



Village of River Hills
7650 N Pheasant Ln
River Hills, WI 53217

Village Hall: 352-8213
Public Works: 352-0080
Police: 247-2302

PLAN COMMISSION MINUTES

Tuesday, April 27, 2021 @ 4:00 pm

This meeting was a virtual meeting through Zoom – Meeting code 946-6692-0085

1. Call to Order.

The meeting was called to order at 4:01 p.m.

2. Roll Call.

The following members were present: Chairman & Village President Steve Anderson, Peter Stanford, Jeffrey Costakos, Bernard Cohen, Michael Weiss, Don Daugherty, Trustee Willard Walker, and Village Engineer Mustafa Emir. Charles Stewart resigned from the Commission. Also present: Village Attorney Bill Dineen, Bob Boucher, Peter Thornquist, Alan Marcuvitz, Carolyn Esswein, Village Manager Tammy LaBorde, and Village Deputy Clerk Stephanie Waala.

3. Approval of minutes from December 7, 2020

Motion by Cohen and seconded by Costakos to approve the December 7, 2020 minutes; motion carried unanimously.

4. Discussion and Possible Action to Review and Make recommendation to the Village Board Regrading Request to Amend Village Zoning Code Related to Solar Energy Systems

Attorney Dineen presented information regarding proposed ordinance to address solar energy arrays. The ordinance moves the issue of how to address arrays to the Building Board. It is being included as an accessory use. There is a state statute that has interplay in this matter. The question of an array has to take into consideration the state statute. The question is how to best address this. He reviewed the model ordinance as well as ordinance from other communities. He felt we should address how arrays are seen from the outside area. Looking for a recommendation to include as part of a zoning code. The Village Board would approve it in its final form following a public hearing. Costakos asked how had solar panels been handled in the past. Dineen responded that panels put on the roof structures were approved by the Building Inspector, more recently there have been requests to have stand-alone arrays as accessory structures. A few of the arrays have been in the setback area which required a variance from the Board of Appeals. This has become an issue because some of the arrays are now visible to their neighbors who don't find them aesthetically pleasing. There is no easy answer to addressing the screening of the stand-alone arrays. Cohen stated that the Village should endorse alternate energy. He would like to see a statement to that affect in the beginning of the ordinance, but what if someone wants to put up a windmill to generate electricity. Dineen stated that the Village could include an endorsement statement, it's not necessary but is permissible. He is not sure how to answer the windmill or wind turbine question in a residential area, he doesn't think that it would be permissible on a residential lot and can't answer that question. Weiss asked about size limitation – there is nothing in the

PLAN COMMISSION MINUTES – APRIL 27, 2021

ordinance at this time. Dineen stated that if the Building Board could figure out landscaping to hide all of that, it's possible, but you would need a permit from WE Energies as well, and doesn't have the technical background to answer the question. He stated that theoretically speaking there is no size limit. Weiss asked about the landscaping language – do we expect the person to prevent seeing the array? Dineen stated that this would be on a case-by-case basis – the location, the size, the outlook from the neighbors, etc. There are some communities that require conditional use permits for the solar array, which would require the applicant to go before the Village Board for approval. Trustee Walker stated that many people are serious about respecting the rights of property owners in the Village and that the Robbins' should not have to look at a solar array. Every type of scrutiny and care should be taken so that doesn't happen – fine to have solar arrays but doesn't want to look at them. This ordinance when properly administered can work. Cohen asked how many properties currently have solar energy panels – how many are free-standing or up on a roof and does the Commission have to act today. He agrees that arrays shouldn't infringe on others. LaBorde stated that there are three properties with free-standing arrays – on River Road, off Brown Deer Road, and at the corner of Pheasant and Dean. There is no information as to panels attached to a roof. Cohen stated that he didn't think it necessary to have panels go to the Building Board for approval. Dineen put in the draft that these items should go to the Building Board – the Plan Commission and Village Board can change that.

Weiss stated we should have a size limitation for the array in the ordinance and the looseness of the term “significantly increased cost” is problematic. Should we put a number in for landscaping that is a percentage of the cost of the system. Dineen stated those are good suggestions; however, the state statute has that wording. If we didn't have the state statute the draft would be different. He doesn't know how far we can go. Dineen stated that in limiting the square footage – he would need to know how to come up with the formula for this. Perhaps we can get expertise from WE Energies, etc. Dineen has given a method of the Building Board addressing this on a case-by-case, as no one at the Village has this expertise to come up with a one size fits all ordinance. Weiss asked about intent – he assumes that people want solar arrays for their own private purposes so limit to a size that is limited to what is needed for the powering of the home. Cohen stated that you can get those details from WE Energies and get the average consumption and phrase that the size should not exceed that which would be required to supply the equivalent energy in the proceeding calendar year. Mr. Robbins (1050 W. Calumet Road) discussed his situation – multiple arrays and that you can see the arrays all the time during winter and summer, and discuss where the arrays are placed. Dineen stated that everyone should contact the state legislature to fix the state statute. President Anderson asked if we can put guidance in the ordinance so the Building Board and Board of Appeals know what to consider. Daugherty stated that we need expertise to put the specifics into the ordinance. Weiss stated that he is open to a resident having enough of a solar array to be off the grid. Weiss asked that the Committee on the Environment review this and come back. Cohen stated that someone needs to know about the technology and be aware of changes in technology in several years. He also wanted to know how big a solar panel is.

Motion by Weiss and seconded by Stanford to refer the draft ordinance to the Committee on the Environment to consider the situation and provide advice, counsel, research as to the technology, thought process and return with a solution and with specific language that works for the ordinance to the Plan Commission as soon as practicable and that all applications for solar energy should be tabled until the ordinance is addressed; motion carried unanimously.

5. Discussion and Possible Action to Review the Recommendation to Amend the Powers of the Board of Appeals in the Village Zoning Code

Attorney Dineen provided information regarding an issue that is considered housekeeping. Included with the Plan Commission's packet was a draft ordinance he was recommending. SEWRPC helped to recodify the Zoning ordinances years ago and this language was accidentally removed from the code of ordinances; they made a change that they weren't supposed to make. He had requested that this be taken care of in 2007, but for some reason it was not. Weiss asked if this would affect the Board of Appeals in any way. Dineen stated the Village Board doesn't want the Board of Appeals to review decisions and make decisions as if it were the Village Board. SEWRPC dropped the two provisions that he is recommending out of what was in our ordinances. This puts the ordinances back to what the Village Board originally intended.

Motion by Costakos and seconded by Daugherty to recommend that the Village Board adopt the proposed ordinance; motion carried unanimously.

6. Update on property along Brown Deer Road.

President Anderson provided several goals for the property: 1) Important to do what is in the best interest of the long-term for the village and its residents; 2) Any development must be made with the best practices applicable to the situation particularly environmental; 3) the development must keep the village financially sound and the development must be high-quality design, materials and every other way; 4) if there are homes, they must be single-family and owner occupied.

Carolyn Esswein was present. Her most recent plan was presented on the screen shared by the participants on Zoom. She stated there were several meetings regarding the process of reviewing the drawings. She also works with Corvias who works with MMSD to fund green infrastructure. For the conservation area - Corvias has selected this project to move forward which means they will pay for design engineering of constructed wetlands and other green infrastructure for the property as well as construction of the green infrastructure. There will be a check at the 30% design engineering to make sure all want to proceed. There is a conservation easement for eleven years that is required. They are working on the scope of the project and will select a design team who is selected to work with the Village. If the Village wants trails, additional landscaping, access to the site design, that would be up to the Village to pay for. It is called the Fresh Coast Protection Partnership.

Mustafa the engineering side – standing by pending some decisions. They are prepared to open discussions with DOT regarding roadway access, the city of Mequon to bring water from the north, have not made any official overtures to the city of Mequon, however they are aware of the possibility.

LaBorde provided a financial update. She stated that a lot of the financial information has already been provided by Ehlers & Associates. When looking at 60 to 70 units with an area of conservancy, there could be an estimated \$40.5 million generated in increment created and property value added to the tax base. The levy limit would increase and the estimated property tax relief of \$28.20 per \$100,000 of equalized value. These amounts would be available once the TID closes which is estimated to take place in 2032. There are a number of years where increment generated would cover the debt service. No development – the property was put to a \$0 value as of 1/1/21 – no taxes generated on this property. By 2032, estimating taxes to increase 6% to 10%

PLAN COMMISSION MINUTES – APRIL 27, 2021

over time to cover services. Debt service in 2030, there is a balloon payment of \$1.8 million, the Village would have to pay off this debt. Average annual debt for the TID is \$250,000 per year and would probably have to refinance that amount. Expenses to date – we have spent an estimated \$311,000 to date - \$155,000 for legal, \$31,000 for property taxes for 5 parcels, \$8,000 for planning, \$74,000 for engineering, \$24,000 for public relations/mailings, \$16,000 for financial advisors and creation of TID, and \$750 for general property maintenance.

Weiss reviewed the Esswein plan. There is a split in the land where 28 acres are for conservancy and 25 acres are for 60 single-family units from 2,000 sq. ft. to 2,500 sq. ft. – one story with two-car garage. Possibly marketing to 55 and older. There are wetlands that exist on the property that will be protected. Weiss stated that the working group had been charged to create a hybrid that can accomplish two goals: 1) significant environmental preservation and activity, and 2) economic development or increased tax base for the Village. This accomplishes both things. More than half the land is set aside for preservation. Sixty units ought to generate over time approx. \$40 million in tax base. Costs aren't going down; they are going up. He believes this is achievable. In preliminary discussions with developers, they like the site and think there is a market for this. He believes we are on the right track. For tonight, the idea was to update the Plan Commission on the big picture and get some comments. Probably be in a position by May to come back with more details for more of an approval-type meeting.

President Anderson stated there has been a lot of progress in the last few months. The steps are to bring together more detail at the next meeting.

Richard Stone (1965 W. Fairy Chasm Rd.) stated he was confused. He has seen no indication of the green space plan from Peter Thornquist and Bob Boucher. Anderson stated that they were going to find a way to finance what they wanted to do. Stone stated that the Knowles-Nelson grant was being worked on by Ted Knight.

Peter Thornquist (1405 River Road) - They proposed to take entire farm, and floated option of keeping some land back along Greenbrook. Outlined all of this in December. At the meeting, they were asked to develop their ideas and look into fund raising. Bob Boucher and he worked on this for quite some time. They met with Ozaukee/Washington County Land Trust and had discussions with them to take title to the land. They also explored cooperation with MMSD Green seems and also with Milwaukee Audubon. Applying for Knowles-Nelson is something the Village has to do and has to want to do it. There were no meetings of the Plan Commission since December and met with the subgroup regarding the area. They were told that there is no interest in the whole parcel as a natural area and not interested in polling the village. Much of the money had already been spent. When they contacted OWLT, they were not interested in managing a 50/50 conversation development. It also became clear that it was not very likely for them to get any grant as it is very competitive. The deadline is May 1st. With a month to go, they wrote the Village and had Ted Knight commit to writing the grant. First the Plan Commission would have to meet and then bring a recommendation back to Village Board but was not possible with the time left. Knowles-Nelson is off the table.

Bob Boucher (9070 N. Range Line Road) - No point in writing a grant unless the Village would endorse the grant or to solicit money from benefactors.

PLAN COMMISSION MINUTES – APRIL 27, 2021

Trustee Walker stated that he has respect for your passion. It just seems that you are upset that the Village hasn't given the land to you. The Board has fiduciary responsibilities. The plan that has just been presented is as perfect as it can be in that it addresses competing interests, respects views of people along Spruce and Greenbrook, and takes his hat off to the work that has been done. He resents the implication that you have been dealt with in anything but good-faith.

(Trustee Walker left at 5:30 p.m.)

John Machulak (1400 W. Good Hope Road) thinks that Peter and Bob have acted in nothing but good faith. They presented a letter to Knowles-Nelson for the grant. Outside of the one letter, there hasn't been a polling of the Village or any alternative plan presented.

Stone stated he plans to poll the village residents to see what they want to do with the land. Whatever facts the Village can provide will be helpful.

Bob Boucher – stated that there was no agreement from the Village to accept the money for the land.

President Anderson stated it would depend upon the terms of the agreement. The Village has to be able to have funding to pay the debt off as well as pay for the services that we provide. We estimated a 6-10% increase in taxes which some people can afford and others cannot. He stated that the Village did hold back with moving forward but did not stop looking into options.

Ted Knight (1447 W. Fairy Chasm Rd.) - did volunteer to write a grant for the Village. Doesn't like the idea of walking away from free money. He asked what amount would be needed to be raised for the property. He also stated that it's hard to fund raise for something when you don't know how much you need. The Village needs to do a better job of informing residents why this amount of tax base is needed with a development that is not with the characteristics of the Village. He would like to know where else in the Village we have homes on 0.35 acres.

President Anderson noted this is a development with incredible opportunity with more than half of the property in the conservancy where the collection of water at the head of Fish Creek has been a concern of this group. Strong environmental practices and maintains the tax base to provide services that our residents expect.

Weiss stated if ready in May, have a meeting that presents more information for the Plan Commission to work through.

There was discussion as to asking Corvias to have their schedule be in line with the Village.

President Anderson suggested that the Plan Commission continue to look at options but to seriously consider the option presented this evening.

Boucher asked about the Corvias project. Esswein stated that Corvias does not purchase the land, they pay for the design and construction of the project and maintenance for two years.

PLAN COMMISSION MINUTES – APRIL 27, 2021

Larry Boyer (9365 N. Pheasant Lane) - Had several questions which responses should be provided to the Village and the Committee on the Environment - What is the final cost of the property, what is the estimated final cost for the planning, what is the estimated dollar goal for the Village – what is the Village trustee’s goal on finances coming from this property that are to be used for alleviating taxes or providing infrastructure or whatever that may be, and what would the potential yearly input of said project be over the next 25 years what is the Village going to see because then someone who is asking a donor or a group to commit funds knows what kind of dollars are needed. The second thing would be is that you are spending money to create a conservancy area, when if you keep a lot of the landscaping there it is already there.

Weiss stated the Commission should anticipate a meeting later in May. Cohen asked if there is any way to get the survey information by then. If there are other proposals it could be brought forth at that meeting.

Kieran Donohue (1155 W. Dean Road) - this looks more like a progress meeting for one plan. Are there other plans other than 100% conservation? Have we looked at two-acre lots? He is very concerned and doesn’t think people know what the goals are. What is the tax impact, what did the farm pay before, or is it to increase the tax base? It seems like the development path for a large housing development that is completely out of place in River Hills. Is the Planning Commission going to bring forth something different so that people can vote on it?

7. Schedule Next meeting date – No date was set.

8. Adjourn

Motion by Weiss and seconded by Daugherty to adjourn meeting at 6:05 p.m.; motion carried unanimously.

Submitted by Tammy LaBorde, Clerk and Stephanie Waala, Deputy Clerk, on May 5, 2021.