



**Plan Commission
Meeting Minutes
November 12, 2019**

3930 N. Murray Ave Village of Shorewood, WI 53211

1. Call to order.

The meeting was called to order at 6:33 p.m.

2. Roll call.

President Allison Rozek	Aye
Trustee Jessica Carpenter	No
Leah Blankenship	Aye
Eric Couto	Aye
Tim Hansmann	Aye
Therese Klein	Aye
Barbara Kiely Miller	No
Sangeeta Patel	Aye
Daniel Wycklendt	Aye

3. Statement of Public Notice.

Staff posted and publicly noticed the meeting according to local and state regulations.

4. Approval of September 24, 2019 meeting minutes.

Mr. Couto moved to approve the minutes, seconded by Mr. Hansmann. Vote 7-0 to approve.

5. a). Public Hearing: Consideration of Conditional Use Permit application to operate a seasonal tree lot at commercial property 4121 N. Wilson Drive in the Village of Shorewood, Milwaukee County, Wisconsin. TAX ID 240-9979-000.

President Rozek opened the public hearing at 6:34 p.m.

Planning Director Bart Griepentrog introduced the item per the memo that was provided to the Plan Commission.

Rick Dassow, owner of Ideal Property Management, stated that he hastily had to find an alternate location as the inventory for the Shorewood tree lot had already been ordered. Mr. Dassow said he really enjoyed the sales at Spector Park but with the proposed location being really condensed and off the beaten path it would likely be his last year in Shorewood without having another location within the village to utilize. President Rozek asked if North Shore Bank had said no. Mr. Dassow stated yes.

With no further public comments the public hearing was closed at 6:38 p.m.

b). Consideration of Conditional Use Permit application to operate a seasonal tree lot at commercial property 4121 N. Wilson Drive in the Village of Shorewood, Milwaukee County, Wisconsin. TAX ID 240-9979-000.

President Rozek agreed with the applicant that Spector Park is probably the best opportunity to see Christmas trees. She asked if next year was when MMSD was going to be using the park to stage for road construction. Mr. Griepentrog stated he did not

know the full scope of the project but with the Edgewood project there would be interference with the park. President Rozek asked if staff could confirm the timeline of that project. She added that as of the last Board meeting the holiday décor policy was referred back to committee. She does not expect it to come to the full board quickly and if the board does not ban holiday decorations in public spaces then the applicant could use the park next year with a conditional use. She asked staff to confirm with the applicant the timeframe of the possible MMSD construction project around Spector Park next year because depending on that the site may not be available.

President Rozek asked about the police department and that being public property. Mr. Griepentrog stated the tree lot is not on police department property but is located on the private property and the police parking spaces are accessible with an access and maintenance agreement to use the lot.

Mr. Wycklendt asked if the risk of the Village Board deciding that selling trees would be a banned activity on public property is what brought the application tonight. President Rozek explained that the Human Relations Commission was referred by the Village Board the opportunity to recommend a policy on allowing or not allowing religious holiday decorations on public property. The Board was not ready to consider it yet and referred it back to committee. The policy should be decided in the next year. Mr. Griepentrog added that there was a timing issue as well with having to publish notice for conditional use applications twice. So it was either applying for a site that would not be affected by the holiday décor decision versus a site that would be affected by the decision. It was the Village Manager's direction to ask the applicant to apply elsewhere (private property). He told the applicant that next year he should approach the village earlier in June or July regarding the operations.

President Rozek asked about using Triangle Park. Mr. Griepentrog said that if there was no policy next year that could be an option but Oakland Avenue is more visible.

Mr. Hansmann moved to approve the conditional use application to operate a seasonal tree lot at commercial property 4121 N. Wilson Drive, based on meeting the conditions stipulated in 535-25C. Seconded by Mr. Wycklendt. Vote to approve 7-0.

6. **a). Public Hearing: Consideration of Conditional Use Permit application for a proposed psychotherapy clinic at commercial property 3970 N. Oakland Avenue, Unit 504 in the Village of Shorewood, Milwaukee County, Wisconsin. TAX ID 276-0749-006.**

President Rozek opened the public hearing at 6:46 p.m.

Planning Director Bart Griepentrog introduced the item per the memo that was provided to the Plan Commission.

With no public comments the public hearing was closed at 6:48 p.m.

b). Consideration of Conditional Use Permit application for a proposed psychotherapy clinic at commercial property 3970 N. Oakland Avenue, Unit 504 in the Village of Shorewood, Milwaukee County, Wisconsin. TAX ID 276-0749-006.

Ms. Patel asked at what point conditional use applications are kept track of to determine if usage in locations are too high. Mr. Griepentrog said that for parking special exceptions the cumulative effect is more problematic but for conditional uses each applicant is considered individually. He could provide more information on the number of tenants and uses at locations for future considerations. President Rozek added that

intensification of a site could impact a decision. Mr. Griepentrog said that there were not that many other similar users in the building currently.

Lynn Delahan, applicant, said she is aware of one other therapy office on the same floor as her business. She stated in the lower level there is an orthopedic office and several dentists in the building.

President Rozek asked what the reason was for therapy offices/clinics being a conditional use and that previously the Commission had discussed possibly delegating the approval to an administrative review. Mr. Griepentrog said he does not have the answer for why clinics are categorized as conditional use but felt that they often can be a less intense use with not a lot of traffic. He said he would have no issue administratively approving those conditional uses.

Mr. Hansmann moved to approve the conditional use application for a psychotherapy clinic at commercial property 3970 N. Oakland Avenue, Unit 504, based on meeting the conditions stipulated in 535-25C. Seconded by Mr. Couto. Vote to approve 7-0.

7. Discussion of Special Privilege requirements.

Mr. Griepentrog gave a general overview of the item based on the memo that was provided to the Plan Commission. The memo outlines residential and commercial special privilege requests, the current code and adopted policies that the village has in terms of administrating the requests. The Village Board wanted the Plan Commission to be the first to review special privileges and make any recommendations to modify the process.

President Rozek said that the Village Board is responsible for approving special privilege applications and that there is an ordinance and policy separate from each other as well as various programs also. The main things the Board struggles with is receiving special privilege applications for consideration after the fact (after the installation), no penalty for not applying or applying after the fact and the lack of quality surveys when applying for a special privilege. President Rozek stated with commercial properties there are a lot of special privileges for infrastructure in the public right of way and asked whether these privileges should be recorded with the county for record.

Mr. Griepentrog said that some municipalities categorize special privileges into major or minor with the boards seeing the major items (such as something with a foundation and more permanent) and staff approving the minor items (such as awnings). He also added that the insurance requirement had been challenging in the past but that has worked itself out with the Village standing firm on receiving the documentation with applications. The Department of Public Works would like to see surveys submitted as well with applications showing exactly where items will be located in the public right of way.

Mr. Griepentrog also stated Policy 24 delegates certain levels of approvals to the Planning Director (landscaping, irrigation and carriage walks) and agrees that consolidating the policy within the ordinance so that all information is in one place makes sense. He also said that recording special privileges with the county is good for future owners to be aware of the privileges. With sidewalk work this year many property owners were not aware of the public right of way when items had to be removed.

Mr. Griepentrog added that the vision setback/vision triangle is written in a way that only is applicable to impact uncontrolled street intersections. It is not useful for special privilege reviews because often it is alleys or driveways impacted or a controlled intersection. In a dense community like Shorewood, vision setbacks would be hard to administer.

Lastly, Mr. Griepentrog stated the topic of charging a triple fee for applications submitted after installation was touched on at the last Board meeting also. This could be implemented right now but has not been utilized in the past.

Mr. Wycklendt asked if this was something homeowners were mostly unaware of and if we want to be charging homeowners triple fees for something they were unaware of.

President Rozek said DPW and inspectors have costs associated with special privileges and it is really hard to determine if people were unaware of the right of way. Mr. Wycklendt asked if possibly a grace period could be considered where residents are notified and after the grace period then triple fees could be considered.

Ms. Patel said that rather than major versus minor installs there should be a distinction between commercial and residential more so. She said commercial properties have a greater ability to research their properties and, without residential properties having code compliance anymore, residents sometimes don't research their properties as much. She said there is a notification problem for sure.

Mr. Griepentrog stated that typically we notice work in the right of way as it is being installed and that is when property owners are contacted. Ms. Kopydlowski confirmed that the department operates this way and based on complaints.

Mr. Cuoto asked if there is a reason new owners do not have new surveys. Ms. Kopydlowski stated it is common for new owners to not have surveys upon purchasing their property and added that the department has a good number of surveys on file for properties throughout the village.

President Rozek asked if during a grace period property owners could be informed of ways to access their property lines/surveys via GIS mapping. Mr. Griepentrog said that the GIS can be a close representation but it is not exact and this goes back to the question of requiring a survey with applications. Surveys can add a significant cost to a project and at what point is a survey required. President Rozek said that things like tree planting is not significant enough to perhaps require a survey but other installations like a retaining wall or a construction project would be.

Mr. Wycklendt said that requiring a survey for a residential project is too much and cost prohibitive. He explained that the village has a lot of surveys on file and when he was looking into his lot line his property did not have a survey on file but the two surrounding properties did and that allowed for determining his properties lot line easily.

Ms. Patel suggested to notify residents of lot lines and the location of the public right of way. Mr. Couto agreed saying this was an education issue and perhaps an informational with the tax bills would help. President Rozek said it didn't sound like there was opposition to a fee but that first notifying property owners should be done and allowing a grace period.

Ms. Klein asked why anything was being done to begin with. Mr. Griepentrog stated it became an issue with sidewalk replacement this summer where items had to be removed to replace the sidewalk and residents being upset that it was not being put back. President Rozek said it boils down to time and cost for the Village. She added that it was good practice for municipalities to record all things in the public right of way even though that comes with additional cost and time. Ms. Klein asked if a resident wanted to place irrigation in the front right of way and fills out the paperwork and gets approved or not approved are we changing behavior at all because the items could still be in the way. President Rozek said this is just addressing the public right of way and not private property.

Mr. Hansmann asked if the Village could force a homeowner to remove the item and incur the cost of removing any items placed in the right of way instead of the Village incurring that cost. President Rozek said that is very difficult to do. She has no issue with the smaller retaining walls and planters in the right of way but when it is a larger retaining wall holding up dirt that is a big cost and potential stop for projects. She felt that for the larger items placed in the right of way recording those special privileges or having a process makes sense, otherwise time and cost is wasted after the fact addressing them.

Mr. Griepentrog said that when you get the application you as the applicant, acknowledge the stipulations regarding removal of items in the future.

Mr. Wycklendt added that he felt it was general knowledge that the space between the sidewalk and the street was village property but asked if the space on the inside of the sidewalk was were residents thought the lawn all the way up to the sidewalk was their property. Mr. Griepentrog stated that yes the space up to the sidewalk was where most of the issues were found and received complaints about. Mr. Wycklendt asked if they were really solving a problem then.

President Rozek said that she felt the major push was for cost and labor for private property to utilize the public right of way and that it would be nice to have acknowledgement from the owner to know that it is public property so the Village has record of what is present via GIS moving forward. She felt that recording the special privileges for larger projects against the property should be done for future knowledge.

Mr. Hansmann asked if when letters are mailed to homeowners regarding sidewalk replacement or other larger projects there could be language in the letter addressing special privilege permissions.

President Rozek asked what the difference would be between a minor versus major special privilege. Mr. Griepentrog stated that a minor would include things like awnings/signs and landscaping which are easy to remove. Whereas major special privileges would be walls, fences and structures that are not easy to remove. She asked if staff could provide examples of special privilege ordinances from other municipalities that address the distinction between minor and major. Mr. Griepentrog said he felt a draft ordinance would move the conversation along faster than examples.

Ms. Patel asked if information could be provided that defines what items, when installed in the public right of way, would require a building permit because at the time of applying for the permit the discussion would occur regarding the public right of way. Ms. Patel said she felt things were not very clear and that people should have fair warning about this.

President Rozek said that the special privilege ordinance and policies are separate and all spread out. She suggested having things in one place to make things as efficient as possible was best. She asked if there was a distinction between what should stay separate and why. Mr. Griepentrog said that things like the parklets and outdoor seating are administrated by policies but he has no problem incorporating them into the ordinance. Attorney Bayer said that as long as the policy enumerates items that are well within the discretion of the agency or municipality that is issuing the permit/privilege sometimes it is just easier to create a policy. The policy could be included in the ordinance though. President Rozek said that when pilot programs are created she understood that those were not included in the ordinance prior to adopting the program.

Mr. Griepentrog said he was okay consolidating into one location but did note that ordinance changes are costly and process prohibitive. He will provide a revised draft with as much consolidation as possible. President Rozek asked for a list of all policies that

currently touch special privileges also. She also asked about triple fees and if there was any recommendation regarding that. Ms. Patel said she would hold off on triple fees because it seemed too punitive.

8. Discussion of CDA/Village Board strategic goals and priorities survey on economic development and housing.

Planning Director Bart Griepentrog introduced the item per the introductory memo that was provided to the Plan Commission.

The Village Board and the CDA plan to convene in February 2020 on this initiative. They plan to have the information on the Housing Study completed but the first step in gaining additional public input via various committees was to complete the survey included in the packet and submit one for the committee as a whole. Individual responses can still be submitted.

The survey needs to be submitted by the chair by January 15, 2020. Over the next month commissioners are asked to complete the survey and bring it to the December meeting to discuss. Survey responses can be submitted to staff prior to the next meeting also.

Ms. Patel asked about the question asking how to define economic development. Mr. Griepentrog said the question was meant to be left open for the Commission to define it. President Rozek said that economic development is typically defined as building tax base, real estate development and job creation. She said her question is whether housing and real estate development are separate in this definition.

Mr. Griepentrog said that zoning implementations regarding economic development is what is being requested of the committee. What each committee is to do is provide feedback on what they preside over.

Mr. Couto asked for an update on the Housing Study. Mr. Griepentrog said the last town halls were last Thursday and the presentation of findings will be on December 19 to the CDA and in January the recommendations will be presented. The final version will be presented to CDA on February 7.

President Rozek said there will be a large percentage (30%) of senior residents in the next ten years and whether there will be a need for senior living as well as the topic of affordable housing were the two biggest issues to look into.

Mr. Griepentrog said the consultant will look at the zoning code also to see if anything could be modified (supportive/co-housing units and accessory dwelling units). He said a housing survey will be sent out within the next week also.

9. Schedule next meeting.

The next meeting would be scheduled for December 17, 2019.

10. Future agenda items.

President Rozek asked to add a discussion regarding conditional use applications and which applications could be administratively approved versus Plan Commission approval.

Mr. Wycklendt asked about Spector Field and the soccer field possibly being vacated to build another field. He asked where that goes within the Village for approval. Mr. Griepentrog stated he believed the discussion would begin with the Parks Commission but he would confirm. President Rozek asked who would ultimately approve it as well and if the Plan Commission could be updated.

11. Adjournment.

Mr. Couto moved to adjourn the meeting at 8:05 p.m., seconded by Mr. Wycklendt. Vote to adjourn 7-0.

Recorded by,

A handwritten signature in blue ink that reads "Crystal Kopydlowski". The signature is written in a cursive, flowing style.

Crystal Kopydlowski
Planning Department Administrative Clerk