

ZONING COMMISSION MINUTES August 15th, 2016 – 6:30 PM

Present: Tim Huber, John Woodbury, John Borg, Ann Parker, Sheri Feiro, Mike Ross, and Swan Dawson.

Call to Order: By Tim Huber at 6:33pm.

Minutes: Motion to approve July minutes by Woodbury, second by Feiro. MC

Meeting Suspended to discuss non-conforming lot permits.

1. Paul Huber-11617 Larson Dr. Wants to install an outdoor wood burning boiler once property closes. Also looking at other options. Mr. Huber was told the property is currently zoned R1 and these types of systems are only allowed in R2 properties. He was advised he could apply for the parcel to be rezoned, but there is no guarantee his request would be granted. It was also discussed that any system of this sort must be 200 ft. from the property line, if installation was allowed.
2. Rocky Nelson-11487 Wangerin Rd. Wants to build a boathouse on his property. Proposed building meets all setbacks and size requirements. Motion to approve contingent on receiving a copy of a mitigation plan protecting the shoreline made by Woodbury, second by Parker. MC

Monthly Business: None

Review of Monthly Permits:

- Schilling-11469 Wangerin Rd. Storage building, meets all setbacks and requirements.
- Bergquist-6998 S. Cleveland. Garage, meets all setbacks and requirements.
- Thoreson New home permit. He is aware he needs to go to the County first.
- Mathison- Bolognesi Has applied for a fire number. Non-living addition.

Correspondence: None

Correspondence from Chair: Next meeting will be September 19th, 2016.

Motion to keep legal discussion in open session made by Huber, second by Feiro. MC

Kyle Torvinen reported on legal issues and procedures. See attached material.

In opinions requested by Sonda Strom Larson, Village President, the positions of Zoning Commissioners, the Zoning Administrator, and Zoning Chair were further defined by Mr. Torvinen. Regarding Zoning Code Enforcement, it was asked if Swan Dawson, as Zoning Administrator, has the power to conduct inspections and act as a deputy in enforcing the Zoning Code. Mr. Torvinen's opinion, after researching the issue, was yes, she does. The President of the Village Board appoints a Zoning Chair and the Board gives plenary (exclusive and absolute) authority to that office to enforce the Zoning code. The Village Board also designates a deputy to have enforcement authority under the Zoning Chair. In this case, the deputy is the Zoning Administrator, Swan Dawson. The Zoning Chair, the Zoning Administrator, and the Police Officer are the only people who have enforcement power. They are also the only people who can conduct site visits

and investigations relating to permits or complaints. In regards to the Zoning Commissioners, they have the same rights as a citizen to initiate the complaint process to any perceived zoning violation. It would then be up to the appropriate officials to conduct an investigation into the complaint. Mr. Torvinen explained that the complaint process must be formal and the complainant must identify him/herself to the public. This prevents a simple statement from being mistaken as a complaint needing investigation. The League of Municipalities and the Municipal Code of the Village supports Mr. Torvenin's opinions.

Adjournment: Moved by Huber, second by Borg to adjourn at 7:47pm. MC

Respectfully Submitted,

Amy K. Huber, Clerk

Q&A: New Board Member Orientation

How does my Village Board role compare to other types of Boards?

- There is a mistaken, but commonly held, view that members of governmental or municipal boards do not have the same legal duties as directors of for-profit companies. Board members are obliged to comply with general and common law as well as legislative requirements. These legal obligations are not dependent on the size or the experience of the board.

What is the basis for my role as a Village Board Director?

- It is a fundamental aspect of good governance that all board members understand that their role on the board is first and foremost to **act in the interests of the Village as a whole**. Board members are not on the Village board to represent and promote the interests of particular groups or stakeholders. They are not even there to represent the interests of constituents. The overriding obligation on all board members to act in the best interest of the Village as a whole arises by virtue of what is known as the “fiduciary relationship” between each board member and the Village. The fiduciary relationship is a general, common law notion and simply dictates that board members must always and unwaveringly act in the best interest of the Village and must act honestly, fairly, loyally, in good faith, and with integrity. **In all deliberations as a member of the board you must have regard to the overriding principle that your duty is to act in the best interest of the Village, irrespective of any personal or other interests.**

What does it mean to have a “fiduciary duty”?

- A person or organization has a fiduciary duty where he or she has assumed the responsibility to act in the best interest of another person or organization to whom the fiduciary duty is owed. The person who occupies a fiduciary position may not use that position to gain a profit or a benefit for him or herself or for the benefit of a familiar third-party or organization. The profit or benefit claimed need not be financial, it may be information that is of use to the organization, or any deliberative matter that properly comes up in closed session, for example, before the board. The distinguishing obligation of the fiduciary is the obligation of utmost loyalty and to act in good faith. In the case of board members, each board member has an obligation to exercise their powers *bonafide* in the interest of the Village.

What obligations of confidentiality do I have?

- Another essential and legally mandated aspect of good governance is that board members maintain confidentiality in respect of all board matters and discussions. Confidentiality forms the basis of trust and encourages an open and honest forum for discussion. Each board member must have a right to freely express their views without fear of being named outside the board meeting as having taken a particular position.

How do I deal with groups of constituents that are familiar to me?

- It is a truism that a director, no matter where they come from or who their constituency, owes fiduciary duties to the Village. That notwithstanding, as a practical matter, incoming directors are often viewed by an electorate as representative of a certain

constituency rather than the Village as a whole. The presence of "constituency directors" in a board room heightens concerns about confidentiality.

- Most important is maintenance of the confidentiality of board room discussions and the fabric of trust and collegiality that should and must exist among directors for them to share their opinions freely. Maintenance of confidentiality is critical to prevent the corrosive effect breaches of board confidentiality have on the board's deliberative process and the trust and confidence directors have in each other.

How should I handle calls from citizens?

- Some people call a Village board member with their concerns, suggestions, or questions. Sometimes this is proper and their question can be answered, if it is a Village-wide policy, familiar to the Board Member who is involved. Rarely is this the case in practice. More often than not the matter should be referred to the administrator, committee chair, or other proper staff member for handling. Remember that the individual board member has no authority other than voting on official actions at meetings. Therefore, an individual board member is rarely the proper place to begin when a party has a concern. When a situation cannot be resolved at the lowest level, by speaking with the person directly involved, or authorized, then the citizen should be referred to the next level in the existing chain of command.

I do not have the same corporate experience as some of the other Board Members and I regularly leave Board Meetings feeling very confused and not truly understanding the decisions that were made. What should I do?

- It is very important to realize that as a Board Member it is your duty to be informed about all matters discussed at meetings and to ask searching questions when you have a lack of understanding. It is no defense to claim ignorance.
- It is the responsibility of the Board, and more specifically the President/Chair, to ensure that all Board Members feel comfortable asking questions and seeking explanations. If you are reluctant to speak up to seek clarity, then you should address this issue with the Chair.

As a Board Member, can I be held personally liable for my decisions?

- Board Members may incur liability for breach of their legislative obligations under limited circumstances for breach of their fiduciary duties owed to the Village or for breaches of specific legislation. Although it is imperative to consider these matters before accepting a role on the Board, an individual who is sufficiently committed to the role and acts with integrity, diligence, honesty and accountability should not, and most likely will not, incur any liability.

Legally, Board Members:

Should:

- Act in the best interest of the Village at all times.

- Maintain confidentiality of all Board discussions and decisions.
- Act with integrity, honesty, diligence and accountability.
- Disclose all potential conflicts of interest to the Board.

Should Not:

- Fail to speak up at Board Meetings if you have a lack of understanding or clarity in relation to any Board matters, discussions or resolutions.
- Use any information obtained by virtue of your position on the Board in any matter other than that which it was intended.
- Simply go along with the rest of the Board if you disagree with their views or decision-making.
- Over-commit yourself to other responsibilities so that you cannot fulfill your Board responsibilities or give a proper commitment to doing the job well.
- Comment on the positions of other Board members, or offer opinions about what any board member, or the Board as a whole is likely to do.