

Town of Whitewater Town Board Meeting Minutes
Wednesday, June 14, 2017
7:00pm

Present: Lowell Hagen, Robert Strand, Norman Prusener, Carrie Hintz

Approval of agenda – Norm made a motion to approve the agenda as written, seconded by Bob. Motion passed unanimously.

The minutes of the May 30, 2017 special town board meeting were reviewed. Norm made a motion to accept the minutes as written, seconded by Bob. The motion passed unanimously.

Clerk report – None

Treasurer report – Carrie read the account balances. Norm made a motion to accept the Treasurer's report as read, seconded by Bob. Motion passed unanimously.

2nd Side Supervisor – Norm said when the buoys went in they were short 16 anchors so they didn't all get put in. Sunday they put the ones in the channel where they broke loose. Still need more on Ridge Road. The light on the top of the boat was donated a couple years ago and now has to be replaced so that they're visible 360 degrees.

1st Side Supervisor – Bob said our two road projects from last fall are now complete. E. Lakeshore Drive is done and he's had a few thank you's. We budgeted up to \$25,000 and the total cost was about \$9,744 so we were under budget. Hill Drive is done, though the anticipated 10" of stone turned out to be 16", but it still came in under budget. Town is doing its best to clean up trees after the storms.

Chairman – Lowell had a couple of complaints about buoys on Whitewater Lake and we're dealing with it.

Sheriff's Department Incident Report – Sargent Ira Martin read report (see attached).

Schultz certified survey map (DA600001A & DW3500014A) – Ronald Schultz purchased his property at N7626 E. Lakeshore last August and went to get a deck building permit. Found out he has two tax parcels and must combine parcels in order to do the deck. The small lot is .18 acres. Norm made a motion to pass this, seconded by Bob. Motion carried unanimously.

Ostrow variance request at N7454 Ridge Road (DA9700002) – Attorney Tony Coletti said the Ostrow's are trying to get their boat house to code and better looking. Mr. Ostrow replaced railings to be safe that are building code compliant, but he didn't get a variance first. Also a rotting large staircase to the back end of the boathouse, which he tore out and replaced, needs a variance as well. Attorney Coletti said the improvements don't violate any of the zoning concerns. The back staircase is fairly hidden, it's not intrusive, and doesn't affect erosion. Doesn't impact the neighbors. Bob suggested they get letters from neighbors for the County Board meeting in July. The work was all complete without permits since he was just replacing things, not knowing he needed a variance. Norm asked about the second floor addition, which was done by the previous owner. Norm said that didn't have a permit either. Bob met with the Ostrow's and the original plan survey from 1974 showed the boathouse but there isn't a height shown. So the second floor was already on there. Attorney Coletti said the top of the boathouse is used for relaxing. Bob said that per code the boathouse must be a boathouse, but the question presented to us is the front cantilever deck, which was original but with rotten railings which he replaced safely. The back set of steps are now downsized to one legal 3' wide staircase instead of the landing and the three that were there. Bob made a motion to approve the 14' lakefront variance for the cantilevered deck,

seconded by Lowell. Motion passed 2-1. Bob made a motion to approve the 39' variance for the new staircase to the upper door in to the upper section of the boathouse, seconded by Norm. Motion passed unanimously.

Kowalski variance request at N7331 / N7341 Chapel Drive (DCH00013) – Scott and Ashley Kowalski would like to construct a single-family residence on their lot, but the ordinance requires a 25 foot street yard setback. The applicants are requesting a 17 foot street yard setback. The property is zoned B-3, Waterfront Business District. Scott said they'd like the 7' variance to build their new home. They are getting rid of the old marina building, taking out the fuel pumps with DNR approval, and cleaning up the property. They didn't realize that Townline Road easement was so close. Blacktop will stay as is. Bob said the to-scale plat of survey would have been helpful. Bob said the provided plans show 9.9', which is a discrepancy from the 17' requested. Scott said the 10' setback is a B3 zoning regulation. Bob said that the B3 setbacks are better than R1 setbacks, so he's concerned they could change the zoning to R1 once the house is built with B3 setbacks on an undersized property. Bob said the area residents have provided a lot of rebuttal. Scott said they'll have a small office in the house. It's a 25' sidelot setback, even though the plans show 17'. Bob said that Townline Road should be 50' setback being a town road, which Scott said that Darrin Schwanke said it's Chapel Hills Subdivision so it's only 25'. Bob said that the house is barely fitting in the property. Scott said that on the actual survey it's 43' off the edge of the blacktop, but Bob said that doesn't mean that it's the right-of-way. Scott said the road is paved way right, which hurts his property. Scott's surveyor surveyed 3 times during this process, but he doesn't think the stakes are still there. Bob said Scott could get a variance to move the house closer to the lake by taking an average of the neighbor's properties. Scott doesn't want to do that because he's still 43' from the edge of the blacktop and he wanted more green space. Moving closer to the lake would screw up his septic and this way he'll have a 26.5-27.5' driveway to the property line. The people going to the boat launch already park on the green space. Scott said when they get rid of a building and canopy, there will be more parking of about 4-5 stalls. He'll also need approval later on to remove the 10' tall bellied block wall that's there because it's unsafe. Scott provided pictures showing this. Once the house is done, then he'll install a concrete wall with railing if he can get it approved. The back corner of the building is at grade with the road. Norm said we only have 2 pieces of business property on the lake and we really need another marina. The best use of this lot is for a marina rather than residential and the residents agreed. Also, every one of our boat launches where there are residences next to them, we get complaints about the fishermen urinating when they come in and other issues with the public. It's zoned business so he'd like it zoned business and used as a business lot. Another option is to build a house up above on his other lot. Scott doesn't want a bar or anything. He bought the property to build a house. Bob asked if the plat of survey shows exactly where the septic is because the tank has to be 5' away and the field 15' away. Scott said if the building is closer to the lake he wouldn't be able to stay within those limits. Bob said he should check the neighbor's plats of survey and maybe reposition the house. Bob Harris said the marina doesn't have a bathroom so it's illegal anyway, though there is a port-o-potty. Scott said he's not going to change the zoning in the future. Scott has other land that is .64 acres that he doesn't know what to do with, though he wants to get rid of the tennis courts. Gale Shelbourn is in favor of the Kowalski's project with cleaning up the area and building a residence. But he's not sure why the town or county would want to give up 7' of roadway on a busy boat launch. When cars park illegally, then the width of the boat launch narrows more and there is no turn around. So cars have to back down to the launch, which is dangerous. The full setback without cars parking allows a full staging area. Last week cars were waiting 30 minutes to launch. Gale said the town should rezone the property residential, which is basically what they're doing, get rid of the boat slips, and also enforce the no parking. Gale said the tennis courts shouldn't be allowed to be parking either because it's zoned residential. Gale said B3 is one residential dwelling unit when located within the principal business structure. Gale says that's the business with a living space versus a 3000 square foot house, which is a residence like the Kowalski's are trying to do. Lillian Roy said that there are 30+ boat slips so there isn't sufficient parking spaces for the cars that are renting those boat slips, and there aren't bathrooms. Sufficient parking and restrooms are required to run a business. Scott said he isn't planning on removing the boat slips. Mr. Roy said that if the business buildings are being removed, then they're starting from scratch and need to provide the parking and restroom requirements for a business, especially if using the business zoning setback. A business is built to different standards

than a house and should meet the code requirements. Lowell asked if a year ago, before the Kowalski's owned the property, if there were parking issues. The Roy's said that parking was always an issue, but they couldn't do anything because it was grandfathered. Lowell asked if Scott would be willing to take the boat slips out and change zoning to R1 and Scott said he wouldn't. Scott is leaving everything as is but just clean up and add a house. Bob Harris said he thinks we need boat slips for those who don't live on the lake. Lowell said what if the tennis court land across the road the zoning could be changed to permit parking, but the Roy's said they wouldn't be okay with that. Scott would be okay with that. Gale said that's not an accepted use of the B3. Most residential people don't want a parking lot next door. Gale said then you have a busy road with people crossing and Dick Kraus agreed that could be a safety issue. Gale doesn't think there should be a 3000 square foot residence on a B3 lot. Lowell said it's a public launch with a fee box and anyone can launch and then find parking in addition to Kowalski's 36 boat slips. It's an ongoing issue that was there before the Kowalski's bought the property. Gale said this is the chance for the town to remedy some parking issues rather than cause additional issues. Scott said he may have to take the 7' off the home or move the house closer to the lake. The only B3 zoning thing that they're not abiding by is the 7'. Scott can't control where people park, who launches a boat, whether there are kids walking in the street, etc. Currently people are parking on any road they can and exiting their vehicle into the road. The 36 people who use the boat slips don't leave their trailers there. There are no parking signs at the launch. Norm said that's a long way to back down to launch a boat. Scott hasn't looked into the B3 requirements for the business he's running. Gale said he talked to Darrin at the county and Darrin said Scott would have to re-apply for the conditional use because of the changes to the property. It's currently grandfathered in and they're changing more than the 25%, then they must re-apply for the conditional use. David Zimmerman, the Kowalski's contractor, said they're at 5149' of new roof and structure. The canopy is the deciding structure depending upon when it was built. The canopy was originally smaller and now they're over. Bob said for new construction there is a 30% impervious area and Mr. Zimmerman said they are okay. Mr. Roy said that a new conditional use is going to be tough because of the parking. Mr. Zimmerman said the simple resolution could be to build a smaller house that wouldn't require a variance and then they'd leave part of a storage building and just repair it. Lowell said that with it being a public boat launch, we don't have any control over how many people need parking and it could always be an issue. Bob said there's a lot of opposition by people who really want them as a neighbor, but are opposed because of the B3 zoning and the parking issue. Bob made a motion to deny the permit application at this time, seconded by Norm. Motion passed 2-1.

“Class B” Intoxicating Liquor and Retail Class “B” Fermented Malt Beverages License renewal applications received from Fuzzy Pig, Whitewater Country Club, and JNT Parkside Marina, LLC for 2017-2018 – The board reviewed the applications from the three current license holders. Representatives from The Whitewater Country Club and the Fuzzy Pig were present, but no JNT representative came. Evergreen sent a letter saying he was just hired by JNT and that he needs 40 days to complete the design process and get bidding and another 40 days for financing. He would like an 80 day window for the liquor license. Claudia Holst asked how many years JNT has been issued a license without having a building. Lowell said they're willing to pay for the license and we don't have another business interested in the license. Norm said the liquor license says that if the doors are closed for around 15 consecutive days, then they can lose their license and we could issue the license to anyone else interested. The liquor license is only for JNT's restaurant. If JNT decide to sell, the liquor license doesn't automatically transfer. Bob made a motion to accept all three applications for the Fuzzy Pig, WW Country Club, and JNT Marina, seconded by Lowell. Motion passed 2-1.

Operator/bartender license applications for 2017-2018 – Received three operator permit applications for the Fuzzy Pig (Pamela Krause and Richard Kraus Jr.) and for the Whitewater Country Club (Kiefer Sullivan). All three applicants were previously issued licenses in the Town of Whitewater. Carrie said background checks were completed on all applicants with nothing new to report. Norm made a motion to approve all three operator licenses, seconded by Bob. Motion passed unanimously.

Hidden Drive sign near N7423 E. Lakeshore Drive – Phil Blackwell said there are 4 houses down a long driveway right across from Blue Heron subdivision. They've lived there permanently for the past 3 years.

It's dangerous with cars coming south on E. Lakeshore because there is a bend in the road and downhill, so their driveway is hidden. People coming down the hill don't know if someone is coming out of that driveway. There is a convex mirror that's there and helps. Phil is requesting a hidden driveway sign on the right side of the road as you head south for safety. Bob said that putting a sign there doesn't actually do anything other than cause comfort, but the convex mirror is helpful. Mr. Roy asked if there is a flashing solar light we could use. Norm made a motion to post the hidden drive sign, seconded by Bob. Motion passed unanimously. Bob Harris will work with Phil to find a good sign location.

Possible action to abandon Christon Court per public hearing – Norm made a motion to abandon, seconded by Bob. Motion passed unanimously.

Fire number assignments on empty lots – Phil Neustadter from the Kettle Moraine Club requested a fire number for their lake lot. There are boat slips, but they don't have a permanent structure, which is what the town requires for a fire number assignment. Carrie checked with Walworth County and they require a structure or an approved zoning / building permit and they must have a driveway. The county said it's confusing for emergency responders when there is a fire number but no building because they are looking for a building when responding to an emergency. Norm said that a few years ago we put some at two DNR properties and we approved it. Lowell said we won't automatically issue a fire number to anyone who asks. They'd have to come to the town board for special circumstances. Bob said that with the public there it would be helpful. Bob made a motion to approve, seconded by Norm. Motion passed unanimously.

New safety patrol shore station purchase – Norm said Sean got the DNR approval to get it reimbursed over 5 years, but the town would have to come up with the money up front. Norm said that we'll put it off. Our shore station was installed improperly and is now fixed. The top was brand new last year and Norm said that the whole thing looks okay. Bob Harris said he can fix the crank.

August 20, 2017 Fort Atkinson Lions Club Bike Ride approval and liability – Carrie said that this an annual bike ride that we've approved in the past. They sent a letter saying that they will be responsible for paying for any and all unpaid ambulance bills. Lowell made a motion to accept, seconded by Norm. Motion passed unanimously.

Sign contract with Crack Filling Service for \$24,999 – The board approved this contract at a previous meeting, Carrie then advertised, and now Lowell needs to sign the contract. Lowell made a motion to pay \$24,999 to Crack Filling Services for services already provided, seconded by Bob. Motion passed unanimously.

Contract for cutting dead trees in the town right-of-way – Bob said last year we numbered a bunch of trees, we got two bids, and hired Will's Tree Service. This year we have more trees down and he's wondering if we can budget a certain amount of money and get them taken down as needed. Norm said he'd like to get prices from at least 3 different businesses who charge by the hour before the end of the year. Norm spoke to another municipality who hires a man with a bucket truck who can cut 8-12 trees a day at a reasonable price. Then use up our budget that way. Norm said there's a dead willow tree on Townline that's lying in the lake. Norm can cut it off and then we need to pull it out of the water with a chain and a dump truck because it's a navigational hazard. Then Bob Harris's crew can cut it up. Bob Harris said he could take the tractor out there to pull it out. Norm made a motion to advertise for an hourly rate to cut trees for a year contract, seconded by Bob. Motion carried unanimously.

Mowing town parks – Bob said that the park on Bay View has always been cut by a neighbor, but he moved away. The neighbors would like it cut, but if the town cuts one, then we have to cut them all. Bob said the residents can mow it if they want. We don't have the time and manpower and many aren't even mowable.

Resolution adopting public participation procedures for updating the multi-jurisdictional comprehensive plan for the Town of Whitewater – Norm said there was a plan started years ago and every 10 years we have to update. The county will pay the \$20,000 if we sign on, hold hearings, and let them know if there are any updates. Norm made a motion to sign, seconded by Bob. Motion passed unanimously.

Other town business – None

Public Input – Lillian Roy said the GWLPOA is getting calls about the safety on the lake. People are skiing during times they shouldn't and doing other things they shouldn't be doing. Lillian is wondering if there is a way to have a group set the ordinances to make the lake safer and more comfortable. Lillian said there are a tremendous amount of boats coming in daily and those people don't always read the ordinances and some of the offenders are local lake property owners. The GWLPOA sends ordinances to 450 people via email. Bob asked if there could be residents who could be approved by the Sheriff's Department when the Safety Patrol isn't available. Norm said that would be complicated and the liability would be an issue. Norm said there are a lot of unregistered boats out there because the DNR is short-handed and Mr. Roy said the DNR sent defective boat registration stickers that are falling off. The town provides the same amount of money annually for patrol hours. Norm suggested that the town board supervisors go to another town with a lake and see how they handle the lakes.

Bob said that the new ditching on E. Lakeshore Drive seems to be working and he saw a car parked fully on the new gravel without having tires on the road.

Board paid bills.

Lowell made a motion to adjourn at 8:58pm, seconded by Bob. The motion passed unanimously.

Respectfully submitted by Carrie Hintz, Clerk/Treasurer