

**WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
ADMINISTRATION CENTER, ROOM AC 255/259
THURSDAY, NOVEMBER 15, 2018, 1:00 P.M.**

CALL TO ORDER

Mr. Peregrine, Chairperson, called the meeting to order at 1:00 p.m.

Commission

Members Present: Richard Morris James Siepmann Robert Peregrine
 William Maslowski William Mitchell

Members Absent: Thomas Michalski

Staff

Members Present: Jason Fruth, Planning and Zoning Manager
 Kathy Brady, Support Staff Supervisor
 Rebekah Leto, Senior Land Use Specialist

Guests Present: Kathryn Skelton PPC18_009

CORRESPONDENCE: Comments from Jack and Diane Schmeihil regarding PPC18_009.

MEETING APPROVAL: None.

MINUTES:

- Approval of the October 18, 2018, Minutes.

Mr. Mitchell moved, seconded by Mr. Siepmann and carried unanimously for approval of the October 18, 2018, Minutes, as presented.

PUBLIC COMMENT: None.

SCHEDULED MATTERS: None.

- **RZ15 (Town of Oconomowoc Board) Town of Oconomowoc, Section 19**

Mr. Fruth pointed out the location of the property in part of the N ½ of the NW ¼ and the NW ¼ of the NE ¼ of Section 19, T8N, R17E, Town of Oconomowoc. More specifically, the properties are located on the south side of Lang Road, west of Pennsylvania Street and south of S.T.H. 16. He indicated the request is to rezone seven (7) properties from the R-1 Residential District to the R-2 Residential District

Mr. Fruth stated that the amendment was initiated by the Town of Oconomowoc in response to an inquiry from one of the property owners along Lang Road that wanted to divide their property. He pointed out on the aerial map the location of the seven (7) properties in question and explained that the surrounding residential properties across the street and to the west are all zoned in the R-2 Residential District. The minimum lot width standard is 120' in the R-2 Residential District and 150' in the R-1 Residential District. The lot in question is 240' wide and would be able to be divided with the 120' lot width standard of the R-2 Residential District. The rezoning would also make all of the residential properties in this area consistent.

After discussion, Mr. Mitchell moved, seconded by Mr. Morris and carried unanimously for approval, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.

- **PPC18_009 (Ted and Kathryn Skelton) Town of Oconomowoc, Section 25**

Mr. Fruth pointed out the location of the property at N58 W34510 Road H in the Town of Oconomowoc. He indicated the request is for after-the-fact retaining walls within 5 ft. of the east property line.

Mr. Fruth indicated the property is located on the north side of Road H. The adjacent neighbor to the east expressed concerns regarding drainage, fill and the non-conforming retaining wall. He explained that the Planning and Zoning Division Staff issued a permit for a new residence, which included a grading plan, showing a retaining wall on the east side of the residence. The permitted wall was to be 3.9 ft. in height, located 8 ft. from the property line and 6 ft. from the residence. The wall was constructed inches, if not directly on the property line. He pointed out on Exhibit “A” of the “Staff Report and Recommendation”, the plan which was approved by the Planning and Zoning Division showing the drainage flowing from the driveway area, around the east side of the residence and generally down the lot line to the vicinity of the lake. Next, he pointed out the new plan (Exhibit “B”) showing that the drainage pattern shifts to the left with a swale that is proposed. He presented photographs indicating the change in grade near the property line. He said the retaining wall was constructed much closer to the lot line than proposed. In addition, a violation complaint was received indicating that a yellow birch tree was removed, which is considered a priority tree. He noted there was also a small tree line, which was removed between the residences.

Mr. Fruth summarized the concerns of the adjacent neighbor:

- **Encroachment of drainage.** He further explained that there is a road drainage pattern that leads to the property. There is concern that some of the drainage would come across, at the south end of the property near a row of Arborvitae trees and adversely impact them. The Planning and Zoning Division Staff added a condition, which specifies that a small berm would need to be constructed in this area, so drainage goes into the swale being proposed.
- **The overall aesthetics of the retaining wall being located directly on the property line.** In Condition No. 1, the Planning and Zoning Division Staff required that screening of the wall with vegetation (vines or other plantings) be completed.

Mr. Fruth indicated that the Waukesha County Land Resources Division expressed concerns regarding the steep slopes on the property and that special measures be taken so the slopes do not erode near the proposed swale since the area will not be vegetated until spring. These concerns are addressed in the added Condition No. 3:

3. Special measures shall be employed to ensure that steep slopes do not erode in the vicinity of the proposed swale. The disturbed area near the wall shall be temporarily stabilized to the satisfaction of the Waukesha County Land Resources Division.

In addition, Mr. Fruth indicated that a Zoning Permit for the retaining wall would be required due to the amount of filling, which would need to be done.

Ms. Leto, Senior Land Use Specialist added that the five (5) ft. retaining wall was reduced in height to four (4) ft. and would need to be approved by an engineer/architect. She also clarified that 3 to 3.5 ft. of fill was brought in, not 5 ft. as indicated in the neighbors' written comments.

Mr. Mitchell asked why the owner did not follow the original approved plans? Mrs. Skelton, petitioner, replied that the neighbors were concerned with water coming onto their property. She stated that the neighbors verbally agreed with her contractor, that if the work was completed as proposed, it would slope onto their property. Based on that, the retaining wall was constructed and there was confliction between the husband and wife. She indicated that a priority tree is going to be planted and decorative landscape would be draped over the wall concealing it at least 30%. A detailed plan was submitted to the neighbor. Mr. Mitchell asked if there would be a fence on top of the retaining wall? Mrs. Skelton replied, "No", however, noted that she is allowed to put a four (4) ft. fence with a gate behind the wall, not on top of the wall. She said she is committed to making the retaining wall aesthetically nice with privacy for the neighbors.

Mr. Maslowski asked, in general, how high does a retaining wall have to be before a safety fence is required? Ms. Leto said there is not specific language in the Ordinance, however, any retaining wall higher than four (4) ft. requires stamped approval by a landscape architect or engineer indicating the integrity of the wall. Mr. Fruth added that the Planning and Zoning Division Staff consults with the local building inspectors regarding retaining walls greater than four (4) ft. in height. Mr. Maslowski asked the owner what was the reason for encroaching on the setback? Mrs. Skelton replied, that she did not have a good explanation because her husband was working with the contractor and currently she and her husband are now separated. As far as she knew, everything was worked out with the neighbor. Mr. Fruth said that one of the Commission's alternate members asked him if the contractor would be pursued on the violation. He said that typically, pursuit of the violation is done with the property owner, but it is frustrating for the Staff when the contractors know they are violating and there are no consequences.

After discussion, Mr. Maslowski moved, seconded by Mr. Morris and carried unanimously for approval, in accordance with the "Staff Report and Recommendation", with an added Condition No. 3 to read as follows:

- 3. Special measures shall be employed to ensure that steep slopes do not erode in the vicinity of the proposed swale. The disturbed area near the wall shall be temporarily stabilized to the satisfaction of the Waukesha County Land Resources Division.***

The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.

ADJOURNMENT

With no further business to come before the Commission, Mr. Morris moved, seconded by Mr. Mitchell to adjourn at 1:21 p.m.

Respectfully submitted,

James Siepmann

James Siepmann
Secretary

JS:kb

(PLEASE FILL OUT COMPLETELY AND PLEASE PRINT. THANK YOU.)

NAME	ADDRESS	PHONE NUMBER	IN ATTENDANCE FOR THE MATTER OF:	RELATIONSHIP TO PETITIONER
Kathryn Skelt	N58W34510 Road H Cedar Grove	262-893-4857	PBPL 18	Self.