

Town of Burke Plan Commission Meeting Minutes
Wednesday, January 31, 2018
5:30 p.m.

Commission members in attendance: Chair Mike Vraniak, Steve Berg, Jodi Nachtwey, Joan Stoflet, Marv Urban and George Walsh. Excused: Jodi Nachtwey. Also in attendance Brenda Ayers, Administrator/Clerk/Treasurer; Chris Hughes and Vanessa Wishart, Stafford Rosenbaum. See attached list for other interested parties in attendance.

- 1) The meeting was called to order at 5:30 p.m. by Chair Vraniak.
- 2) Discussion with the Town Attorney regarding recent legislation concerning municipal regulation of land use. A CUP Legislation Presentation Outline prepared by Hughes and Wishart was provided to the members prior to the meeting.

Wishart explained that Wisconsin Act 67 was in part in response to a recent Wisconsin Supreme Court decision, AllEnergy Corp v. Trempealeau which resulted in specific types of evidence municipalities can use when taking action on Conditional Use Permits (CUPs). CUPs are no longer legislative actions; they are now quasi-judicial. The evidence considered must be substantial- excludes speculation and/or personal preference. Walsh asked if neighbor's concerns are to be ignored if it is not substantiated. Hughes responded that they need to be quantified- not just an opinion.

Wishart read items c.-g. on page 2 and specifically noted that "if an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the county ordinance or those imposed by the county zoning board, the county SHALL grant the conditional use permit." She further noted that the requirements and conditions must be reasonable and supported by substantial evidence. Walsh inquired if the applicant would be required to substantiate the evidence. Wishart stated that the Town could ask the applicant for more evidence.

Hughes recommended that the Town look at revising the process it follows in considering CUPs including slowing down the process and deliberating in closed session. The commission also discussed obtaining public comment at Plan Commission meetings in addition to the current practice of holding the Public Hearing at the Town Board level. Ayers expressed concerns about encouraging more public comment if the Town is unable to consider the comments unless they are substantiated. Commission members expressed the need for educating the public on the requirements of Act 67 and suggested adding language to the public hearing notice informing the public of the need for evidence.

Hughes explained that the county's zoning codes contemplate conditional uses allowed in each district with a permit. The argument is that if a conditional use is allowed in a certain district, why are permits denied. He further suggested that the Town work with Dane County to review their ordinances and consider creating special zoning districts for these uses in lieu of conditional use permits.

Ayers stated that Dane County is in the process of rewriting the zoning code and have been open to suggestions from the Town. She will contact zoning staff to inquire about changes they are considering as a result of Act 67.

Stoflet asked how the Town proves the applicant meets the conditions. Wishart suggested that one condition of all CUPs should be that applicant meets and continues to meet all conditions. Vraniak inquired about annual reviews. Hughes stated that in the past he has advised the Town that in most instances you should not put a time limit on a CUP; however with the changes in Act 67 he feels sunset dates on CUPs is acceptable.

Hughes suggested that Berg speak with the Town Board regarding Act 67 and the public hearing process including how to use the standards outlined in the Dane County zoning code.

- 3) ADJOURNMENT. Motion: Walsh/Stoflet to adjourn. Motion carried. Meeting adjourned at 7:20 p.m.

Brenda Ayers
Administrator/Clerk/Treasurer
Town of Burke
02/28/2018