

**MINUTES**  
**TOWN OF RHINE PLANNING COMMISSION**  
**Wednesday, February 12, 2020 at 6:30 p.m.**

**Present:** Bill Jacob, mark Pfaller, Joanie Fiorenza, Christa Johanson, Larry Eberle, Paul Boocher

**GENERAL MEETING – 6:30 PM**

1. **Call to Order:** Compliance with Open Meeting Requirements. (Published Jan. 29 and Feb. 5, posted as required, media notified)
2. **Pledge to the Flag:**
3. **Approve Minutes of the Dec. 11, 2019 meeting:** Motion to approve by Fiorenza and 2nd by Eberle. Boocher abstained from voting. All others were in favor.
4. **Public Comments (general nature):** None.
5. **Public Hearing - discuss and possibly act on:**

*A. To consider the application of Jeffrey D. Rudnick of W6173 County Road A North, Elkhart Lake, WI 503020 to rezone this property from R1 to B1. Parcel # 59018257811.*

Jeff Rudnick explained that when he purchased the property he thought it was zoned B1 as there was a business operating there previously. The main purpose of rezoning is to complete requirements for his state license to buy and sell cars on the internet. He would also like to obtain his CUP to remain in business. He does not intend to sell cars on the property or to put up lights. He would like to be able to keep one car on the property and to put up a sign for his business.

Jacob reviewed the approved businesses for a B1 zone. The applicant's request would also require the CUP as originally requested. Note: Mark Pfaller recused himself, and Paul Boocher sat in.

Eberle likes the Rudnick application, and he suggested that instead of rezoning, the committee grant a non-transferable CUP so Rudnick could continue to conduct his business.

Johanson reminded them of the need to rezone as discussed at the previous meeting because an R1 zone would not permit this type of business. A B1 zone would allow a CUP for this type of business. Her opinion is that the CUP could not be issued with the current zone of R1.

Booher agrees with Johansson's assessment. He sees no reason not to rezone the property as B1. He also commented that the current business has been there for years, as was the previous business.

**Fiorenza made a motion to approve the rezone request to B1. 2<sup>nd</sup> by Booher. Roll call vote: Eberle – no. Fiorenza – yes. Johanson – yes. Booher – yes. Jacob – yes. Request to rezone is approved. (goes to TB for final vote)**

**Discussion of application for the CUP:** Boocher asked if a CUP is granted, how the town would know which cars on the lot are salvageable, for sale, impounded, etc. He suggested there would be a need to determine that in order to issue a CUP. Fiorenza agrees.

Rudnick is in possession of proper licenses for disposal of waste products, etc. There was discussion regarding hours of operation, the number of vehicles on the property, vehicle storage, fencing, and signage. The applicant is required to keep impounded cars for 60 days.

**Johanson made a motion to recommend the Town Board approves the CUP application of Jeffrey Rudnick to operate a repair shop and automotive service subject to the following:**

*Hours of repair shop be limited from 8 am to 5 pm.*

*Applicant erect a fence, approved by the Town Board, which would conceal automobiles. This is to be completed before the CUP is first eligible for renewal in 2 years.*

*The number of vehicles on the property at any given time will be limited to 30.*

*A color coded system to identify types of vehicles on the lot is to be implemented.*

*Verification of a proper disposal plan be provided.*

*There can be only one car on display in the front yard.*

*A sign to be put in place which would meet the minimum required standard for internet sales as required by the state.*

*No hours of operation on holidays as required in other town CUPs.*

**2<sup>nd</sup> by Fiorenza.**

**Roll call vote: Eberle – yes. Fiorenza – yes. Johanson – yes. Booher – yes. Jacob – yes.**

*B. To consider the application of Jeffrey and Wendy Elgin of W6656 County Road C, Plymouth, WI to rezone their land at the same address from A1 to A2. Parcels are 59018259010 and 59018259020. Total amount of land now is approximately 64.8 acre. The area to be rezoned is approximately 26.97 acres.*

Mark Pfaller rejoins the committee, and Paul Booher stepped down from remaining hearings.

**Public comments:** John Jens is in favor of approving the request. There were no other public comments.

Jeffrey Elgin explained his application and that he and his wife would like to build a smaller retirement home.

Johanson reviewed the requirements for different ag zones. Both parcels are now A1. If the land is split as requested, there could be no easement issue. She is considering the long term future of the parcel and asked if he would be willing to rezone to A5 on one parcel and keep the 36 acres as A1. Applicant is in favor of that.

**Johanson motions to approve the rezone on lot 1 from A1 to A2. 2<sup>nd</sup> by Fiorenza. Roll call vote: Eberle - no. Johanson - no. Fiorenza - no. Pfaller - no. Jacob - no.**

**Johanson motions to amend the application to approve a rezone from A1 to A5 on lot 2. 2<sup>nd</sup> by Pfaller. Roll call vote. Eberle - no. Johanson - yes. Fiorenza - yes. Pfaller - yes. Jacob - yes. Motion carried.**

*C. Conditional Use Permits for a WPS Gas Regulator Station Site on Garton Road. Parcel 59018260290.*

The planning commission has had considerable discussion with WPS in an effort to address previously presented concerns. The location of the site cannot be changed due to the location of pipes in the ground. Suggested changes and landscaping upgrades were reviewed. 2 upgrade options have been presented to WPS; both options are agreeable to them.

**Public comments:**

Frank Schobert believes moving the storage building makes it worse for him as it would be closer to his porch. Bruce Pahl stated that planting the trees would be very nice. Katie Wolff appreciates that the site was moved back. She still has health, odor and noise concerns. Jacob noted if the town thought this would be harmful they would not approve it.

Jacob reviewed the 2 options presented. He stated that all committee members have looked at the site and know where the existing homes are located. Review and comparison of the 2 plans followed.

Johanson stated that the town has no control of the property which they are being asked to review. It is zoned A1, which allows public utility use, such as this. She explained state statutes regarding public utilities. The CUP can only be denied if there are hard facts and evidence that the proposed project would be detrimental to neighbors and the area. There are no hard facts, only speculation, that property values will go down, that other stations are loud, noisy, causing odor, etc. Therefore, according to town ordinance and state statute, the town cannot deny this request.

She expressed concern that the 2 new options are worse for the neighbors to the east and only marginally better for other neighbors. She likes the additional landscaping, but prefers the original proposal.

Pfaller has been working with utilities for over 40 years as a professional. He addressed Johansson's concerns. He felt that the masking of the facility would be easier on the east side because there are more mature trees there already.

**Pfaller made a motion to approve the new revised option A for the Garton Rd. installation site. 2<sup>nd</sup> by Fiorenza. Roll call vote: Eberle - yes. Fiorenza - yes. Johanson - yes. Pfaller - yes. Jacob - yes.**

*D. To consider the request of General Lumber and Supply Company, Inc. for the Town of Rhine's discontinuance or vacation of streets or alleys. Location of the request is Blocks 8 and 9, Schwaller's Second Plat on Little Elkhart Lake. Parcels are 59018267090, 59018267080, 59018267020, 59018267000, and 59018267070.*

Jacob explained the legal requirements on handling this request. The Town Board did pass a resolution for this, and now the Planning Commission must also review it.

**Public comments:** Gust Lammers, representing Lammers LLC, has no objection to the request as long as the access which was previously granted to them by the Town of Rhine and/or Walter Young is not lost.

Discussion with Ed Harvey and the Lumber company rep, John Machulak. Surveys and maps reviewed with them and the commission members.

Lammers does not want any interference with that access. Pfaller asked if he can provide documentation or proof of that. Lammers did provide volume and page of the county records.

Harvey has had Paul Dirkse review the request. Johanson explained that in the past the town has required proof of ownership, land deed records, etc. be presented if there is an issue of ownership and property dispute the town and a property owner.

There is confusion on who owns the reversionary right to vacate the road, particularly on the Lammers property.

Paul Booher has no problem with vacating these roads. He understands the request for abandonment is to facilitate a sale of property which has been for sale for approximately 20 years. He would like to see something in writing that would keep a 35 foot barrier on the lakeside of the property.

Mike Schwaller is representing Schwaller Family LLC. He is concerned that this action might land lock his property. The only other access to their land is from highway 67. He reviewed a map with the commission members. The review showed that the request would not be land locked as a result of this action, if approved.

John Machulak, representing General Lumber, believes if the board vacates the property, it reverts to the original owner. They are seeking the ability to build on the property to make it marketable.

There were no other public comments.

**Eberle made a motion to vacate all of the requests except for Loretta Court, which can be resolved at the TB meeting if proof of ownership is provided. 2<sup>nd</sup> by Fiorenza.**

**Johanson recommends to deny that motion. Vote on Eberle's motion: Eberle – no. Joanie – no. Johanson - yes. Jacob - yes. Pfaller - yes.**

Johanson recommends to advise the board to vacate the roads per the application, subject to the resolution of the ownership of the vacated portion of Loretta Court lying west of Schwaller Drive. 2nd by Fiorenza. Roll call vote: Eberle - yes. Fiorenza - yes. Johanson - yes. Pfaller - yes. Jacob - yes.

7. **Next meeting date:** (as needed)

8 . **Adjournment:** Fiorenza motioned to adjourn at 9:01 pm. 2nd by Eberle. All in favor.