

1 PLAN COMMISSION MEETING MINUTES
2 WEDNESDAY, JUNE 24, 2015
3 Sister Bay Village Hall – 10693 N. Bay Shore Drive
4

5 The June 24, 2015 meeting of the Plan Commission was called to order by Chairperson Dave
6 Lienau at 5:39 P.M.

7
8 **Present:** Chairperson Lienau, and members Shane Solomon, Scott Baker, Don Howard, Marge
9 Grutzmacher, Eric Lundquist and Nate Bell.

10
11 **Others:** Pat Duffy, Brandon Small, Attorney Charles Koehler, and Denise Bhirdo.
12

13 **Staff Members:** Village Administrator Zeke Jackson, Village Attorney Randy Nesbitt and
14 Consultant Robert Kufirin.
15

16 **Comments, correspondence and concerns from the public:**

17 Lienau asked if anyone wished to comment regarding a non-agenda item. No one responded.
18 He then noted that no new correspondence had been received.
19

20 **Approval of the agenda:**

21 *A motion was made by Grutzmacher, seconded by Baker that the Agenda for the June 24,*
22 *2015 meeting of the Plan Commission be approved as presented. Motion carried – All ayes.*
23

24 **Approval of minutes as published:**

25 **As to the minutes for the April 28, 2015 meeting of the Plan Commission:**

26 *A motion was made by Baker seconded by Grutzmacher that the minutes for the April 28, 2015*
27 *meeting of the Plan Commission be approved as presented. Motion carried – All ayes.*
28

29 **Business Items:**

30 **Item No. 1. Consider a motion to proceed to public hearing to change the language of the**
31 **Zoning Code as it relates to the B-1 General Business District and allow quarries as a**
32 **conditional use:**

33 **Item No. 2. Consider a motion to proceed to public hearing to approve a Development**
34 **Agreement and Conditional Use Permit for the Sister Bay Properties, LLC quarry located at**
35 **2581 S. Bay Shore Drive:**

36 The zoning history of the quarry property located at 2581 S. Bay Shore Drive goes back
37 decades and pre-dates the approval of the original Zoning Code, which occurred in 1974. The
38 very first Zoning Code did not permit quarries, so the quarry operation at 2581 S. Bay Shore
39 Drive was deemed to be “a pre-existing non-conforming use”, and was grandfathered.
40 Originally there was a very low level of rock removal being conducted at the quarry. Around
41 2006 the quarry was sold, and since Village officials determined that the rock removal
42 operation had not ceased, it was still considered to be “a pre-existing non-conforming use”.
43 After the quarry was sold the level of rock removal increased dramatically, and the neighbors
44 began complaining about dust, noise and blasting operations. By April of 2008 the dust, noise
45 and blasting complaints were referred to the Village Board, and the Board subsequently
46 authorized the Village Attorney to take formal legal action against the owner of the quarry. The
47 Village Attorney eventually took the owner of the quarry to court in an attempt to shut the
48 quarry down, but the Judge who heard the case ruled that the violations were not serious
49 enough to warrant such action and directed Village officials to mediate the dispute. There were
50 a series of mediation sessions conducted, and they resulted in a draft Memorandum of

1 Understanding being prepared. By August of 2012, Brandon Small, the son of the man who
2 owns the quarry, had developed a specific proposal for the operation of the existing quarry and
3 asked that he be allowed to expand the quarry operations onto an adjacent parcel. The matter
4 was referred to the Plan Commission, and the Commission members eventually requested that a
5 series of talking points be prepared with respect to this issue. That document was prepared, and
6 Brandon Small met with the Plan Commission in May and September of 2013. A number of
7 citizens attended the meetings at which the talking points were addressed, and they provided
8 input on the issue. Small was eventually instructed to contact Kufrin when he was ready to
9 present a new proposal which addressed the comments which had been made by the
10 Commission members as well as neighboring property owners. In June of 2014 Small did
11 present a new proposal, but Village officials determined that there were a number of issues with
12 the proposed language. Since that time there have been numerous versions of different
13 proposals exchanged between the parties, and finally, by May of 2015 a revised Development
14 Plan was submitted by Small. That document was included in the meeting packets. Basically
15 Small is proposing that he be allowed to operate an expanded dimension stone quarry in the
16 Village for ten years, at which time the operation will cease and the land will be reclaimed. His
17 proposed Reclamation Plan would have to be approved by the Door County Soil & Water
18 Department. If the Plan Commission determines that Small's proposal has merit, Zoning Code
19 amendments which indicate that a quarry will be allowed as a conditional use in the B-1
20 District will be required. A Development Agreement would also have to be approved. Before
21 any of that can occur public hearings will be required.

22
23 Kufrin noted that drafts of an Ordinance which amends the Zoning Code as well as a
24 Conditional Use Permit/Development Agreement and an applicable Resolution were included
25 in the meeting packets, and the Commission members jointly reviewed all of that
26 documentation.

27
28 The Village Attorney, Randy Nesbitt, indicated that from a legal standpoint, whenever an
29 application is submitted the Village has an obligation to consider that application and allow the
30 applicant to be heard. If the determination is made that the application is complete it must be
31 considered, but if the determination is made that the application is not complete, the applicant
32 must be informed of what is missing. Because a law suit is pending against Sister Bay
33 Properties, LLC, and the Judge issued a Mediation Order, it is quite likely that the Village would
34 have a very difficult time prevailing in Court if Small's new application is not considered.

35
36 The question arose as to whether or not new application fees could be imposed, and Nesbitt
37 responded that since it is a continuing process he would not recommend that any additional
38 fees be charged. Of course, before the matter proceeds to public hearing a determination
39 should be made that all applicable fees have, in fact, been paid.

40
41 Kufrin noted that to his knowledge no Zoning Code text change or Conditional Use Permit
42 Application fees were ever imposed since the matter was still being negotiated.

43
44 Attorney Charles Koehler, who represents the Small family, indicated that he believes all the
45 required conditions are contained in the documentation which was included in the meeting
46 packets, and he is recommending that the matter proceed to public hearing. There seems to be
47 considerable value in having a ten year time limit on the quarry operations, and the Smalls
48 basically "want to make peace".

1 *A motion was made by Solomon, seconded by Grutzmacher, that the Plan Commission shall*
2 *proceed to public hearing on Brandon Small's request to change the language of the Zoning*
3 *Code in such fashion that quarries are allowed as a conditional use in the B-1 District. That*
4 *hearing shall be conducted at 5:30 P.M. on Tuesday, July 28, 2015. Motion carried – All ayes.*

5
6 *A motion was made by Bell, seconded by Baker that if the Plan Commission approves Brandon*
7 *Small's Zoning Code text amendment request, a public hearing shall be conducted on Small's*
8 *request to approve a Development Agreement and Conditional Use Permit for the Sister Bay*
9 *Properties, LLC quarry located at 2581 South Bay Shore Drive. That hearing shall be conducted*
10 *at 5:30 P.M. on Wednesday, August 26, 2015. Motion carried – All ayes.*

11
12 **Item No. 3. Consider a motion to grant an Accessory Use Permit to Paul VanderMaazen of**
13 **10397 STH 57 for placement of a fence in a front yard:**

14 Jackson indicated that Paul VanderMazzen has requested that he be allowed to place a fence in
15 the front yard of his residence located at 10397 STH 57. The Zoning Code does not allow
16 fencing in the front yard unless the Plan Commission grants approval. VanderMazzen would
17 like to install an 8' fence on top of already existing berms which surround his garage as he
18 believes the fencing would help eliminate highway noise and allow for more privacy.

19
20 *The Commission members indicated that before making a decision on this issue they would like*
21 *to see further information regarding the specific type of fencing VanderMaazen would like to*
22 *install.*

23
24 **Item No. 4. Consider a motion to grant preliminary approval to Harbor View, LLC, for**
25 **development and CSM plans for the Old School Property at the intersection of STH 57 and**
26 **STH 42:**

27 Preliminary Site Plans, Utility Plans, Grading and Drainage Plans and drafts of two CSM's
28 which were submitted by Harbor View, LLC for the Old School Property at the intersection of
29 STH 57 and STH 42 were included in the meeting packets, and the Commission members
30 jointly reviewed all of that documentation. Basically the developer is requesting that his land be
31 rezoned from R-2 Multi-Family to R-2 with a Planned Unit Development (PUD) Overlay.
32 (Because of the property's close proximity to the highway, D.O.T. setback requirements must
33 be satisfied for subdivisions consisting of five or more lots, but if both CSM's are approved one
34 parcel will contain four lots and the other will contain three.) The seven lots would be served
35 by a 24' wide private road, and public sewer and watermain would be installed within a
36 proposed 54' ingress/egress and utility easement, but three of the lots will be considered an
37 outlot and will not be developed for five years. If the PUD is approved there will be departures
38 from the normal R-2 District standards. (Normally a minimum lot size of 20,000 square feet and
39 a minimum lot width of 75 feet is required; a minimum front yard setback of at least 40 feet
40 from the edge of an easement or the edge of the pavement is required; a minimum rear yard
41 setback of at least 30 feet is required; and all dwelling units must be served by public streets.
42 Jackson also does not believe adequate drainage has been provided. He did send Al Gokey a
43 letter concerning all the compliance issues which had been identified.)

44
45 *A motion was made by Grutzmacher, seconded by Howard that the Plan Commission*
46 *members would like to see plans depicting a five lot subdivision on the Old School Property,*
47 *and would also like to see the private road depicted on those plans converted to a public road.*
48 *Further, they would like to see all the compliance issues which are mentioned in the letter from*
49 *Zeke Jackson to Al Gokey addressed to Jackson's satisfaction. Motion carried – All ayes.*

1 **Item No. 5. Consider a motion to discuss the role of the Plan Commission in future economic**
2 **development:**

3 Grutzmacher stated that she is concerned that some recent construction/development projects
4 weren't referred to the Plan Commission for review and approval. In the past that always
5 occurred. Specifically she is referring to the construction of the Performance Pavilion,
6 expansion of the beach, creation of the sledding hill, and remodeling of a couple of businesses
7 in the Village, as she believes a change of use occurred.

8
9 Lienau responded that there never was an intention to slight any of the Commission members.
10 The former Administrator, Bob Kufrin, informed him that it was not necessary to refer the
11 Performance Pavilion plans to the Plan Commission as that project fell under the purvue of the
12 Parks Committee. (The Parks Committee is charged with making recommendations to the Board
13 with respect to any improvements which are made on Village owned property.) He also noted
14 that the Performance Pavilion Construction Project, the Beach Expansion Project, and the
15 Sledding Hill Project were addressed at a number of Parks Committee and Village Board
16 meetings.

17
18 Discussion took place regarding the definition of "change of use", and during that time Jackson
19 noted that Village officials have informed him that they want the Village to be "business
20 friendly" and do not want to make business owners "jump through hoops". Therefore, he only
21 makes new business owners come before the Plan Commission if a specific business operation
22 is not delineated as being permitted in the Zoning Code.

23
24 Several of the Commission members pointed out that quite often citizens ask them about recent
25 development in the Village, and at the very least they would like to be informed of what is
26 going on. Jackson promised to make a concerted effort to do that in the future. To that end he
27 will provide development/project/construction status reports at the monthly Plan Commission
28 Meetings.

29
30 **Item No. 6. Consider a motion to convene into closed session pursuant to Wis. Stats.,**
31 **§19.85(1)(g) to confer with legal counsel, who either orally or in writing will advise the**
32 **governmental body on a strategy to be adopted with respect to current or likely litigation:**

33 **Item No. 7. Consider a motion to reconvene into open session:**

34 **Item No. 8. Consider a motion to take action, if required:**

35 None of these agenda items were addressed.

36
37 **Item No. 9. Report by the Zoning Administrator regarding development activities, various**
38 **enforcement actions, and issuance of Sign and Zoning Permits:**

39 Jackson noted that he didn't have anything further to report.

40
41 **Item No. 10. Discussion regarding matters to be placed on a future agenda or referred**
42 **to a committee, Village official or employee:**

43 There were no matters to be placed on a future agenda or referred to a committee,
44 Village official or employee.

45
46 **Adjournment:**

47 *A motion was made by Grutzmacher, seconded by Howard to adjourn the meeting of the Plan*
48 *Commission at 8:42 P.M. Motion carried – All ayes.*

1 Respectfully submitted,



2
3 Janal Suppanz,
4 Assistant Administrator