then received public comment concerning the CUP application. Dan Bloedorn discussed a restrictive covenant that is recorded against properties on Driftwood Beach Road, including the Phillips’, which states in relevant part that “[e]ach Backlot may contain one non-habitable building, one private well and waste disposal.” Mr. Bloedorn noted concerns that the Phillips’ current plans may be in violation of the restrictive covenant on the basis that the accessory structure would become “habitable.” It was noted that granting the CUP could set a bad “precedent” for other properties on Driftwood Beach Road.

After hearing various other comments from the public, Chairman Thiel closed the public hearing. Attorney Jack then reviewed the relevant standards for review of a CUP application. Specifically, he discussed the “substantial evidence” standard and § 15.7 of the Zoning Ordinance, which details the necessary conditions for granting a CUP in the Town.

During their discussion, members of the Commission expressed concern that the CUP would conflict with the restrictive covenant and could expose the Town to legal liability. It was also noted that § 10.4(3)(e) of the Zoning Ordinance prohibits the use of any accessory structure for “human habitation.”

A motion was made to table discussion of the CUP to provide the Phillips an opportunity to discuss the restrictive covenant with neighboring property owners and, as necessary, to (a) amend the restrictive covenant and (b) submit a revised plan for the accessory structure. Members of the Commission also noted that it would be preferable for the Phillips to limit their application to a request for a “bathroom of convenience” and utility sink, and to exclude a washer/dryer, shower, and kitchen so as to avoid facilitating “human habitation” within the structure. The motion to table discussion of the proposal was seconded and the Commission unanimously approved the motion. The Commission will table the application indefinitely until contacted by the applicants to further discuss the proposal.

BUECHEL STONE – SCHOENBORN ROAD PROPERTY DISCUSSION

Jason Hoefler of Buechel Stone discussed the proposed use of a Buechel Stone-owned property at N1891 Schoenborn Road for overnight semi-trailer truck parking and parking for workers’ personal vehicles during the day. Mr. Hoefler explained that Buechel Stone is currently using the site for parking and would like to expand this use. It was noted that the property is zoned agricultural and is not covered by an existing CUP.

Chairman Thiel stated that the proposed use of the property would likely require a CUP. It was also noted that the trucks are owned by entities other than Buechel Stone, which may affect the terms of any CUP. The Commission asked Attorney Jack to review the Zoning Ordinance and advise the Commission on the applicable legal standards.

PROPOSED UPDATES TO TOWN ZONING

The Commission discussed potential updates to the Zoning Ordinance to provide additional clarity and address areas of concern. Kevin Schmitz provided an overview of several such provisions, including provisions related to accessory buildings, recreational vehicles, and non-metallic mining. Mr. Schmitz offered to provide Attorney Jack with a list of the provisions that the Town is interested in reviewing. The Commission asked Attorney Jack to review the provisions and to provide options for potential revisions at a future meeting of the Commission.

UPCOMING PLAN COMMISSION BUSINESS

Chairman Thiel stated that the next CUP renewal hearing will be for the Eden Stone – Paradise Road quarry and will occur in August 2024.

CLOSED SESSION

Chairman Thiel read the closed session notice. A motion was made and approved, on a roll call vote with unanimous approval by Commission members, to convene into closed session. Herein occurred the closed session.

ADJOURNMENT

A motion was made and approved, with unanimous approval by Commission members, to adjourn the meeting at approximately 7:45pm.

Respectfully Submitted,

Anita Popp, Secretary
Town of Brothertown Plan Commission