



**Plan Commission
Meeting Minutes
January 25, 2022**

3930 N. Murray Avenue, Village of Shorewood, WI 53211

1. Call to order.

The meeting was called to order at 6:31 p.m.

Present via teleconference: President Ann McKaig – Chair, Commissioners Klein, Kiely Miller, Couto, Wycklendt and Pollack (arriving at 6:34 p.m.)

Excused: Trustee Bockhorst

Others present were Planning Director Griepentrog, Planning Administrative Clerk Kopydlowski and Village Attorney Bayer.

2. Approval of December 28, 2021 meeting minutes.

Ms. Kiely Miller moved to approve the minutes, seconded by Mr. Couto. Vote to approve 6-0.

3. Consideration of an Application for a Zoning Review to confirm the side setback at 2418-20-28 E. Capitol Dr., as required per 535-21B(6)(c)[2].

a. Overview

Mr. Griepentrog introduced the item per the memo that was provided and a slide presentation. He stated staff had no objections to the proposed structure location and noted that the new building will be constructed nearly adjacent to the property line meeting the desired build-to-line. Joe Stanton with Three Leaf Development, LLC was present representing the item.

Attorney Bayer explained that the Plan Commission's review is limited and the question only applies to side yard build to line on corner lots. He explained that Village Code 535-21B(6)(c)[2] sets the build to line for these types of construction essentially at 20 feet as the default setting except that the "side yard setback on corner lots shall be reviewed by the Plan Commission to determine whether a 20 foot build to line or another corner lot side yard build to line is appropriate due to parking considerations and the layout of the intersection". He explained that this language could have been added to the code because of an unusual corner in the Village that was not at a ninety degree angle or there are a couple streets where the street is very wide and then narrows and if you build a large structure in the area where the street narrowed then drivers or parkers along that road may be pulling out of "blind" areas causing issues with the building blocking the view due to the build to line where the street narrows. This is an extra layer of review due to unique situations. He said the jurisdiction is whether to move the build to line and this should be based on substantial evidence.

Ms. Kiely Miller, referring to a statement in the zoning review that was provided to the developer, said the Plan Commission has reviewed the parking exception and the setback this evening and asked if there is something the Plan Commission should have done per code 535-21C(7) that they did not do. He said it is very clear in the code that the Design Review Board reviews the architecture of the building. Ms. Kiely Miller asked if any steps were missed or overlooked. Mr. Griepentrog said no.

Ms. Klein asked if Mr. Griepentrog could specifically point to the area they are considering on the plan.

President McKaig asked if what was proposed meets code. Mr. Griepentrog said it does meet the intent of the code.

Mr. Wycklendt asked if the building could, by code, be built about two feet closer to the sidewalk. Mr. Griepentrog said that the building is currently .6 feet behind the property line and they would have to adjust the property line to get closer which isn't practical.

Ms. Klein said as you go further north on Stowell the houses are set much further back. Mr. Griepentrog said the residential setback is typically 25 feet which is a greater setback requirement.

Ms. Kiely Miller asked why the setback at the north end is slightly different than at the south end and asked if they should be concerned. Mr. Griepentrog said he wouldn't be concerned and it is likely based on the platting of the land. Mr. Joe Stanton said this was correct.

b. Public Hearing

President McKaig opened the public hearing at 6:50 p.m.

Daniel Walsh, 4024 N. Stowell Avenue, said the code is inconsistent and the project does not meet code. He said per 535-21 the side yard setback for these properties is a ten-foot minimum when it abuts residential districts and wonders why this has always been a problem when there is a zero setback. He said there is a very narrow road with driveways across from each other just feet from a state highway. President McKaig stated the driveways were not a part of the setback. He said there will now be five driveways that enter into 140 feet of street off a state highway and it is inappropriate to have a setback so minimal. He said per Zoning Code 535-9G it states that at least 30% of each lot shall be planted with grass, shrubs, trees or other forms of vegetation. He questioned why this is not applicable as the proposed lot coverage is 90%.

Trustee Stokebrand, 4130 N. Lake Drive, asked President McKaig and Trustee Bockhorst to recuse themselves from voting on this item due to a potential conflict of interest. She said in 2020 and 2019 they received significant campaign donations from a party that stands to benefit from this development moving forward. She said Shorewood residents should be able to live, work and invest in the village however, when campaign donations can present a potential conflict of interest it is the responsibility of elected officials to recuse themselves. The residents of Shorewood expect and deserve clean open transparent government. This is why campaign finance records are required by state law and subject to open records requests the help ensure clean, open and transparent government. This should not be a contested request nor should it be controversial but rather this should be standard operating procedure for elected officials in the Village of Shorewood. In the interest of full disclosure, she disclosed she was a trustee for candidate in 2019 and lost. She was elected in 2020 and appointed to the Plan Commission and removed by President McKaig in 2021. She did vote for this project in 2020 for the initial waiver of the parking requirements for the development.

Karen Desing, 3952 N. Stowell Avenue, asked how the Commission reviews for appropriateness at the intersection, what the process is and what type of data is reviewed. She asked if feedback was given from the police department and traffic engineer.

Bill Desing, 3952 N. Stowell Avenue, stated he agreed with Trustee Stokebrand and her comments about campaign contributions and asked what the amount the contributions were and who they were from.

David Rosene, 2500 E. Capitol Drive, asked about the general process for the Plan Commission and what exactly they are reviewing. He asked when the Plan Commission takes on the responsibility of reviewing the appropriateness of the project for the location within the Village and keeping in mind the quality of life in the village for residents and existing businesses. He feels no consideration has been given to the driveways for the development being nearly directly across from his business's driveways and that it will be more dangerous for the intersection. He does not know if the Plan Commission has taken it upon themselves to truly address the entire project and its ramifications for the immediate surrounding community.

Daniel Walsh, 4024 N. Stowell Avenue, commented that he has never experienced a situation where the entitlements were rewarded before the plans were provide and reviewed by the Plan Commission.

President McKaig asked is questions raised during the public hearing needed to be addressed during this portion or if the Commission could move to deliberation and share those. Attorney Bayer stated it is his recommendation to verify there are no further comments from the public and to then close the public hearing and move into deliberation but it was up to the body how to move forward.

With no further comments the public hearing was closed at 7:03 p.m.

c. Plan Commission deliberation

Attorney Bayer explained that there is a limited matter that the body has jurisdiction over and that is based upon specific parking considerations in this particular block next to this property or based upon specific layout of this intersection should the build to line be moved in or out and if the answer is yes then how far. This is the jurisdictional item on the agenda and the limited issue before the body.

President McKaig said this is what is before the Commission and no steps have been skipped and the body is following the village ordinance and code.

President McKaig said she had received a campaign donation from Mr. Paul Hackbarth who was the former owner of the development's property in the amount of \$250. She confirmed with Attorney Bayer and asked if there is any conflict of interest on voting on this item or on previous matters. Attorney Bayer stated that accepting a campaign donation does not preclude elected officials from presiding or voting on a matter of which they would otherwise have jurisdiction. He said if this was the case nobody would ever be voting on anything. He said it is appropriate to talk about and have transparency on those issues but as a matter of law it does not preclude somebody from voting on a matter that may in some way pertain to or be of interest to the person that made a campaign donation. President McKaig will not preclude herself because she does not have to legally, because the campaign donation did not influence her position and because she has been contacted by people who did vote for her but did not contribute to her campaign who have said they are disappointed in her because she did not vote the way they wanted her to.

Mr. Griepentrog gave an overview of what is reviewed by the Plan Commission that addressed several questions. The applicant applied for a zoning review and the results of that were included in the materials. The use of the premise as a multi-family is a permitted use. Permitted uses do not get reviewed by the Plan Commission for anything further with respect to use. The setbacks are within the review and of note the rear setback has been notched ten feet from the property line at its westernmost section. That is the only place in which the property line abuts a residential property directly adjacent to and the remainder of

the property abuts an alley. The side setback on the west is a zero setback and that is standard if you go up and down the commercial district. It is intended to provide a consistent wall of development within the commercial district. The side setback is the one that the Plan Commission is specifically being asked to review and it is brought to them as a result of the zoning review. The rest of the project is reviewed with the code that has been adopted by the Village Board and is reviewed by the Planning and Zoning administrator. The zoning review was given to the applicant so they knew what their process was moving forward.

Mr. Wycklendt asked if the building was moved closer to the curb and 20 feet back exactly would the issue still be before the Plan Commission. Mr. Griepentrog said yes. Mr. Wycklendt said this is before them not because it is not compliant but because it is supposed to be reviewed no matter what. Mr. Griepentrog said yes.

Ms. Kiely Miller stated that as the intersection relates to the building there were a couple things she did not know. She did not know the placement of the stop sign at the intersection on the renderings. She explained that when a car pulls out of the parking garage she cannot determine if there is room for a car to wait at the intersection without being in the crosswalk. She said this was a safety factor and didn't know if the building were set back further if it would affect that. She said if safety, as it relates to the setback and the intersection, is one of the things they are to consider it is hard to evaluate that with the renderings that were given. Mr. Griepentrog reminded the Commission that they were to consider the setback and not the distance of the driveway to the intersection. Mr. Griepentrog asked the Village contracted engineer (Strand) to confirm whether or not there were any local or state requirements, as Capitol is a state highway, with respect to the location of that driveway and they confirmed there are none. He explained any changes would push the building east or west not north or south and that would not change the location of the driveway. Mr. Stanton did not have the exact answer to the question of the driveway location at the time but offered to provide that. He did not foresee the driveway location being an issue. Ms. Kiely Miller said that based on the one southeast elevation it appears like a car pulls out and would be right on top of the pedestrians. She stated that if they are supposed to consider how the building is placed on the lot then she would need to know where the cars are going. She said safety is a big concern of the neighborhood and that is a question that would need to be answered.

Ms. Kiely Miller moved to table the item until some of these questions could be answered. Mr. Couto seconded the motion.

Ms. Klein asked which of the driveways was the entrance and which was the exit. Mr. Griepentrog said the driveways are both in and out and they serve the northern section and southern sections of the building individually. The south driveway will service 13 spaces and the northern the remainder. Individuals will not be able to drive through the spaces/sections. The parking plan was provided in the materials.

President McKaig asked that the specific questions that are outstanding be clarified. Ms. Kiely Miller stated that her questions were where the stop sign is to be placed in relationship to the driveway and the distance from the driveway to the crosswalk. Her main concern is how this relates to the intersection and the safety of that intersection.

Ms. Klein said you can see from a picture of the existing space where the crosswalk is and the stop sign paint line is right where the sanitary sewer is. She said you can confirm where the stop sign is and it's below the driveway. She said she was speculating from what she

could see and that the civil engineers are better to place the stop sign. She asked if the building is back ten more feet what does that change. Ms. Kiely Miller said perhaps it needed to be moved back more from Capitol Drive and if they are supposed to be saying that the setback is fine the way it is based on the intersection then there are questions about that intersection, she is not comfortable with at the moment.

Mr. Wycklendt asked if there were any issues with the setback on Capitol. Mr. Griepentrog said no.

Attorney Bayer explained the difference between tabling an item and deferring an item.

President McKaig stated she is not in favor of the motion and feels it is an effort to obstruct a process.

Ms. Klein asked if the only issue was the position of the stop sign. Ms. Kiely Miller added that it was also the distance. She said based on the drawings provided they have to figure out how does this work with the intersection and safety. She said it appears that when a car pulls out of the garage it will be immediately over the crosswalk. She said this doesn't look like a safe design. She said if deferring the item until they can get that information is the right thing to do, she will withdraw her motion and make a new one. She said if they are supposed to be discussing how this relates to the intersection then that is key information to have.

Ms. Klein said they know the stop sign is in the green area on the rendering and questioned how the position of the wall affects that and how many feet would it move to affect that or is it the fact that the whole building exists. She questioned if the wall was moved back 20 feet, hypothetically, would there still be an issue with this driveway and the crosswalk. Ms. Kiely Miller said she did not know but that they also did not have the necessary information to know that.

President McKaig said they have no information that would indicate this is an atypical intersection.

Mr. Wycklendt said he did not think the developer was moving the stop sign and they have not represented that they are moving it. He said the stop sign exists where it is and the Capitol setback is not in question so no matter where the setback goes on the east side it's irrelevant and wishes they would focus on the relevant pieces.

Mr. Couto said questions continue to be asked of this project because every month they take a look at this project something changes or something new that has come about. Questions keep coming up because at no point have, they ever gotten a full complete picture of what this project is going to be when it's done. He said they are being asked to do this piecemeal and there are subsequent questions that come up every time.

President McKaig motioned to call the question. Seconded by Mr. Pollack. Vote to approve 6-0.

Ms. Kiely Miller amended her original motion to table the item. She moved to defer the item to a future meeting to give staff time to research and come back with the answers to the questions about how this relates to that intersection stopping and crosswalk. Vote to accept amendment passed; 6-0.

A roll call vote on the amended motion was taken: Ms. Klein – No, Mr. Pollack - No, Mr. Wycklendt - No, Mr. Couto – Yes, Ms. Kiely Miller – Yes, President McKaig – No. Vote fails 4-2.

President McKaig reiterated the overview of their jurisdiction and that according to the ordinance and the code they are reviewing the setback. If they feel that the setback needs to move there are two reasons why it can move and those relate to the parking or an atypical intersection.

Mr. Wycklendt moved to approve the approximate average 22.0 ft. side setback from the curbline (approximate average 0.95 ft. setback from property line) of the proposed redevelopment to be located at 2418-20-28 E. Capitol Drive, as submitted. Seconded by Ms. Klein.

President McKaig will be supporting the motion because there was no substantial evidence to suggest this is an atypical intersection or that there is parking that will be impacted by this setback.

Mr. Wycklendt said he agrees and that the issue before them is very specific and within the realm of something we would approve.

Ms. Kiely Miller will vote no. She feels this is an atypical intersection and that as it's currently configured it is not safe for pedestrians or cars.

Mr. Couto will vote no. He voted no the first time because of the loss of parking, no off-street parking and insufficient off-street parking. He voted no because he never believed the up to 20% of affordable housing because there was never a guarantee and now the affordable does not exist. He is voting no because of the overwhelming neighborhood opposition. He is voting no because he does not believe this project fits in with the community. He does not believe it is safe or that the corner will be safe. He does not feel they have been given a complete project at any time during their deliberations.

Mr. Pollack will vote yes because the proposed build-to line is appropriate due to the safety and parking considerations that are required.

Ms. Klein will vote yes because this is not an atypical intersection for a commercial district and she does not believe the building setback impacts parking and parking safety at all.

A roll call vote was taken: Ms. Kiely Miller – No, President McKaig - Yes, Ms. Klein - Yes, Mr. Couto – No, Ms. Pollack – Yes, Mr. Wycklendt – Yes. Vote approved 4-2.

4. Update on Commercial Zoning Update.

Mr. Griepentrog updated the Commission on the kick-off meeting and the work group participation expansion. He stated work group confirmations will occur at the February 7 Village Board meeting. He said the zoning update has been a little bit delayed but the consultant has no concerns.

5. Future agenda items.

Mr. Griepentrog stated no applications have been received for a February meeting and if a meeting is needed it will pertain to the zoning update.

6. Adjournment.

Mr. Wycklendt moved to adjourn the meeting at 7:45 p.m. Seconded by Mr. Couto. Vote to adjourn 6-0.

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