

**Village of Weston, Wisconsin**  
**OFFICIAL PROCEEDINGS OF THE PLAN COMMISSION**

held on Monday, June 14, 2021, at 6:00 p.m., in the Board Room, at the Municipal Center

**AGENDA ITEMS.**

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- 1. Meeting called to order by Plan Commission (PC) Chair & Trustee Loren White at 6:20 p.m.**
- 2. Roll Call of Village PC by Secretary Parker.**

Roll call indicated 6 Plan Commission members present.

<u>Member</u>	<u>Present</u>
White, Loren	YES
Meinel, Steve	YES
Cronin, Steve	YES
Guerndt, Gary	YES
Jordan, Joe	YES
Marshall, Gayle	EXCUSED
Mumper, Roy	YES

Village Staff in attendance: Donner, Higgins, Wodalski, Wheaton, Falkowski, and Parker. There were about 5 audience member present in person, and 4 present via Zoom. Village President Mark Maloney, and Village Attorney Matt Yde were also present.

- 3. Approve minutes from the May 10, 2021, Joint PC/ETZ Meeting.**

***Motion by Mumper, second by Cronin: To approve the May 10, 2021, Joint PC/ETZ Meeting Minutes.***

Yes Vote: 6      No Votes: 0      Abstain: 0      Not Voting: 1      Result: PASS

<u>Member</u>	<u>Voting</u>
White, Loren	YES
Meinel, Steve	YES
Cronin, Steve	YES
Guerndt, Gary	YES
Jordan, Joe	YES
Marshall, Gayle	-----
Mumper, Roy	YES

- 4. Approve minutes from the May 24, 2021, Joint PC/BOT Meeting – Schofield Avenue Corridor Plan Public Hearing.**

***Motion by Meinel, second by Guerndt: To approve the May 24, 2021, Joint PC/BOT Meeting Minutes.***

Yes Vote: 6      No Votes: 0      Abstain: 0      Not Voting: 1      Result: PASS

<u>Member</u>	<u>Voting</u>
White, Loren	YES
Meinel, Steve	YES
Cronin, Steve	YES
Guerndt, Gary	YES
Jordan, Joe	YES
Marshall, Gayle	-----

Mumper, Roy YES

**5. Approve minutes from the May 24, 2021, Joint PC/BOT Meeting – Weston Avenue Corridor Plan Public Hearing.**

***Motion by Meinel, second by Guerndt: To approve the May 24, 2021, Joint PC/BOT Meeting Minutes.***

Yes Vote: 6 No Votes: 0 Abstain: 0 Not Voting: 1 Result: PASS

<u>Member</u>	<u>Voting</u>
White, Loren	YES
Meinel, Steve	YES
Cronin, Steve	YES
Guerndt, Gary	YES
Jordan, Joe	YES
Marshall, Gayle	-----
Mumper, Roy	YES

**PUBLIC HEARING**

**Zoning Map Amendments & Related Requests**

**6. Project #20210187 – Request from Jess Kufahl, representing Ryan and Joan Haroldson, for a rezone of 6610 Schofield Avenue, from B-3 (General Business) Zoning District to B-1 (Neighborhood Business) Zoning District.**

**a. Open Public Hearing.**

White opened the public hearing at 6:23 p.m.

**b. Presentation by Staff.**

Wheaton explained the property owners, Ryan and Joan Haroldson, are looking to construct a detached garage on their property that has a single-family residence land use but is zoned B-3. In the B-3 Zoning District, it does not allow for an accessory building for residential use. To allow them to construct this accessory building, they needed to rezone to B-1, which does allow for this. The B-1 district will still allow this to someday become a commercial use, if that were to happen.

**c. Public Hearing/Public Comment Period.**

Jess Kufahl, Quality Build Garages, in Wausau, explained they are requesting the rezone so that they can build the accessory structure. He pointed out this is an unusually shaped lot. He stated they are not doing any business on this property, but need an accessory building to store his things in. He stated there is no design to show yet, as they were not sure if they could do this but assured it would be something attractive.

White questioned if screening will be needed along the Mountain-Bay Trail. Wheaton stated she will have to check that.

White asked PC if any of them have had ex parte communication prior to this hearing, and if so, to please disclose it, and then PC will determine if that member can remain seated amongst PC or recuse themselves.

**d. Close Public Hearing.**

White closed the hearing at 6:27 p.m.

**f. Recommendation from Staff.**

Wheaton stated staff recommends approval.

**g. Discussion & Recommendation to the Village Board by Plan Commission.**

***Motion by Mumper, second by Cronin: to recommend approval of the rezone request (Project #20210187) and to forward the recommendation on to the Village Board 06/21/2021 meeting agenda.***

Yes Vote: 6      No Votes: 0      Abstain: 0      Not Voting: 1      Result: PASS

<u>Member</u>	<u>Voting</u>
White, Loren	YES
Meinel, Steve	YES
Cronin, Steve	YES
Guerndt, Gary	YES
Jordan, Joe	YES
Marshall, Gayle	-----
Mumper, Roy	YES

**Conditional Use Requests**

**7. Project #20200127 – Public Hearing and action on a request from Jim Pinsonneault, for an amendment to the Conditional Use Permit approved on September 14, 2020, for an Outdoor and Vehicle Repair and Maintenance land use within the B-2 (Highway Business) Zoning District for Patriot Auto, 3702 Schofield Avenue, per Section 94.16.06.13. The proposed amendment is to reduce the amount of approved material on the exterior of the building per Section 94.10.03.7.**

**a. Open Public Hearing.**

White opened the public hearing at 6:29 p.m.

**b. Presentation by Staff.**

Donner stated we asked Attorney Matt Yde to be present, since this is a request to amend a conditional use permit that was previously issued. He stated also just to be sure we are following proper procedures and to help keep this on track.

Yde explained to the Commissioners that this is a quasi-judicial proceeding. He explained a rezone request is a legislative decision. [Zoning Administrator Note: a rezone on an individual parcel is also a quasi-judicial proceeding] He stated with a Conditional Use being a quasi-judicial proceeding, the Commission has the right to choose to go into closed session to deliberate if they wanted to. He stated there are a lot of forms that he has seen used by Plan Commissions, that they complete once they have a motion that they believe will pass, they will have more detail than what we are seeing being made in motions now. He stated it is important for everyone to understand that it is the made motion that matters; that is what is approved and acted upon. He stated that all of the discussion that is had leading up to the motion is not part of the motion. He stated this is why it is important that when someone makes a motion, that is it in sufficient detail so that it will be taken down in a way to create a record for exactly what it is that the Plan Commission decided. Yde asked if Plan Commission has a form that they complete that ensures they are completing all the steps that they should when they perform their analysis under a Conditional Use Permit evaluation, or not. But having a form like that would make sure that you cover all the bases for what would be a complete recitation of what the final decision is.

Yde explained it seems that Pinsonneault has a different understanding of what happened the last time, and the only thing staff can go by is what is in the actual motion itself, not a comment made by someone during discussion.

White stated he has seen in several different committee's members simply using the term "So Moved", versus reciting the actual motion.

Yde stated that especially when acting in a quasi-judicial proceeding, you really need to make sure that the motion is very detailed, because anything that is not included in the motion, is not part of the motion. He stated then you are putting the burden on whoever is taking the notes to get it right. It would be better to spend the time to formulate the language in the motion so that we get it right every time.

White stated it is his understanding, of Parliamentary Procedures, that other members of the committee can assist the person making the motion, if it is acceptable to the person making the motion. He said he believes the Chair can allow for sufficient time for the person who is making the motion, and then afterwards it can be amended.

Yde stated that he is in favor of using the forms, which were attached to sum up the information Higgins had provided for training purposes, which there are forms on conditional use permits and other things that might come up that guide you with what you should say in your motion to make sure you cover everything, and he would recommend they start using those forms, especially in the situation like a conditional use permit, where it might be a lengthy and detailed process.

Wheaton gave a synopsis of the timeline described in her report.

Jordon confirmed the elevations that were approved in October showed metal on the north and west walls. He stated his recollection from that meeting was that they were allowing the use of metal and those metal fasteners.

Wheaton stated there are types of elevated materials that have exposed fasteners. She stated from staff's review of the revised plan, along the north side, the elevated material has been completely replaced with non-elevated material. Which brings that side down to 0% elevated. She clarified that nothing was said in that motion that it could go down to 0%.

Guernndt questioned what is considered elevated and non-elevated? Donner stated there is language in the Zoning Code which was copied into the report. He stated higher aesthetic or elevated material is defined as brick, native stone, tinted and/or textured concrete masonry units, glass, copper panels, stainless steel, brushed nickel, stained natural woods or other comparable material, as approved by the site plan approval authority (Plan Commission). He said that by leaving the discretion up to staff, it is getting into something that really should be the Plan Commission's interpretation.

Wheaton stated from the original elevations, the architect calls out that material as a non-elevated material, so we took that as a base of metal and would like to see slightly more elevated exposed fastener metal in its place.

Meinel commented that when the plans came in and then there was discussion on whether there is a fence on the north side or what's being exposed on the west side, and we approved the plan as being presented with the materials that are there, and questioned if they are supposed to give an identification of what is being approved in a narrative form, or is approving a plan "as submitted" sufficient. Yde stated if the plans submitted was accurate, they could just refer to the submitted plans.

Higgins explained the issue is they changed the plan. She stated they received plans and they were recorded on both the Development Agreement and Conditional Use Permit. She stated then in April, they gave us different plans.

White pointed out we have seen several different versions of this. Meinel commented this is about the 8<sup>th</sup> time he has seen this.

Guerndt confirmed the first set of plans we saw was at the 09/14/2020 Plan Commission Meeting. He recalls staff felt that plan did not meet Code. Guerndt recalls asking him to do a façade. Wheaton clarified; this is the one where Plan Commission asked Pinsonneault to add a parapet. She stated at this point Plan Commission asked to see updated plans showing the parapet. She stated there was an updated plan reviewed in October, where we just talked elevations. Wheaton stated at the October meeting Plan Commission approved the elevations with the comment that steel could be exposed, but there was no comment to the reduction of elevated material to be less than what is required by code.

White commented in the packet there is a different drawing, and Wheaton confirmed that we received another changed plan for this meeting.

Yde explained that as long as they meet the standards of the code, and you take into account whatever special conditions you may want to add to it, Plan Commission is supposed to give the Conditional Use Permit. He stated, however, Plan Commission is supposed to follow the code. He stated if the code requires that they have "A", "B", and "C", and it is not discretionary, where it says "shall", you have to follow it, and it is not the purpose of the Plan Commission to allow it (banned by the Village code). He stated that is where the Village Board needs to get together to change the ordinance. He stated if the code gives discretion it would say "can" or "may". He stated that everyone is supposed to follow the ordinances, and it is Plan Commission's job to follow it as well. If Plan Commission feels an ordinance is too restrictive or does not give enough flexibility, then Plan Commission has the power and ability to advise the Board to make changes to the ordinance. He stated Plan Commission can't make exceptions on individual cases. He stated once you make that exception and the next person comes in and you don't give that to them, now you have a discrimination lawsuit.

White confirmed there is language in our Zoning Code that talks about appeals or changes being allowed by the Plan Commission. Higgins stated not for this section. Wheaton confirmed that our code states "All new construction *shall* have a façade that consists...". White confirmed it also calls out differences on street side, front, rear, and interior side.

Higgins read "On all new commercial construction, for non-public facing facades, the requirements in subsection (a) shall remain, but at 40%.". Higgins stated for industrial construction, there are different standards, and how there is more leeway in industrial. Higgins stated this was changed earlier this year.

**c. Public Hearing/Public Comment Period.**

Brian Karlen, with Urban Construction, was present to find out what can be used and could not be used.

Wodalski announced that Jim Pinsonneault, 5002 Arrow Street, was present on Zoom.

White stated it would be helpful to see samples of the proposed material, to help them understand what is being considered.

Karlen stated that it was his and Pinsonneault's impression that there was a compromise that if they put the cap (parapet) on, and due to the price tag of the cap, that they could use exposed fasteners all the way through on the back, and that is the way they read the motion, and so that is what they went with. He stated with the panels, you have the same look. It is not as if from 20-feet away you can see a different metal. He stated what was presented by the architect from Samuels Group was a concealed fastener panel. He stated it is still metal, and still 24 or 26-gauge, and no brushed chrome/nickel or anything about it. Karlen stated so they took that original elevation and are now using a standard metal panel along the north side, and on the west side, and on the south between the overhead doors, as a trade-off for putting that cap on this, and as all the conversation was talking about the exposed fasteners. He said there was nothing that they saw in the minutes about using the elevated materials. So, when they presented the plan, they were told they could not do this, which is why they are here now.

Pinsonneault stated at the October, of 2020, PC meeting, there was discussion, which he understands and respects does not equal the motion. He feels this has been a learning experience for himself, Urban Construction, PC, and staff, as there probably has not been something to this complexity and level of attention to detail that has bound up a process, in the history of the Village of Weston. He would like everyone to learn together on this so that we can get it right, and so that the next time something like this comes up there is not conflict and misunderstanding, and that it is clear for all parties. Pinsonneault stated the Zoning Code calls out "improved architectural material percentages", and that is how the architect drew the plan. He stated his understanding of the way the Zoning Code is written (as of September, 2020), is that any hidden fastener metal panel is automatically an upgraded architectural material. He understands from the code that a non-conforming material would be any exposed fastener material. Pinsonneault brought up the Tine and Cellar building, stating how they have those large, ribbed metal panels on the corner of the building. He stated those are the same or a very similar panel design that he has on his building on the southeast corner, and those (referring to Tine & Cellar building) have exposed fasteners, but are considered by the Zoning Administrator to be an approved architectural material. He stated we need to make a decision collectively or the determination or definition of what now makes an approved material and what is not an approved material. His guess is the intent of the Zoning Code is to ban exposed metal fasteners and to ban or make them a non-improved material, as we don't want chincy, thin, 30-gauge, rusty, corrugated tin hanging on every building. He stated there are metal panels with exposed fasteners that look pretty good, and he feels what is on the Tine and Cellar building looks really good. He stated this is just one profile of a hundred different materials of manufacturers. He stated the challenge is trying to figure out what is upgraded conforming and what is not. Pinsonneault stated at that last meeting they were told by Plan Commission to take the hidden fasteners off and put exposed fasteners on, which is what they did, which will change the metal panels that are on there, and how they changed this exactly how Plan Commission asked them to do. Because there were two different metals, it changed the configuration slightly of the southeast corner of the building as it were the southwest corner of the building. The way that the brick was, it wrapped around in a different shape from picture A to picture B, they changed that so that looked more uniform and had a better visual appearance. He stated that now the south elevation has a solid column of brick on the southwest corner, whereas the original elevation from the architect, it was abbreviated and had two different metal panels there, and now the revised elevation has the same metal. He stated there is mostly the same amount of brick now as there was before.

Guerndt questioned if staff has a color rendering. Wheaton stated we have not received an updated color rendering yet. She said through discussions with Karlen and Pinsonneault, we were informed there would be some color changes with the different metal, but we have not seen the revised color rendering plan yet. Karlen then showed the Commission a paper copy color rendering that he had with him. Guerndt recalls a color rendering being requested, along with their adding the parapet.

Wheaton pointed out that the revised elevation plan shows less elevated percentages than previous. She stated there is still the same amount of brick, but it still does not meet the minimum required on the west side. Guerndt commented that he thought the west side was the future expansion side. Wheaton stated the proposed future expansion was there originally, but then taken off at the final approval.

Pinsonneault stated the reason the future expansion was removed was because the Zoning Code does not allow expansion walls to be exempted from any variation of the zoning code, and he still would have to make it meet the approved architectural materials, and then tear them off when he expands.

White questioned if any of the Plan Commission members had any ex parte communication prior to this hearing with the applicants, and if so, they need to disclose it. No one spoke up.

**d. Close Public Hearing.**

White closed the hearing at 6:57 p.m.

White announced that the following is the discussion part where the Plan Commission adjudicates the case, and it is their discussion amongst them, and not a debate with the petitioner or the people in the audience. He stated everyone has had the opportunity to make their case.

**e. Recommendation from Staff.**

Wheaton stated staff just presented the information and has no recommendation to the Plan Commission.

**f. Discussion and Action by Plan Commission.**

Higgins stated there is a section of the Zoning Code, 94.10.03, Design Standards for Multi-Family and Non-Residential Buildings, (16) Waiver or Modification of Standards, where it states *"The applicable site plan approval authority...may waive or modify any of the standards in this Section if at least one of the following circumstances is present: (a) Supplemental design elements or improvements that exceed normal standards are incorporated into the project. (b) Restricted building materials are used as limited decorative elements on a building façade that contributes to its architectural design. (c) Undesirable site or building conditions will not be visible from the public right-of-way and/or adjoining properties."*

Meinel stated since this is on the side and the back of the building that will not be visible, and feels it would meet circumstance (c). Wheaton stated it would not meet (c), as it would be visible to adjoining properties. Guerndt questioned why "adjoining property" would even be there, as everyone has neighbors. Wheaton stated this is taken care of with trees and screening. Meinel stated it was previously discussed that with the cemetery there and the pine trees that will never be touched on the west side.

Guerndt asked if there was any give or take on the backside of the property. Guerndt and Cronin stated they both feel this is a nice-looking building. Cronin stated he was under the impression there would be a fence along the back side (north). It was clarified that the proposal was for a 6' tall privacy fence for the enclosure that would be located on the north side. Guerndt feels that when approved earlier, he believes we used that privacy fencing in determining why it met. He pointed out the fencing was shown in an earlier plan, but not this one. Karlen confirmed the fence is still planned to be there. Wheaton pointed out the fence will not span the entire length of the building. Karlen stated the fence will be 6-feet tall, and 34-feet long and the building will be 87-feet long. Wheaton stated this will cover 39% of the building, and he needs 40%. Pinsonneault commented that his proposed enclosure will be substantially larger than a typical enclosure. Guerndt asked Pinsonneault if he would be willing to make the fence 2-feet longer, to make it meet the 40%. Pinsonneault

stated that he could make it longer. Pinsonneault commented that the treeline for the cemetery property, that can't be disturbed starts farther east than the dumpster. He stated that  $\frac{3}{4}$  of the building will not be viewable from the right-of-way, and that anything beyond the enclosure to the west cannot be seen from the right-of-way. He stated it can be viewed from Emmerich's property and inside the cemetery property. Guerndt felt it was all okay'd with the fencing and the treeline. Jordan agrees with that. Cronin asked if this meets the requirements on south and east. Wheaton stated yes.

Jordan pointed out how he added the parapet and feels that should be something viewed as supplemental. Wheaton stated he is a little short on the west side, being only at 32%.

Wheaton pointed out how these plans are different than what the motion was worded at the last meeting this was discussed. Because there is a Conditional Use Permit on this property, any changes need to come through Plan Commission.

Jordan commented that he feels when we approved this with the steel and exposed fasteners, that we were accounting for the west side to be shielded. Jordan questioned what is the motion staff has an issue with? He asked if the issue was that PC did not call this out as an exception? Wheaton stated the motion should have included "to approve the elevations with a reduction of \_\_\_ percentage on \_\_ sides". Jordan stated if we cite the exception in the motion, do we need to spell out the specific percentages? Wheaton stated it would be the cleanest way. Higgins stated some of the issues was that we did not have a correct copy of the site plan, and now we have a completely different plan.

Yde explained if you have an approved plan that you can refer to in your motion, that takes out a lot of what needs to be included. But if PC is going to determine that there is an exception of the code that applies (based on the 3 circumstances previously cited), then the motion needs to include that met circumstance along with an analysis of why that particular exception should apply, as agreed to by PC.

Donner stated the approval of the exposed fasteners was not debated by staff, but now Karlen states that because of making the change to exposed fasteners, they changed the materials. Donner feels that was not made clear at that meeting. Donner feels that was part of the reason to bring this back, because the north elevation changed so much, and the uniform look across the entire back, and we still do not have a color rendering.

Jordan stated the idea of using exposed fasteners, from his experience, it changes the configuration of the pattern. He stated he would not expect Wheaton to know this without having experience in the industry. He agrees, by changing to exposed fasteners, the panel has to change too.

Maloney confirmed with Karlen that in Karlen's opinion, there is not much difference between the two different panels, and how from 20 feet away, it would not be noticeable. Maloney confirmed initially, we approved with hidden fasteners, and then the applicant changed to exposed fasteners, which then changes the panel. Maloney questioned if tonight we need to spell everything out or do we have a complete set of plans, where the PC can just approve the plans as presented tonight.

Meinel stated he thought this was already approved and is disappointed in the amount of time being spent on this. He stated adding 2-feet of fence to the back to hide enough of the back of the building that no one will see, or to measure the amount of trees to the northwest of the building, he thinks that perhaps the 40% minimum should be changed.

White stated this is where our discussions get so involved, that we lose track of where we are at, to the point it is very difficult to state a motion that covers the discussion. Guerndt questioned if we can listen back on the recordings to hear what all was previously discussed. Higgins stated the approval is based on the motion, not the discussion.

Higgins reminded that there are two documents that have already been recorded, which will now need to be amended: Developer's Agreement and Conditional Use Permit. She stated we need to have that paper trail, which is why this is back before PC. Guerndt confirmed with Higgins that they just need to amend the site plans attached to those, not the requirements. He confirmed that we discussed the west side is covered, and then on the north side the fencing shields it, and how on the front side, it appears they are adding more material then taking out.

White stated staff is looking for something that is clear and where later on, they don't have to guess what PC was saying.

[Clerk's Note: The Motion/Question begins at 2:34:45 of the meeting Zoom recording]

**Motion by Guerndt, second by Jordan, to approve the proposed plans submitted by Karlen on 4/15/2021, which shows an updated plan set that will have 39% on west elevation, that does not require the percentage due to the fact that it is shielded with trees, and also a condition that we approve the north elevation of the building because 39% (or close to 40%) of it will be shielded with the fence for the dumpsters, and/or any other exterior storage that he will be utilizing there. Q: Cronin clarified the west side is 32%, and Wheaton clarified that the west elevation is actually at 30%, not 32%. Guerndt confirmed they do not need to address the exposed fasteners. Wheaton confirmed the exposed fasteners are already included on this plan. White pointed out the discussion on adding 2 feet to the enclosure. Guerndt feels the extra 2 feet is not necessary, as we are already having him go over on the west side. Yde questioned which one of the 3 exceptions is the PC applying to this. Guerndt questioned if it needs to meet one of the 3 exceptions, and White stated it does need to meet one, as the elevations is under the 40%. Guerndt felt that due to the fencing it meets the 40%, and Higgins clarified it does not meet that. Yde stated that Letter "c" of those exceptions is what applies in this case. Guerndt clarified to cite the reason for this waiver is per 94.10.03 (16), this plan meets letter "c. Undesirable site or building conditions will not be visible from the public right-of-way and/or adjoining properties.". Higgins stated so PC is modifying the requirements of (7) and (8) of 94.10.03. Yde stated that if they are adding the parapet, we could technically cite their meeting the requirements of "a. Supplemental design elements or improvements that exceed normal standards are incorporated into the project.". White asked Parker to read back the motion. Parker read the motion was to approve the proposed plans submitted on 04/15/2021, will have 30% on west elevation, and does not require, due to trees, condition of approval the north being 39%, because shielded by dumpster fencing. White added due to the two conditions in the waiver. Higgins added reducing the requirements of 94.10.03 (7) and (8), based on the Waiver or Modification of Standards that is allowed in 94.10.03 (16) a. and c. Yde stated since they have the plan, they do not need to talk about the percentages. Just talk about what sides of the building do not meet the code and what exceptions that they are applying to approve the plan, which are "a" and "c".**

Yes Vote: 6      No Votes: 0      Abstain: 0      Not Voting: 1      Result: PASS

<u>Member</u>	<u>Voting</u>
White, Loren	YES
Meinel, Steve	YES
Cronin, Steve	YES
Guerndt, Gary	YES
Jordan, Joe	YES
Marshall, Gayle	-----
Mumper, Roy	YES

**COMMUNICATIONS**  
**8. Public Comment.**  
None.

**9. Written Communications Received.**

None.

**UNFINISHED BUSINESS**

**10. Project #20210077 – Clarification of May 10, 2021, Action on Hinner Springs Subdivision Preliminary Plat.**

Wheaton stated staff is just looking for clarification on a piece of missing information, regarding the pedestrian path talked about between Lots 15 & 16 and Lots 32 & 31, over the ANR easement.

Jordan confirmed this is the ANR’s easement, so the developer owns the land. Jordan stated it was his intention (in his May 10<sup>th</sup> motion), as the developer does own the land, that he would in fact continue the sidewalk in accordance with ANR’s requirements. He stated you can cross an ANR pipeline with a sidewalk or a driveway, as long as ANR is in agreement. Jordan stated they must already be dealing with ANR, in order for the proposed street to cross their easement. Wodalski clarified the question is on whether the sidewalk between those 4 lots would be required. Cronin recalls the compromise was that if they put in sidewalks on both sides of the street, we would not be requiring that. Jordan clarified that his intention was to have sidewalk along the sides of the street, but not cutting between those four lots. It was confirmed they were still intending to include the sidewalk between Lots 13 & 14 that short cuts out to Birch Street, from Hinner Springs Drive.

White stated that within the minutes there was discussion on the removal of that.

Higgins stated this will go to the Board on Monday.

***Motion by Jordan, second by Cronin, to clarify their intent being to exclude the easement for the potential easement, between Lots 15 & 16 and Lots 32 & 31, but that the easement for sidewalk continue to be included between Lots 13 & 14. Q: Higgins stated we need clarification on if it is their intent to remove the 12’ easement for sidewalk. There was discussion that this sidewalk easement is on top of the ANR easement.***

Yes Vote: 6      No Votes: 0      Abstain: 0      Not Voting: 1      Result: PASS

<u>Member</u>	<u>Voting</u>
White, Loren	YES
Meinel, Steve	YES
Cronin, Steve	YES
Guerndt, Gary	YES
Jordan, Joe	YES
Marshall, Gayle	-----
Mumper, Roy	YES

**NEW BUSINESS**

**11. Commissioner Training**

- a. Chapter 62 Planning Commission**
- b. Role of the Plan Commission**
- c. Meeting & Hearing Conduct**
- d. Plan Commission Rules and Procedures**
- e. Discussion of Future Meeting Agenda Layouts**

Higgins stated she and White had recently sat in on a Meeting & Hearing Conduct webinar. She thought it was very informative. She even went as far as sharing with the Department Directors to check out. She brought up how questions have come up in the past about when people can speak at a meeting. She questioned if the members had a chance to check any of this out or if they have questions. She commented on how thorough

this, she wants to talk about future agenda styles which will make it easier for the PC to differentiate when they are in a quasi-judicial role or more in general plan commission role.

Guerndt stated he feels this is very informational. He would like to have a copy of the PC Handbook. Guerndt commented on when you initially start on PC, and get into one of the first meetings, you do not automatically know how to follow all the roles and procedures of the meeting.

Jordan stated he viewed the videos, and found them informative. Jordan asked if with the question of ex parte discussion, if that is with every agenda item. White stated that only applies to public hearings. Yde stated only in quasi judicial type hearings that you have an obligation to not have ex parte communications with anyone that might be involved. Yde stated if you get confronted with someone who says they have a conditional use permit that will be reviewed at next PC, it is the obligation of the PC member to tell that person they can't have ex parte communication, otherwise, if that member does, then that member cannot participate in that part of the meeting. Yde stated if it is legislative, like an amendment to the code, then PC members can talk to whoever they want.

Mumper explained a situation about a potential Air BNB in his neighborhood that applied for a CUP (back when he was previously on PC), and how the applicant was going door-to-door to discuss this proposal, and how he told those people that he was on PC, so he could not talk to them. He stated he then disclosed this at that meeting, and how he did not have a discussion with them.

White explained to Maloney about a walking quorum. Yde stated when there is a CUP, PC Members can't talk to anyone, even other members; but any other topic, they can talk to the public on and can talk to one other PC Member, as long as there is no walking quorum.

Guerndt questioned if he and Jordan can talk about chapter changes, Yde stated yes, but, it would be better to do it during a PC meeting.

Maloney explained an example of a walking quorum being 2 PC members talking on a subject, then 1 of those members goes and talks to a 3<sup>rd</sup> member about the subject, and that member talks to another member, etc. Yde stated that also once a group forms that passes or blocks something, that is illegal.

Guerndt commented that he sent a message to both Cronin and Jordan to tell them to check out the PC meeting packet, and suggesting in the message they check out the handbook and get themselves sharpened up on those things within. Yde stated that is not a good idea, as that could be looked at as a walking quorum.

Maloney stated he does not have issues with any of this, other than signing the documents. He then asked if staff has to sign these agreements. He feels there are enough laws and enough State Statutes out there that govern everything we do, and he does not feel they need to sign this. Higgins stated these are things that came out of the Plan Commission handbook. Maloney stated this whole signing thing started with the Board of Trustees and our past Administrator. He felt the previous Administrator wanted them to sign these as a Board of Trustees as a control tactic. White stated there is actually a lot of things the State has in their code that controls our actions.

Yde stated there are state laws that cover ethics, and they are covered under that. He stated there are other municipalities who may create their own. Yde stated this all comes down to training.

Meinel questioned who interprets and enforces the code of conduct? Yde stated there are State Statutes that address conflict of interest. Yde stated group (Board, Commission, or Committee) would enforce their rules for their own group. He stated this is mainly a training tool, indicating they attended the training.

Jordan stated there is a safety manager at Wausau Supply who requires all staff read their safety manual and all employees then have to sign saying they read it, but he is not in support of that. He said it should be about

being helpful, not controlling. Jordan stated he spent 3 hours today watching the videos Higgins provided, and feel those were very helpful.

Higgins stated all the members were given the opportunity to attend those trainings. She stated that every year, she gets a list of trainings that she shares with them.

Cronin confirmed they are not being asked to sign these documents. Higgins stated she is sharing this with PC just for their discussion and to share examples in case they have any questions, no action and no signing is being asked of PC tonight. She explained that she simply took the e-mail that she would typically send to new plan commissioners, as she recently sent this to new Commissioners Mumper and Marshall, and thought would be good refresher for the rest of the members.

Guerndt asked Yde if we can do this privately, with no public. Yde stated if the closed session rules apply, then yes, otherwise, no. Guerndt stated from time to time, he feels that staff is pulling something on PC that they don't like. Maloney stated it goes both ways. Yde stated most of the time, any conflict comes from the code. Yde stated if PC does not like the code, then part of their job is to recommend changes to the code. He stated staff has an obligation to follow and enforce the code as written. Yde stated the conflict is staff is trying to apply the code as they understand it, and PC may not think it is reasonable (and it may not be). Yde reiterated, if it is not reasonable, or they do not like something, they need to change it. Yde stated, whatever the code says, staff is obligated to follow. Guerndt stated with the change of administration, staff now is following the code to a "t", when before things may have been let go, which upset a lot of people in the community. Yde suggested to add on the next PC agenda "Potential changes to code", and then have some discussion on what they think needs to be changed and why.

White commented on the Zoning Steering Committee that was created back in 2013, where Weston and Kronenwetter worked together to update their codes, and how there are several other municipalities out there, who are still working with outdated codes. We have modified parts of this code that we feel don't apply. White commented about a two-chapter book that is coming out on how to do meetings, and how counsel is still in the process of vetting that.

Mumper recalled from when he was previously on PC, that the State passed a law, where if someone meets code, PC has to have a very good reason to not approve. White stated that was for CUP's, where if they meet the performance standards in the code, then it must be approved. Yde stated CUP process is very favorable amongst developers and business community. If it meets code you can't deny.

White commented how we are not the single-family home community that we used to be, and how we have to change our thought process and code to keep up.

Guerndt stated sometimes he will get a call from someone who is complaining about permits or why things are getting turned down, and how they blame staff. Guerndt commented how they (PC) needs to get on the same page and understand that they are putting in place regulations that are being required to follow. Higgins stated a lot of times staff does not hear from those complainants, so we are not aware that there are issues. She stated there are certain people in the community that will go directly to Committee or Board members and not staff. Guerndt stated he usually hears from people who feel their project application is taking too long, or that they are being forced to jump through hoops. He stated he feels staff is working harder at making it better. Guerndt would like to have some time to discuss issues. He stated (regarding Pinsonneault's building), if it was not for the fact of being along Schofield Avenue, he does not care about the 40%. He stated it gets to be a great cost to meet those things. Yde pointed out the Code offers exceptions, and PC just needs to know those. He suggested PC let staff know what process they would like to see on a project if they were a developer. Yde stated if PC does not like a certain process, they can make a change to that in the ordinance. Higgins pointed out that exception used today was added in January. Higgins discussed the reports staff puts together, which are mostly to create a historical record for if/when things come back. Higgins stated there is a

Conditional Grant form that has been around for many years, and maybe staff just needs to point that out to PC, and have PC fill it out, rather than staff.

Guerndt stated people like Karlen are nervous. Higgins stated those people get caught in the middle between the Village and owner. Guerndt asked if we can automatically offer the waiver when people initially come in. Higgins stated we can, but people are always going to ask for less. Cronin stated if someone comes in and does not like the ordinance will staff give those options to the applicant. Higgins stated we do. Higgins explained we go through and do a full review and then tell them what their deficiencies are, and let them decide if they want to fix it or not.

Maloney suggested adding trainings on the next several agendas. He also suggested holding a luncheon to invite builders to come in for a question and answer session. Maloney commented about a recent conversation he had with Heath Tappe, and how the reason Tappe is still building in Weston is because Donner personally called him when he took the administrator position to welcome Tappe back.

Jordan stated how we have seen some changes with staff, as it was always the power of "no". He appreciates that Higgins is pushing PC to make changes if they don't like something.

Higgins questioned if they want to see any changes to the agenda layouts? Jordan stated to rearrange agenda to take care of people who come for a specific thing (such as agenda repair).

Maloney questioned about staff presenting at hearing. Higgins explained if staff explains prior to public comment, some of the questions may get answered ahead of time.

Cronin asked if they need clarification, why could they not ask applicant. White explained the issue is sometimes it turns into a debate. He stated you are not supposed to open the hearing back up during the deliberations. Yde stated they are technically opening back up hearing, and you have to be fair, and allow for others to ask questions. Guerndt clarified he should have asked staff, not the applicant.

Cronin feels sometimes too much information is being given that it gets overwhelming and hard to follow. He feels a short synopsis on top of the rest would be helpful.

Maloney stated the wasted time started with PC, as staff just wanted to get clarification, we need to make the motion very clear. Guerndt asked if they could have forms where they can write notes in preparation for the motion. Yde stated if on agenda, when in a quasi-judicial role, they can go into closed session to deliberate, then come back into open session with motion. Guerndt and Cronin are not in favor of going into closed sessions. Higgins stated if a big issue, PC has 60 days to make a final decision.

Mumper stated if you have an approved plan up front, it eliminates these issues. He stated what tends to happen is property owner is in a hurry to get things through, as there are limited months to build. Guerndt commented on all the things (different plans) needing to be submitted in order to get in the meeting packet. Higgins stated we have always required that, but in the past would allow in pieces to be submitted and reviewed.

Donner stated we are not asking for anything to be signed.

Cronin stated he needs more time to go through this information.

Yde stated before the next quasi-judicial item comes in, to put together a findings and fact document ahead of time. He stated staff lets you know if meets code, PC confirms it meets code and adds any conditions.

Guerndt asked if he can get a handout with information on the topic, where that they can add notes to, and where they can check off if all okay.

Yde stated any Board members who participate in quasi-judicial role in PC can no longer participate in BOT action. He gave an example of if a CUP were denied at PC, and if the applicant then appealed the decision to BOT, then any BOT members on PC can't take part in the BOT decision, as they already participated at PC level. In legislative roles, they can participate in both meetings. It was clarified this primarily pertains to situations where PC makes the final decision, and any appeal then goes before the BOT. Yde stated if we changed the ordinance where CUP's instead make final decision on CUP's, and appeals go before ZBA. Cronin suggested that in these cases, BOT members maybe should not take part in those actions. Maloney pointed out how there are 3 BOT members on PC.

Higgins questioned if she should bring an updated version (with current dates) back for review rules of procedure. Higgins explained what was in tonight's packet was just examples. Higgins stated, if PC would like any changes made, we can do that. She stated this helps staff define the process going forward.

***Motion by Jordan, second by Mumper, for staff to update and bring back the 2019/2020 Rules of Procedure, as outlined in Higgins' report, at our next meeting. Question - Jordan clarified he was not including the Code of Conduct. Cronin asked Higgins if she can re-send the information to him.***

Yes Vote: 6      No Votes: 0      Abstain: 0      Not Voting: 1      Result: PASS

<u>Member</u>	<u>Voting</u>
White, Loren	YES
Meinel, Steve	YES
Cronin, Steve	YES
Guerndt, Gary	YES
Jordan, Joe	YES
Marshall, Gayle	-----
Mumper, Roy	YES

**STAFF REPORTS**

- 12. Acknowledge Report re: May 2021 Staff-Approved Certified Survey Maps and Site Plans**
- 13. Acknowledge Report re: May 2021 Building Permits**

***Motion by Cronin, second by Meinel, to acknowledge Items #12 - 13.***

Yes Vote: 6      No Votes: 0      Abstain: 0      Not Voting: 1      Result: PASS

<u>Member</u>	<u>Voting</u>
White, Loren	YES
Meinel, Steve	YES
Cronin, Steve	YES
Guerndt, Gary	YES
Jordan, Joe	YES
Marshall, Gayle	-----
Mumper, Roy	YES

**MISCELLANEOUS**

**23. Project Updates**

**a. Chapter 94 Article 13 Signs**

Higgins stated Wheaton has the draft almost done. Hope to have something brought back at the next meeting. Wheaton stated this will cover all signs. Higgins stated we are still getting complaints on political signs.

**b. Chapter 14 Building**

Higgins stated still working on this one. Also pointed out everything is now on the MuniCode online website. You can easily find changes made through this site.

**c. Park Impact Needs Assessment**

Still needs to come back.

**19. Next Meeting Date**

**a. Monday, July 12, 2021 @ 6pm – Regular Meeting.**

**20. Remarks from Staff**

Higgins stated there will be hearings already for July.

**Remarks from Commission Members.**

Cronin will hope to read by then.

Guerndt thanked staff for that document and would be interested in more trainings. Higgins stated training sessions are available by Centers for Land Use.

Meinel questioned the status of the Schierl sign. Higgins stated they just need to apply for it and have not yet.

Meinel stated Mumper is doing a great job.

**ADJOURNMENT**

**21. Adjournment of PC**

***Motion by Cronin, Second by Jordan, to adjourn at 8:35 p.m.***

Loren White, Plan Commission Chair and Village Trustee  
Jennifer Higgins, Director of Planning & Development  
Valerie Parker, Recording Secretary