**Town of Gnesen Planning Commission**

**June 21, 2023 Minutes**

**Members Present:** Carter Williams, Pete Bergman, Matt Thibodeau, Kevin Middleton, Sherri Underthun, Joe Ferguson, Carol Jacobson, Dick DeLano, Kathy Buran, Nathan Horyza; Zoning Office and Hannah Jurek; Planning and Zoning Secretary.

**Members Absent:** None

**Others Present:** Supervisor Nancy Poppenberg, Jay and Marcia Haller, Lance and Vicki Wicks, Susan Johnson, Derek Johnson, David Finn, Becky Nordskog, and Sue and Scott Lyons.

**APPROVAL OF AGENDA:** A motion was made by Carter to approve the agenda; seconded by Joe. Carter asked to have the two variance request be discussed at the top of new business. All vote in favor.

**APPROVAL OF THE MAY 17, 2023 MINUTES:** A motion was made by Carol to approve the May 17, 2023 minutes, second by Joe. Carol suggested that in Public Comment, that the resident’s names be omitted from the minutes; stating that usually when a complaint is filed, the name of the resident is on the complaint form but in the minutes the name remains anonymous. Sherri added if we do that for one resident, we do it for all. And it was agreed upon so make that change as well as typos found. All vote in favor

**CONTINUING BUSINESS:**

**MN Power request to change property lines in last submitted plat:** MN Power has made a request to change some property lines that were submitted in the last plat. Becky Nordskog from MN Power was present at the meeting and explained to the Commission that when the Carey Cove Plat was in its final stages of review, it was picked up by a St. Louis County surveyor and a title exam that a strip of land that was in the preliminary plat wasn’t owned by MN Power so they are asking for an adjustment of 11 feet. MN Power has notified the leaseholders affected and all are in agreeance. The adjustment doesn’t change the compliance for the 1 acre lot minimal. Carter made the motion to accept the minor change; seconded by Kathy. All vote in favor.

**Feedback from the Town Board about Ordinance #10:** The Town Board reviewed the changes and set a public hearing for July 17, 2023 at 7:00 pm. The one change they asked from the Commission was to better define unlicensed vehicles. Joe made the motion to define unlicensed vehicle as, *“a vehicle that doesn’t have current plates as per MN Statue 169.79.”* seconded by Dick. All vote in favor.

**Subdivision Application Follow up:** Sherri presented an application via email. The Commission received feedback from Nathan via email regarding the application. This opened up the discussion on how the Township should have its own application and fee structure for the four following scenarios: lot line adjustment, simple land split, subdivision, and subdivision of existing leased lots. Currently the Township doesn’t have clarification currently in our ordinance for simple splits, simple lot line adjustments and an actual subdivision. The Town also doesn’t have a way to regulate from an application perspective or a fee. Nathan stated it’s been something in the works since he started working for the Township about 5 years ago. Nathan took the time to explain the process when it comes to doing a simple parcel split currently because earlier in the discussion it was questioned that St. Louis County overlooks lot line adjustments, simple land splits, and subdivisions. The question remained, does a change like this need to put in the ordinance and approved by the public first. Those changes will be in this upcoming Ordinance update and fees are determined at the Town Board level.

**Communication Tower Update:** Nathan sent out an email to American Towers regarding the updates to the ordinance and the requirements for all existing towers located in the Township. He got a response from one of their attorneys with the tower registration statement. They reached out with the question on how to handle taking measurements of 500 feet, given that would require them to go off their lease lot. Nathan responded with the testing company should reach out to surrounding landowners acquiring permission to be on the property to take the measurements. If for some reason they are not allowed on the adjoin properties, to note that in their report that is given to the Commission every 6 months.

**Short Term Rental Update:** We’ve been receiving applications. With Grandma’s weekend happening Nathan couldn’t conduct a site visit for 2 applicants and will be tackling that the upcoming weekend. There was one applicate that on their application it did not show they were homesteaded ownership. So Nathan was looking for guidance from the Commission on how to approach that. It was advised to contact the applicant for verification.

**NEW BUSINESS:**

**7157 Rice Lake Road Variance V-23-02:** Susan Johnson is the property owner of 7157 Rice Lake Road, and her variance request is to add an addition on their 380 sqft cabin to include a bedroom and bathroom. The idea is to add a holding tank for the bathroom to eliminate the current outhouse situation, which in turn eliminate all the gray water that eventually seems into Island Lake. The lot is a non-conforming lot with non-conforming structures on it. The question was raised about the setback from the middle of the road. Mrs. Johnson explained the difficulty with that since her “road” is classified as a non-developed drive. She informed the Commission that the first easement that has since been vacated ran through the Island Lake Inn. The current easement is now off of Carey Road. She asked the question, what would be the setbacks for a non-developed drive? She was advised to mark her property with flags to give the Commission members an idea of where the addition will be when they do their site visits. Nathan did state, to keep in mind that he and the Commission have the ability to permit a structure located in a road right of way where such road right of way is not improved and it is apparent that other access is provided, a dead end road that hasn’t been improved also known as a paper road. Mrs. Johnson stated that this access is just there, and is very vague, but tried her best in the application to represent it. The public hearing will be set for Wednesday July 19, 2023 at 6:30 pm.

**4409 Sunshine Lake Road Variance V-23-03:** Vicki and Lance Wicks are the property owners of 4409 Sunshine Lake Road, and their variance request is to replace the deteriorating structure on their property. They have reach out for bid on fixing the current structured and the recommendation that they teardown and build new. The lot and current structure are non-conforming due to the width of the lot, they cannot meet proper side yard setbacks or lake setbacks. The current structure is irregular shape, the new design will be square which will give more space from the side yards on the lakeside of the property. They have a mound septic system to support a 4 bedroom home on their property across the street. The design they presented does have the structure closer to one side yard due to runoff and drainage purpose off the structure, but are willing to change if needed. They would like to keep the setback from lake the same. They were asked to flag the property for when the Commission Members do the site visit. The public hearing will be set for Wednesday July 19, 2023 at 7:00 pm.

**David Finn, E. Van Road Lot Line:** Mr. Finn purchased his lease from MN Power back in 1989. East Van Road was part of the first plat MN Power did here in the Township. That plat has now since been through public hearings, approved by the Commission, approved by the county, and is now a final plat on record. The problem Mr. Finn is having is that his lot line between him and his neighbor reads wrong on the plat from what his lease purchase was back in 1989 and he wants this corrected before purchasing the lot from MN Power before August 15. When Mr. Finn reached out to MN Power, MN Power sent a memo of understanding between Mr. Finn and his neighbor. Based on how the lot lines are on the finalized plat, once they acquire the lots as is MN Power will work with them and from there the landowners would go through the process of a lot line adjustment. The Commission informed Mr. Finn there is nothing much they can do since the plat is a recorded finalized plat. Joe did educate everyone by stating that the lease that was signed is not a legal description per say, MN Power had an engineering firm come out and view the real property lines, with much more sophisticated equipment today, then they had back then. He then stated his own experience with his own lot and lot lines. Again stating comparing the lot lines from back in the 80’s to now is like comparing apples and oranges. The Commission directed Mr. Finn to the St. Louis County website site, where he can get a lot line adjustment application, to then fill out and submit to Gnesen Township for Nathan to review, and then proceed back to the county for final review. But the problem that Mr. Finn faces then is that according to the memo of understanding, both leasee’s need to purchase the property as is, which Mr. Finn will not do. Nathan reminding everyone that this isn’t a Gnesen Planning Commission issue offered Mr. Finn to give him a call to walk him through it.

**Discussion of fine for 7055 Rice Lake Road:** It was pointed out, that building permits were issue after the work was in process or completed and ordinance suggest there should be a fine and our Town Board was asking about that at the last Town Board meeting. That the decision to fine them has to come from the Planning and Zoning or Nathan, and if we don’t fine them then we really can’t fine other people. Nathan’s reasoning behind not fining them is because the times he has fined somebody, it was because they blatantly didn’t pull and fill out a permit and was caught after the fact. In this situation they actually filled out the permits they just didn’t wait until he did his site visits. He did contact the landowners and inform them that if it happens one more time they will be charged triple the fee. According to the ordinance Nathan has discretion on whether or not to fine people and if the Commission wants to fine them he didn’t care, but that was his justification for not fining in this scenario. Joe made the motion to go with Nathan’s recommendation and not fine them, seconded by Kevin. Further discussion was had, Pete asked if we are setting a precedents here and if so what kind? Joe responded with reasonability, to which Dick included that the Zoning Officer made a reasonable decision, so going forward to the next person who (doesn’t apply for a permit) if their egregious, he’ll take action, and if they are working with him, then he would exercise his judgement and not fine them. Sherri include in the conversation some reservation stating, the precedents that we are setting, if we don’t stay consistent, if its stated in the ordinance that they should be fined because they did not have a permit in hand then we should be fining them because that is what rule of law says. If it’s going to be up the judgement of the Zoning Officer no matter who it is I think we leave ourselves open for lawsuits and problems. Joe made the comment that we (the Commission) have jurisdiction over what Nathan does, and if you want to vote to fine them or not fine them, fine. But to fine is a discretionary thing. We don’t have to fine everybody, or not fine everybody, it’s a case by case. Pete called for the motion as written to be a roll call vote:

Carol Jacobson: Nay

Sherri Underthun: Abstain

Joe Ferguson: Yah

Dick DeLeno: Yah

Pete Bergman: Nay

Kathy Buran: Nay

Kevin Middleton: Yah

Carter Williams: Nay

Motion failed

Carol made the motion to fine them for violation of the ordinance, seconded by Kathy roll call vote:

Carol Jacobson: yah

Sherri Underthun: Abstaining

Joe Ferguson: Nay

Dick DeLeno: Nay

Pete Bergman: yah

Kathy Buran: yah

Kevin Middleton: Nay

Carter Williams: yah.

Motion passed. The recommendation will be sent to the board to fine on both counts.

The other issue that was brought up on the same property deals with the set back from the highway on Rice Lake Road. It’s a 110 foot set back requirement, and the building itself is at 85 ft. and they built and addiction to the front of the building and then built a deck further toward the road. So the question is, how do we (the Township) have the authority to grant a permit that is in violation of that county set back. Nathan explained that he was under the impression that Gnesen Township doesn’t have any major arterial roads through the Township. Nathan did correct Carter stating that the deck is from the center of the road 85 ft. The Commission asked if Nathan could reach out to the county for clarification.

**Hot Plant Oil Spill:** There was a picture passed around at the meeting, the picture was of the spill that happened at the asphalt plant. The MNPC and EPA have all been involved, and the Board is comfortable with the issue being in the hand of MNPC and EPA. Something to think about when their CUP is up for review we may want to add a condition that they must make a containment around that so this spillage doesn’t happen again, and that Gnesen should be informed when accidents such as this occur. The Commission made a recommendation that the Board follows up the MNPC and EPA on specifically how it happened, how it was resolved and what’s the plans for the future. Carter made the motion to send the recommendation that the Board follows up with the MNPC, seconded by Sherri. All vote in favor.

**Gravel Pit Inspection List:** Kevin reviewed our current gravel pit inspection list, and felt some of the question weren’t relating. He remade the checklist with 10 questions that was read aloud and discussed. Kathy made the recommendation that Kevin sends his checklist to Hannah for her to get it out to the Commission as well as the current gravel pit inspection checklist.

**Carey Cove Plat:** With Carter as acting chair, Joe made the motion to give Hannah and Carter the authority that (Carey Cove Plat) document for MN Power. Seconded by Kevin. All vote in favor.

**ZONING OFFICERS REPORT:** Nathan sent out a fine to the Normanna Road issue. A citation was sent to the owner of the old fire hall. After getting the complaint last month, he reach out and was informed that it was just used for storage and for small engine on personal vehicles. When doing a site visit, Nathan noticed a wrecker truck and auto body work being done. Nathan went to talk to the landowner, explaining the property is not to be used for commercial use. The landowner wasn’t happy but remained civil in discussion. Nathan then received a call from the Sheriff’s Department saying he is not allow on the property the old fire hall is on and that if he did it would be consider trespassing. Nathan did send him a citation of $50 for operating a commercial business in a residential zone. Nathan strongly recommended that the zoning in the area be reconsidered. Over a year ago the Planning Commission sent the recommendation to the board that that area be rezoned commercial, it went to public hearing and in the end the Board voted no. Now that a year has passed it can be brought back up for discussion again. Carol made the comment that, to rezone that area it’s up to the landowner to fill the application out and make the request. Nathan did make the suggestion that a CUP could be an option.

 **BOARD MEMBERS REPORT:** The few things that Nancy was going to bring up were already brought up throughout the meeting.

Next P&Z Meeting will be held on Wednesday, June 21, 2023 at 7:30 pm.

A motion was made by Sherri to adjourn, with a second by Joe. All voted in favor. Meeting adjourned at 9:38 pm.

Respectfully submitted,

Hannah Jurek, Planning and Zoning Secretary Carter Williams, Acting Planning Commission Chair

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Date Date