MINUTES
TOWN OF RHINE PLAN COMMISSION, With Public Hearing
Wednesday, May 10, 2023 at 6:30 PM
W5250 County Road FF, Elkhart Lake, WI 53020

Join Zoom Meeting
https://us06web.zoom.us/j/88327280724?pwd=cCtNQ3B6ejc0bUF5MncvWExvRnV4UT09

Meeting ID: 883 2728 0724 Passcode: 519945

Present: Paul Boocher, Christa Johanson, Joanie Fiorenza, Mark Pfaller, Bill Jacob
Also Present: Amy Weber, Lexann Hoogstra

Call to order and compliance with open meeting requirements: Called to order at 6:30 pm by Bill Jacob. Meeting was published and posted as required. Media was notified.

1. Pledge of Allegiance:

2. Approve minutes of the March 22, 2023, 2023 meeting: Motion to approve minutes as presented by Johanson. 2nd by Pfaller. No discussion. All in favor.

3. Public comments of a general nature (other than items on the agenda): None.

4. Discuss and possibly act on the application of Michael Stauber of W4749 Garton Road, Plymouth, WI to rezone part of parcel 59018260530, located at W4749 Garton Road, Plymouth, WI from A-1 to B-1. The portion to rezone would be 1.61 acres out of the current 36.61 acres.

   Public Comments: None.

   Consideration by Plan Commission:

   Pfaller asked if it is approved, will a new survey be required to show the proposed division. Jacob explained that it would be required by the Town Board if necessary, if and when approved by the Town Board.

   Pfaller asked Stauber if he has contacted County Planning about his request. He has talked with them before when he put up his building.

   Johanson about the drawing, which buildings are for storage, etc. Boocher asked for clarification about a building permit for the extra building he uses for the business. It was considered an accessory buiding at the time.

   Jacob explained one consideration that comes into play, which is a matter with the town's long range plan.
   At one time, there was discussion on establishing a business corridor along highway 57.

APPROVED

Kevin Struck worked with the town on its LRP. He addressed the Commission. The LRP was updated in 2019. Boocher asked if the public was surveyed in 2019 about the LRP. It was not. He believes it is time for a new survey of the public.

Kevin Struck explained that an update to the LRP was completed in 2019 via addendum. He gave a review of that addendum. A possible business corridor along highway 57 was discussed at that time. A business corridor could be allowed IF it meets certain standards. (Review in file.) Those were reviewed. Those standards should be kept in mind when making a decision. The requested rezone is slightly outside of the previously discussed corridor. However, it could be decided that it is within the spirit of the corridor.

The current area of the proposed rezone is not currently ag land. It is substantially wetland that goes through the parcel, so prime ag land would not be taken out of production if the requested rezone were to be granted.

Boocher thanked Struck for his work and for the written explanation he provided. He also mentioned
Previous discussion on the LRP and possible business corridor and how to interpret that.

Jacob asked what other townships use for distance off of 57. He said it's typically ¼ mile from the highway.

Boocher spoke more about the email from Struck regarding the State Highway 57 corridor (in file)

Jacob explained why discussion on the proposed business corridor is essential to the decision making on this application

Johanson mentioned that the accessary building is used in part as storage for the business. Under ag zoning, it is permitted to store items of ag or personal nature. However, it would not be permitted to store items pertaining to his business venture. If he wants to keep the ag land zoned as ag, he would have to comply with ag requirements. Also, per the testimony of Mr. Horneck at a previous CUP meeting, there is firing of guns on the property. She does not think this would be a permitted use in a commercial district. A B2 zone could be more appropriate due to noise issues. She also mentioned public nuisance ordinances and how they might apply to this business. 2.02 (1) (b) and 2.02 (4) (i). She has no problem in rezoning to business as long as permitted uses and regulations in a business zone would be adhered to. A firing range could not be added to the business. Only permitted uses would be allowed on a new commercial zone.

Jacob explained that if the rezone is granted, then a CUP might still be required. Johanson reviewed permitted and conditional uses under a B1 zone. Currently there is nothing under conditional uses that would allow discharge of weapons commercially.

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Jacob noted if the rezone is granted, then the buildings are subject to state commercial building requirements.

Boocher visited the site yesterday. He asked if any of the retail items are stored in other places other than the accessory building. Stauber explained where the resell items, ammunition, etc. are stored. All gun-related items are in the accessory building.

Boocher commented on the noise issue as well. He lives near turn 14 at Road America. He is familiar with business-related noise.

Jacob noted that the shooting which occurs is done within legal requirements.

Fiorenza thinks the noise issue could be handled under a CUP. Christa explained why you can't apply for a noise-making conditional use.

Stauber explained he does not allow customers to shoot on the property. He isn't insured for that. No one shoots on the gun shop property. He does allow people to hunt on his property if they request. He does not repair guns. It's a separate liability issue. Customers do not shoot on his property. Only himself and his family. He explained that trap shooting takes about 15 minutes for a round of trap shooting.

Fiorenza asked if shooting would be done on the new rezoned area if granted. It would not be.

Pfaller thinks this is very benign. Shooting happens all over this county. Stauber estimates he has 2 to 12 customers per day.

Committee members reviewed the rezone requirement form/checklist.

Motion by Fiorenza to recommend that the TB approve the request 1.6 acres from rezone from A1 to B1. 2nd by Pfaller. Roll call vote: all in favor.

The application will be forwarded to the Town Board meeting for final voting.

Chairman's Comments: The town is always looking for ways to get better and improve, per Jacob. He expressed appreciation for commission members and for the help of others who work together to improve things and procedures.

5. Old/New Business: Joan Fiorenza – Review and discussion on Zoning Handbook, forms and procedures, with possible recommendation(s) to Town Board regarding this.

Fiorenza has attended recent webinars about zoning. She gave a brief history on what she has learned at these training sessions. She is addressing the issue of whether a zoning administrator is needed/required or not. The town does not currently have an official zoning administrator.

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She brought up Town of Rhine vs Bissell which went to the Supreme Court years ago. The town lost a substantial amount of money in that case. (Manitowoc Off Road Vehicle Club)

Pfaller asked how that relates to the positon of a zoning administrator. She reviewed responsibilities of a zoning administrator. And the necessary knowledge and abilities for this position.

If we had a zoning administrator, that case would have never gotten to the Supreme Court of the State of Wisconsin. She stated the town is under a burden of money due to the fire department loan. The town does not want to raise taxes. But the town is not fulfilling services nor properly executing responsibilities. She mentioned dividing up the duties of the zoning administrator.

She asked if there is anyone who could be recommended for this position? She has had discussions with building inspectors regarding this. Rezoning is a tough job. She noted that Jacob and Platz have taken over pre-interview applications.

Jacob doesn't think it's logical and fair to say that the town would not have been sued if there had been a zoning administrator. He also stated that the Plan Commission responsibilities are being spread out among several people. Platz and himself meet with applicants to review their situations before an application is accepted. Procedures, ordinances and options are explained to them. The town does not even have a full time clerk, so how could the town consider a full-time zoning administrator? Fiorenza said education is required. She brought up a recent application for a rezone and CUP and that it was not handled properly.

Jacob explained how applications and requirements are reviewed with all applicants. Zoning administration in our time has to be a time effort. He stated the need for the commission members to review applications before the meeting. He felt that possibly more definied procedures are needed, not a zoning administrator. Fiorenza wants procedures to be written and documented.

Kevin Struck sort of volunteered his services at no charge to the town. He has written a handbook on this. Jacob also said it's not his task or responsibility, it's the town's task.

Fiorenza asked if the loan to the village has ever been reconsidered. That is her next question to the board.

Boocher has also researched the need for the town to have a zoning administrator. He has atteneded at least 6 seminars on this. No where does it say a zoning administrator is required. He also noted salaries he has found for that position when researching. Jacob does not feel the town is in a position to hire a zoning administrator. Boocher agrees as we have a building inspector, a plan commission, a town attorney.

Jacob noted that written procedures could help ensure consistency. Boocher replied that the town has made huge progress in this over the last few years.

The application and instructions have been updated in the past. Jacob would be willing to have a sub-committee review this. Some procedures may require going to the ordinance committee first, then to the town board.

Fiorenza is not happy with the decision making form currently being used. Boocher stated that Stauber's application was completed very thoroughly.

APPROVED

Fiorenza asked how not to inundate the clerks with all of this. She brought up the Girard application for a rezone and CUP several times and feels that it was mishandled. She brought up the number of public comments and that the applications were incorrect. Heated discussion followed briefly.

Pfaller noted that at first this might be a good idea to have a zoning administrator. As he has considered it, he realizes how much the town has progressed and improved and what has been accomplished over the past few years. Things are being handled well and professionally now. Success continues. He does not feel a need for a zoning administrator. He believes the process is good and works well.

Kevin Struck asked to address the commission. Ideally a zoning administrator would be good, but it's not realistic. He thinks the town is making steps in the right direction. This might be the first meeting he has attended where the chairman went through a decision checklist. That is an excellent procedure. He suggested making a checklist so anyone can go through it. It's good to attend seminars and training. These are all good things and steps in the right direction.

He thinks there was another court case in the town of Rhine. It could have happened in any town. It involved permitted vs conditional uses.

Johanson made a recommendation for anyone on the committee who has the time to make recommendations for improvement/procedures for a fair outline and possibly appoint a sub-committee but there should be guidance for that committee. Any one who is so inclined could submit ideas/suggestions for the sub-committee. They should narrow down which area to focus on first.

Jacob noted that this is the clerk's last week. He acknowledged her many contributions to the Town of Rhine and to the Plan Commission over the years. He would like this to be in the minutes.

6. Next meeting date: (as needed)

7. Adjournment: Motion to adjourn at 8:01 pm by Boocher. 2nd by Johanson. All in favor.

Lexann Hoogstra
Clerk/Treasurer

APPROVED

Please note, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact the Town of Rhine at (920) 876-3413 or clerk@tn.rhine.wi.gov.