

Town of Merton
Plan Commission Meeting
Minutes of January 4th, 2023

- Meeting Called to Order by Acting Chairman Siepmann at 5:58 p.m.
- Pledge of Allegiance led by Acting Chairman Siepmann
- Minutes of the December 7, 2022 Public Hearing & Plan Commission Meeting. A motion to approve both of the minutes was made by Morris/Jensen. Motion carried.

Present: Acting Chairman Siepmann, Commissioners Griffin, Jensen, Morris, Queoff, and Good, Planner Haroldson, and Deputy Clerk Claas

Absent: Chairman Klink

Also Present: Craig Caliendo, Dan & Pam Christiansen, Richard Stalle, Erv & Bonnie Woller, Liz Tobolt, Joe Donovan & Jim Fleming

Old Business: None

New Business:

Land Altering Conditional Use Permit - To Conduct Land Altering Activities Associated with the Construction of a Single Family Residence – Requested by Craig Caliendo on behalf of Castoro LLC, Tax Key MRTT0395-979 – Morris asked Greenberg to reiterate what the Plan Commission would need to approve. Greenberg stated the Plan Commission would make a recommendation to the County Plan Commission for the grading plan and advancing any conditions that would be appropriate. This is not to discuss the setbacks of the home, the size of the home, the height of the home, or impervious surface because it is compliant on all of those things.

Morris questioned what conditions the County Staff looking to include. Greenberg stated stormwater permit which is standard, comply with DNR requirements, if applicable, and he believes they will establish a deadline to get the project done and all of the landscaping completed. They might reiterate conditions that might be zoning requirements, maybe more additional plan detail, might have any retaining walls that exceed 4' need to be engineered and stamped, could consider possible mitigation, vegetative buffer.

Haroldson asked if County would analyze the cubic yards of dirt that will be moved around. Greenberg said yes, and they could incorporate that into the conditional use. Greenberg was on the property and a substantial amount of material from the demo is on site and stated there is a lot of fill that is already there. Once the foundation is excavated, they will know how much additional fill is needed.

Griffin asked how big the rain garden is going to be. Caliendo responded that it's approximately 30' long and about 5' wide. Initially they just had a catch basin, but they had some comments from County about potentially adding a rain garden. At the end of the rain garden, it will discharge into the catch basin and then there will be a pipe that will drain into the lake. Jensen clarified that the stormwater permit will address all the drainage issues which because of the topography could cause adverse problems to the neighbors. Greenberg said that permit will make sure erosion control is being enforced for the project, however, they do ask the Land Resources Division to review the drainage plans. Greenberg said he would rely on the civil engineer for technical assistance to make sure that everything works.

Good questioned the heights of the retaining walls along the driveway. Caliendo said they get no taller than 4'. At the end near the garage, there will be two tiers of 3' retaining walls and the section where it splits off is a 4' retaining wall gradually going down to zero as it goes to the southeast. Good asked if they would need guardrails on part of the driveway. Caliendo thinks they will be doing landscaping boulders so someone doesn't accidentally drive off. The width of the easement is 18', but the actual asphalt will be a little bit less than that.

Morris asked Greenberg if the elevation of the driveway is guaranteed. If a person comes in for the adjacent lot, they can't reduce it. Greenberg replied that it kind of locks it in terms of the finished grades for the next property and it kind of sets the stage for what may or may not be accomplished on that lot and where the house can be located. Siepmann said it appears that the majority of the grading for the fill is in the driveway, and the rest of the house is pretty well tucked into existing grades with the minor exception of the access of the northwest corner of the house.

A motion to recommend approval of the conditional use permit for Castoro, LLC subject to County and Town Staff approval was made by Morris/Good. Motion carried.

Preliminary Land Division Separating off a Parcel for the Firehouse Building from the Park Land – Proposed by Liz Tobolt Law LLC – On behalf of the North Lake Recreation Club, Inc. – Tax Key MRTT0352-980 – Tobolt said she is asking for the Plan Commission's help to save the Town Park. The baseball diamond area, the whole park area adjoining the North Lake School as well as the land up by the library is about 7.9 acres and this land was all originally owned by the North Lake Community, Inc., an entity that was established in the 1920's. In 1968 they split off a chunk off the park land and sold it to the fire department for \$1.00 so they could build the existing fire department building. It was about a half-acre in size and separate from the rest of the park. When there was the consolidation of the fire department, they were no longer using it as a fire department anymore so all of the park land as well as the former fire department building and half acre was deeded to the North Lake Recreation Club. The North Lake Recreation Club owns it as of approximately three years ago. Then it was put on the tax roll and it's still being used as a public park. The Rec Club is running many programs with hundreds of kids and there are festivals at the park. They are looking for a solution as the park is maintained by aging volunteers. They are proposing to donate the park to the Town and the Rec Club would like to rent it back at a nominal fee and they will continue to maintain the park. They would like to retain the fire house half acre which is a separate lot. They have two deeds and they were combined for tax purposes. They would use the building to generate revenue for the rec department and rent it out for storage. Tobolt suggested that the fire department may want to use it again someday or maybe the Town would want to use it for municipal trucks. They need to make revenue and they need to make a long-term plan.

Haroldson asked why the park can't make revenue just the way it is? Tobolt said they don't get enough revenue from fees. Haroldson questioned why they can't rent out the buildings. They can own it as a non-profit organization and not be taxed on it. Tobolt said they are a non-profit organization and they're still being taxed. Tobolt said it is a non-stock, not for profit organization, but the reason why it's not recognized is because there now is 501c3's. This is its predecessor.

Tobolt said the application states to split off the park, but it's not really a split. Tobolt has two deeds that were transferred at different times. Haroldson asked why they don't give the entire parcel to the Town including the building and lease it back for a dollar. Tobolt stated the rec department would like to retain that building. Siepmann said he thought this was a noble idea to do this, but the Plan Commission's hands are somewhat tied by the fact that the ordinance wouldn't allow the creation of a

non-conforming lot. Haroldson stated when the whole is broken apart, it starts creating problems. She stated they want to give the Town the park, and they want to keep the building, but there's still the land across the road that has a non-conforming building on it. Morris questioned how it becomes non-conforming. Haroldson responded there is a business in the building and the underline zoning is residential. Tobolt stated they could petition for a B-3 zoning or something like that as it is in an area with mixed area. Morris said he thinks that business in a building is just a revenue source to keep the park going.

Tobolt said if the Town says the existing parcel with the building doesn't exist, then they could make it two acres. Haroldson said when they start parceling the property off and it's surrounded by residential, it needs 50' offsets for institutional or commercial buildings.

Griffin asked if the Rec Club went to the Board and tried going back to doing what they used to do. The same thing that Stone Bank Park used to do. They would get a subsidy from the Town when it was the fire departments to help offset the costs. Tobolt said they had for hours and hours and hours. This group has met with different people with the Town and they have gotten nowhere, that's why she pushed to get it on an agenda because this has got to be moved forward. Tobolt said there is no decision ever made and she believes no decision will be made until they get in front of boards. Griffin suggested they change it over to a 501c3.

There is some concern because the Rec Club might use the building as a source of income or they might sell it. Splitting the parcel would create a non-conforming lot with a non-conforming building, and they might sell it. The Rec Club's intention is to rent it for as long as they're around. Haroldson said the concern is based on the building, there is no parking around it. Tobolt said they could give land for parking or have an easement for future parking if ever required by the Town.

Tobolt said the use for the fire house building would be residential storage. Haroldson said a public hearing would be required and they would need to have an x number of acres. Morris said maybe they should give the whole thing to the Town and any revenue they generate would be theirs. Tobolt said at this particular point, that is not what the Rec Club would like to do. They would like to retain ownership of the fire dept. building and give the rest to the Town the park with the right to rent it back to continue to run their current programs. The Rec Club wants to give the Town the park, the tennis courts, and the building by the tennis courts, and they would lease back the whole thing.

Siepmann stated that he doesn't think there's anyone here that would say that we don't want you to succeed here with something. He thinks the Plan Commission wouldn't have a problem if everything conformed and we wouldn't have anything negative to say about it. The question is how can we make this work? Morris said the first thing they need to do is contact the assessor. Griffin said they could change their status. Tobolt said she's hesitant to do that, but they probably will. There's about \$1,000 worth of fees for an accounting firm to get the paperwork together to create a 501c3. Haroldson stated it's up to the Rec Club to demonstrate that they are a non-profit.

Siepmann said the Plan Commission doesn't have any answer for them and the Plan Commission understands their argument, they just don't have the wherewithal to make it happen. Tobolt asked them to talk about it and think about. No action taken.

Certified Survey Map to Combine 2 Parcels Currently Described at this Address into One Legal Description – Requested by Tom & Jane Kammerait – Tax Key MRTT0353-014-001 – Haroldson asked the Plan Commission take no action on this agenda item. The certified survey map has not been submitted to Waukesha County and the property owners are out of state.

No action taken.

Planner Report/Update –An individual that has bought and put up seven trees in the soccer park in honor of a family member who died, and he now wants to do a bench and put a little plaque on it. The Dept. of Public Works has been very helpful in planting the trees and they will help find a location for the bench. Morris asked if a grant is going to be applied for to get the soccer trails paved. Haroldson said they could try, but they didn't make the cut last year and they were low on the totem pole.

Haroldson said they were resolving a situation at Bridlewood Subdivision where on the stormwater plan the spillage didn't quite meet up with the elevation of Polo Village. Griffin, Haroldson, the developers and the engineers from Waukesha County got together and what they're going to do is allow the developer to go onto the Town's easement in Polo Village to make this match happen. Griffin said it's the drainage off of the retention area for the majority of the subdivision. The subdivision's retention area is about 18" difference in elevation from where it meets up with the swale that goes into Polo North. The Town will send letters after Waukesha County comments are received explaining what needs to happen there and letting them know that the developer's surveyor is going to come on there and figure out how far they need to come into the easement to get the water to flow.

County Board Supervisor Update – Morris stated the December meeting was cancelled.

A motion to adjourn was made by Jensen/Griffin. Motion carried. Meeting adjourned at 7:03 p.m.

Respectfully submitted,

Holly R Claas
Deputy Clerk