

TOWN OF GENESEE PLAN COMMISSION MINUTES

OCTOBER 22, 2018

Chairman Leair called the meeting to order at 6:00 p.m.

Present were: Plan Commissioner Brett Engelking, Buck Houston, Jeff Lightfoot, Bob Christiansen, Joe Turzynski, and Mike Toole. Also present: Planner Jeff Herrmann and Plan Commission Secretary Cindy Zignego.

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Town of Genesee Plan Commission on October 22, 2018 at 6:00 p.m. at the Town of Genesee Town Hall, S43 W31391 S.T.H. 83, Genesee Depot, Wisconsin 53127 to consider the request of Kristen Beach and Scott McGuire, S56W29572 Roanoke Drive, Waukesha, Wisconsin to operate a Hobby Kennel with a maximum of four (4) dogs for the purpose of personal pets at S56W29572 Roanoke Drive, Waukesha Wisconsin. The property is legally described as Lot 32, Holiday Estates, being a part of the NE ¼ and the NW ¼ of Section 35, T6N, R18E, Town of Genesee, Waukesha County, Wisconsin. All Interested Parties will be heard.

Kristen Beach stated they own three (3) dogs as personal pets right now and might possibly get another dog in the future. Beach said the dogs are mainly inside and the yard is partially fenced.

Leair opened the floor for comments. Tim Ameen, S56W29597 Roanoke Dr., asked why there was an ordinance. Leair informed that a permit is required for over two dogs with a limit of five dogs. Leair described the ordinance and the difference between a hobby kennel and a commercial kennel. Ameen wanted to know if there were plans to expand the area. Beach said no. Ameen was concerned about barking. Beach wasn't aware it was a problem and will address it. Bob Mather, S56W29562 Roanoke Dr., was in support of Beach owning four dogs. Ron Weber, S56W29602 Roanoke Dr., made a statement about too much barking.

Leair closed the hearing at 6:07 p.m.

Discussion/Action – Kristen Beach, S56W29572 Roanoke Drive, Waukesha, WI 53189 to operate a Hobby Kennel with a maximum of (4) dogs for the purpose of personal pets. (Tax Key GNT 1578-032)

Houston wanted to clarify that it was one dog that was barking too much. Beach confirmed that she knows which dog barks too much. Houston made a motion to approve subject to the limit of four dogs and the standard conditions:

1. Subject to the applicant obtaining all appropriate licenses from the Town prior to housing more than two dogs at the property.
2. Subject to the applicant paying all required fees to the Town prior to housing more than two dogs on the property.
3. Subject to the applicant providing to the Town, proof of all required vaccinations prior to housing more than two dogs on the property.
4. Subject to the Town being granted by the applicant, the right to inspect the exterior premises at any reasonable time for any proper purpose related to the hobby kennel approval, and application for and receipt of a hobby kennel approval shall be deemed to so authorize the Town to inspect as described herein.
5. Subject to the Town Plan Commission reserving the right to rescind its approval of the hobby kennel based upon the finding that the use is incompatible and a nuisance to surrounding uses, that the use is not in the public interest, or that the use adversely affects the use of adjacent lands, provided the applicant is given an opportunity to be heard on the matter, and if so rescinded the applicant shall immediately be subject to the Town of Genesee Zoning Code requirements regarding the number of dogs on the property, as though there were no hobby kennel authorization granted.
6. Subject to the hobby kennel and dogs on the property not being used for commercial purpose in any manner, as operation of a commercial kennel requires approval of a conditional use permit by the Town of Genesee Plan Commission per the Town of Genesee Zoning Code.
7. Subject to the hobby kennel use being accessory to the principle use of the property.

8. Subject to the maximum number of dogs allowed under a Hobby Kennel Permit being five (5) with Plan Commission approval.
9. Subject to no more than two litters of puppies being born on the property per year, and any such dogs being sold or otherwise removed from the property within six months of their birth.
10. Subject to such other conditions as the Plan Commission may deem to be appropriate upon review of each specific request, which shall be stated along with these conditions in the minutes of the Plan Commission in their approval of the hobby kennel.
11. Subject to this hobby kennel permit being issued for no more than four (4) dogs at any time.
12. Subject to this permit being strictly for _____.

Engelking seconded. Motion carried unanimously.

Discussion/Action – Land Transfer for Carl and Mary Petersen, S47W33740 Fox Hollow Dr., Dousman, WI 53118 (Tax Key GNT 1558-992) and Dane and Michelle Blackburn, S47W33666 Fox Hollow Dr., Dousman, WI 53118 (Tax Key GNT 1515-976-001).

Herrmann described the land transfer between Petersen and Blackburn. Herrmann explained a land transfer needs to be completed first before they do a Certified Survey Map. The land transfer is a legal document. Engelking stated that if they do a land transfer first, item 3 on the Agenda is not required. Leair asked the Peterson's if they were going to do the land transfer first, then come back with a Certified Survey Map. Herrmann explained that Petersen's need to file a quick claim deed with Register of Deeds that transfers land from Blackburn to Petersen, then do a Certified Survey Map. Petersen asked if all three pieces of land would be combined into one lot and tax key. Herrmann confirmed that was correct. Petersen's agreed to that. Herrmann said it wasn't necessary for the Plan Commission to approve the remnant parcel if Peterson completes the land transfer first. The County will notify the Planner when the paperwork is completed. Then the Certified Survey Map will have to be approved by the Plan Commission at the November 26 meeting and then the Town Board meeting on December 10.

Engelking made a motion to approve the land transfer as described in the Planner's Memorandum dated October 17, 2018.

Memorandum

To: Town of Genesee Plan Commission
From: Jeffrey C. Herrmann, Administrator-Planner
Date: 10/17/18
Re: Land Transfer – Carl & Mary Petersen

Carl & Mary Peterson own a 3.15 acre parcel of land in the Town of Genesee. The parcel of land is described as Lot 2 Certified Survey Map No. 7118, located in the NW ¼ of Section 30, T6N, R18E, in the Town of Genesee. More specifically the property is known as S47 W33740 Fox Hollow Drive and includes a triangular piece of land (about 9,250 square feet) which was previously transferred from the adjacent property to the north. The property owners are proposing to purchase approximately 5,455.23 square feet from the adjacent property to the east, which is owned by Dane and Michelle Blackburn, S47 W33666 Fox Hollow Drive, Dousman, Wisconsin and described as Part of the SW ¼ of Section 19 and the NW ¼ of Section 30 T6N, R18E, in the Town of Genesee, and contains 5.938 acres (see Attached Map).

The proposed transfer of land would result in the Petersen property increasing to 3.28 acres in size and the Blackburn property would decrease in size to about 5.81 acres of land. Both properties are currently designated in the Suburban II density Residential and in the Environmental Corridor on the Town of Genesee Comprehensive Land Use Plan – 2035. The properties are zoned EC Environmental Corridor District. A Certified Survey Map was approved in 1993 permitting the 3-acre lot owned by the Petersen's.

According to the Town of Genesee Code, in every situation, regardless of circumstances, that a property owner seeks to convey land in a manner that would adjust a lot line or create or eliminate a lot line, and that conveyance does not require a certified survey map or subdivision plat pursuant to this chapter, and where an adjacent property owner intends to acquire such interest in land, the proposed action shall be submitted to the Town of Genesee Plan Commission for prior review, before the conveyance documents are signed and before the conveyance is recorded in the office of the Waukesha County Register of Deeds.

The Town Plan Commission review shall be limited to considering whether the conveyance is in compliance with § 236.45(2) (am)3, Wis. Stats., and the applicable laws cited therein, including these regulations, the applicable zoning ordinance, and other applicable laws and ordinances. Such conveyance can only be approved if the same number of lots exists prior to the conveyance as would exist after the conveyance. Such conveyance can only be approved if the resulting lots would all be both legal and conforming, even if any such lots are legal nonconforming prior to the conveyance, because the conveyance creates new lots which do not predate the ordinance and therefore have no legal nonconforming rights. Such conveyance must not be approved if the conveyance includes land that has a legal nonconforming use, because the legal nonconforming rights are limited to use of the preexisting lot. Such conveyance shall not be approved if any of the resulting lots and the existing improvements on the lots would be in violation of applicable open space requirements. Such conveyance shall not be approved if the conveyance would make an existing conforming structure illegal or nonconforming or would increase the extent of any preexisting legal nonconformity of an existing structure.

The Town Planner has reviewed the proposed land transfer and offers the following comments and/or concerns: The proposed transfer of the 5,455.23 square feet between adjacent property owners appears to be in compliance with the requisite zoning requirements on size as both lots will exceed the minimum of two (2) acres. According to the Town of Genesee Zoning Code, lots located in the EC Environmental Corridor District shall be a minimum of two (2) acres in size provided the overall density is no greater than one (1) unit per five (5) acres. The same number of lots will exist after the conveyance, both lots will be legal and appear to be conforming, neither lot contains a legal nonconforming use, the resulting lots and the existing improvements on the lots will not violate open space requirements and the conveyance will not make an existing conforming structure illegal or nonconforming or increase the extent of any preexisting legal nonconformity of an existing structure.

The petitioner is aware that by acquiring land through an adjacent land transfer, the existing lot line between the parcels is still present and may cause problems in the future with offsets for any new structures. Therefore, the Petersen's have decided to combine transferred land via Certified Survey Map (CSM). It is important to note that if the land transfer does not take place first, then the CSM to combine the lots will need to show both the Petersen Property and the Blackburn property, unless the Town of Genesee Plan Commission and Town Board grant a waiver to not show the remnant parcel.

Christiansen seconded the motion and the motion carried unanimously.

Discussion/Action – waiver for Carl and Mary Petersen, S47W33740 Fox Hollow Dr., Dousman, WI 53118, per Section 375-22 of Genesee Code not to show remnant parcel. (Tax Key GNT 1558-992)

No discussion/action required per above.

Discussion/Action – Richard and Kimberly Panella, W319S4299 Highview Rd., Waukesha, WI 53189, Approval to

live in existing residence while building new home. (Tax Key GNT 1522-986)

The Town Board approved a cash deposit agreement. Panella's have signed and submitted the agreement. The Town has signed and the Town attorney has reviewed it. Panella's need to record it. The Panella's have dropped off the check for the cost plus 15% to remove the existing residence. They can keep the residence for 90 days after they take occupancy in new home before tearing down the existing home.

Engelking made a motion to approve the Panella's to live in existing home while building new residence as presented. Houston seconded the motion and the motion carried unanimously.

Discussion/Action – Waukesha County's Site Plan/Plan of Operation Process Improvement Proposal.

The Plan Commission discussed Herrmann's draft letter to Waukesha County. Leair said the Plan Commission wanted to address each section separately to clarify how the Town feels about each section. The first section states Staff Review Only and the Plan Commission wants Town Only. The second section says Proposed Town Plan Commission and County Staff Review and Commissioners want both County and Town. Discussion about interim period. Engelking was concerned about Town issues versus zoning issues. Discussion about Planner's Report and conditions and who writes the report. Engelking stated that the Town should draft conditions first and then the County would review. The last section would remain the same. Herrmann asked the Plan Commissioners to send their comments to him by October 26 and he will draft letter to County.

Houston made a motion for Planner to draft letter and send to the Plan Commissioners for comments. Plan Commissioners need to return their comments so that the letter can be filed by October 31, 2018. Engelking seconded the motion and motion carried unanimously.

Discussion/Action – Approval of September 24, 2018 Plan Commission Minutes.

Motion to approve was made by Engelking and seconded by Houston. Motion carried unanimously.

Review Pending

Balderas received letter from the Town attorney.

Correspondence

None.

Houston made a motion to adjourn, Christiansen seconded, motion carried unanimously. Meeting adjourned at 6:34 p.m.

Cindy Zignego
Plan Commission Secretary
October 29, 2018