



**TOWN OF EAGLE**  
P.O. Box 327  
Eagle, Wisconsin 53119

TOWN OF EAGLE  
Planning & Zoning Commission  
Held Jointly with the Town Board  
January 4, 2016  
Unapproved Minutes

Chairman Kwiatkowski called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

Present: Chairman Kwiatkowski; Supervisors Davis, Malek, Rasmussen and West. Commissioners Lewis, Mann, and Samuels. Commissioner Anderson was excused. Also present: Town Planner Schwecke.

Approval of Agenda –A motion was made by Supervisor Davis, seconded by Supervisor Malek to approve the agenda. Upon voice vote, motion carried.

Minutes – A motion was made by Supervisor Malek, seconded by Commissioner Samuels to approve the minutes of December 7, 2015. Upon voice vote, motion carried. A motion was made by Supervisor Rasmussen, seconded by Supervisor Malek to accept the recommendation of the Planning & Zoning Commission. Upon voice vote, motion carried. A motion was made by Supervisor Davis, seconded by Supervisor Malek to approve the “Town Board Only” portion of the minutes. Upon voice vote, motion carried.

Morgan Hobby Kennel Permit Renewal – Planner Schwecke explained that he reached out to the Morgans to see if they wanted to renew their permit but have not heard back from them yet. The original permit was granted in 2013.

A motion was made by Chairman Kwiatkowski, seconded by Supervisor Davis to approve the renewal for a one (1) year term. Upon voice vote, motion carried. A motion was made by Supervisor Rasmussen, seconded by Supervisor West to accept the recommendation of the Planning & Zoning Commission. Upon voice vote, motion carried.

Herbst Hobby Kennel Permit Renewal – Planner Schwecke stated that the Herbst’s have stated that they want to renew their permit.

A motion was made by Commissioner Samuels, seconded by Commissioner Lewis to approve the renewal for a one (1) year term. Upon voice vote, motion carried. A motion was made by Supervisor Davis, seconded by Supervisor Malek to accept the recommendation of the Planning & Zoning Commission. Upon voice vote, motion carried.

In response to Supervisor Davis, Planner Schwecke explained that the more recent approved hobby kennel permits need to be renewed yearly.

Price Development – Planner Schwecke reported that the applicants are preparing a second draft and have requested that this matter be tabled.

A motion was made by Commissioner Samuels, seconded by Supervisor Malek to table this matter, as requested. Upon voice vote, motion carried.

Update on Certification of Farmland Zoning Ordinance – Planner Schwecke reported that the Town of Eagle's Farmland Preservation Zoning Code update was submitted to the Department of Agriculture, Trade and Consumer Protection (DATCP). The department certified the Town's ordinance. Once the ordinance is adopted by the Town, a letter or resolution confirming the adoption of this ordinance needs to be submitted to the state as well. Planner Schwecke explained that he will be meeting with the Town Attorney to review the code and come back to the Town with any changes. Afterwards, the Town will hold a Public Hearing on the proposed zoning code.

Wilton Certified Survey Map Request – Planner Schwecke explained that the applicant is requesting a four (4) lot Certified Survey Map (CSM), two (2) of which are proposed flag lots. Planner Schwecke explained that there is nothing in the Land Division Ordinance which addresses flag lots however the Town's Zoning Code does. In response to the applicant, Don Wilton, Planner Schwecke explained that flag lots shall not be permitted unless there are exceptional circumstances. The applicant must prove a hardship which cannot be self-imposed. If the Town finds that there is not a hardship and the applicant still wants to divide the land into four (4) lots, the applicant would have to put in a road. Mr. Wilton stated that two (2) of his family members are interested in the proposed flag lots.

Chairman Kwiatkowski reported that the Wisconsin Department of Transportation (WDOT) had the opportunity to review the applicant's request for access off of STH 67. They denied his request. His only access would be off of Wilton Road. The state indicated that they wanted to meet with Mr. Wilton to discuss his proposal. Mr. Wilton stated that he did speak with WDOT over the phone.

Commissioner Samuels reiterated that the hardship cannot be self-created. In order to get the four (4) lots that are being proposed, the applicant will need to put in a road. The argument could be that the more roads that are put in, the more roads the Town has to plow.

In response to Supervisor Malek, Planner Schwecke explained that not having access off of STH 67 does not qualify as a hardship because the applicant can still have access to his land off of Wilton Road. Planner Schwecke added that every piece of property has some development constraints. Lot sizes are only a piece of the lot creation process. Planner Schwecke restated that the creation of flag lots has to be for special circumstances. The Town needs to document in the minutes, the special circumstances and the specific hardship for the approval.

Supervisor Davis stated that since this property is located on a corner, the hardship for no access off of STH 67 does not exist. The Town did approve a lot of flag lots in the past but since then have added to the zoning code that flag lots will not be permitted unless there are exceptional circumstances. The size of the proposed lots is not a hardship. There is nothing topographical in this circumstance that creates a hardship.

Chairman Kwiatkowski stated that a hardship needs to be stated if the Town approves the request. If the Town disregards that, there might as well not be a zoning code. In this case, the applicant may only be able to create two (2) lots rather than four (4). Planner Schwecke stated that a property owner could claim

that he or she wants more lots than the code allows however, this is not a hardship. In regards to the number of land divisions, Chairman Kwiatkowski explained that the last time Mr. Wilton was here was when Betty Adelman was the Town Attorney. That is when the Town Board and Planning & Zoning Commission had discussions on how many land divisions an applicant could request in five (5) years.

Commissioner Mann explained that the alternative would be to put in a sixty-six (66) foot road and dedicate the road to the Town. Planner Schwecke stated that the applicant could get at least three (3) lots developed by creating a road.

Supervisor West stated that the one (1) road access off of Wilton Road would be a possibility and it would also be possible that the road could be a cul-de-sac. Chairman Kwiatkowski added that the road could even be a stub road.

Planner Schwecke suggested that at this time, the applicant should talk about his hardship. Mr. Wilton stated that two (2) of his family members wants proposed lots three (3) and four (4). Discussion followed regarding land divisions.

A motion was made by Commissioner Samuels, seconded by Supervisor Malek to approve the CSM off of Wilton Road, based off of the access restrictions off of STH 67. Upon voice vote, motion failed on a 2-4 vote.

A motion was made by Supervisor West, seconded by Supervisor Davis to deny the CSM request. Upon voice vote, motion carried with Supervisor Malek opposing.

Mukwonago River Initiative – No report.

Chairman's Report – Chairman Kwiatkowski reported the ongoing violation on CTH E has been sent to the Town Attorney for citation. In regards to the Miller case, Chairman Kwiatkowski reported that the Town Attorney has been negotiating with Mr. Miller and his attorney on a settlement. It is the Town's intent to capture the attorney fees.

In response to Supervisor Malek, Chairman Kwiatkowski reported that Building Inspector Montoya will be sending a non-compliance letter to the property owner in the Industrial Park, stating that they do not have a site plan/plan of operation filed with the Town. The property owner will be given thirty (30) days to come into compliance.

Recommendation for Future Agendas – Planner Schwecke stated that "Review the Draft of the Land Division Ordinance" will be added to an upcoming agenda.

Citizen Comments – Steve Muth, S105 W37110 Estates Drive commented that he is glad that the Town did not approve the flag lots that were proposed tonight, putting an end to any additional multi-family driveways. In his opinion, a proposal of six (6) acre lots would be okay. Mr. Muth reported that his sister, who lives adjacent to the old Town Dump stated to him that the fence is down at the old dump and people have been dumping on that property again. Chairman Kwiatkowski explained that the Building Inspector will be going out to the site to inspect it. Supervisor Malek added that the dump site was closed by the Department of Natural Resources (DNR), by State Statute.

A motion was made by Supervisor Malek, seconded by Commissioner Samuels to adjourn the meeting at 7:45 P.M. Upon voice vote, motion carried.

Lynn M. Pepper  
Eagle Town Clerk

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