

VILLAGE OF NORTHPORT  
PLANNING COMMISSION  
116 W. Nagonaba St.  
Wednesday April 20<sup>th</sup>, 2022  
MINUTES

**Call to Order, Roll Call**

Chair Arbury called the meeting to order at 7:00 p.m.

**Members present:** Arbury, Cavendish, Newell, Gale, Woomer, and Wessell. **Absent:** Caudill

**Public Present**

Chris McCann, Amy Spitznagel, Ross Hammersley, Joanna Swanson, Mary Bezoldt

**Staff Present**

Recording Secretary-Sarah Murphy, Zoning Administrator- Joni Scott

**Approval of Minutes**

March 16th, 2022, meeting minutes were approved as amended, **moved by** Commissioner Gale, **supported by** Commissioner Wessell, **motion carried**

**Approval of Agenda**

Addition or corrections to April 20th, 2022 agenda: Commissioner Cavendish asked for allotted time for discussion on zoning revision date for the special zoning meeting. Chair Arbury said to move to New Business. Chair Arbury-Moving Amy Spitznagel's presentation to after 7<sup>th</sup> street business.

**Correspondence**

All correspondence in drop box.

**Public Comment**

No public comment.

**Old Business:**

7th Street Fact Finding – fact-finding and continuation of review from previous meetings, this month covering environmental reports about the property. Village attorney Ross Hammersley was present for the duration of this discussion to assist with answering questions, as and when needed. ZA Scott clarified that the goal of the environmental review is to understand usability, liabilities, salability, and if there are recommendations of what not to be on the property.

*Charge: To make a recommendation for use of the 7th Street property currently owned by the Village. After a thorough review of available information, the goal will be to bring forward a potential plan, or plans, for use that are in keeping with our Master Plan and current zoning ordinances.*

Village Attorney Ross Hammersley gave a brief introduction and review of his background in Legal Environmental Studies. He explained he was attending the meeting to gather insight into what the commission is looking for in terms of opinions or questions about the environmental aspects of the 7<sup>th</sup> street property. His intent is to address any thoughts or questions we have, in the meeting where applicable, and in a written opinion following the meeting.

**7th Street Document/Information Gathering Review** (All documents in the 7th Street Dropbox on the PC page of the web site):

9. Wetland Delineation Report, 7/29/20
  - a) Report focuses on “this point in time” (July 2020) and shows the portions of the property that have multiple indications of being wetlands.
  - b) Asked Village Attorney Ross Hammersley, to explain the legal definition of wetlands vs the technical definition of wetlands.
    - i. Ross Hammersley: Follow the State’s definitions of wetlands. The area has several complicated aspects to it, wetlands, ground water levels, and the lake. July is a good time for a delineation because of the water levels, but many experts also take plant and wildlife into consideration of wetland status.
  - c) Discussed if those definitions apply to this property as a whole, or just portions of it, based on this report. Clarified that the report’s map and conclusion does state that there are Wetlands as defined by the State, and that EGLE and Soil Erosion would require permits for any construction or development. EGLE defines anything that is 500 ft or less from Lake Michigan or 100 feet from wetlands will require permits from those departments to proceed. Our report shows the property is 300 feet from Lake Michigan and less than 100 feet from wetlands. This is explained in the report and demonstrates that the entire site meets the requirement.
    - i. Ross Hammersley: Clarified that this property is a site that has wetlands on it. There is a specific size for the State to regulate. Legend on the map does show what is wetlands, however, there is significant proportion that shows yellow which means soil areas which includes wetland soils.
  - d) The Lake Michigan High Water Mark was the highest on record in 2020 when reports were compiled – per Army Corp of Engineers records.
  - e) Discussed what led to the boring site locations and how they were chosen:
    - i. Sites chosen for soil, topography, and physical characteristics of the area that indicate possible wetlands.
  - f) Asked how long these environmental reports are relevant, since it was completed in 2020?
    - i. Ross Hammersley: Delineations are usually good for 5 yrs but will confirm.

- g) Noted that the wetlands extend throughout this area and that water would continue to shift and change, ebb and flow, through the property over time.
  - h) Mentioned that no one would be able to install buildings or homes with basements in this location.
10. Report of Geotechnical Exploration, 7/30/20
- a) Reviewed aspects of report, which covers the subsurface conditions on the property.
  - b) Discussed that deep soil boring was only done in two locations, within two of the proposed split property sites. Asked if DEQ, EGLE, and Soil Erosion Control would require more boring if the lots were split and those boring sites were not contained within the lots? Could it impact the value of the property, if those buying need to do another boring?
    - i. Ross Hammersley: Believe that they will look at the property as a whole and not go lot by lot. If there are portions of the property that the engineers or developers have questions about then it would be on their due diligence to check those areas.
  - c) Asked if we knew how these boring sites were selected?
    - i. Commissioner Gale: Her recollection is that the sites were based on where the railroad came through and areas that had the highest potential for contamination.
  - d) Mentioned that the report specifies that a dewatering system would be needed for construction on site; and density testing and compaction every six inches, does this impact the sale price because of the cost to do this if you were to build.
    - i. ZA Scott: Mentioned she didn't know the price for this site, but that it was being done for the construction of the sewer line on Flees Rd and that for that section it was over 40k for 700 ft of dewatering.
9. Phase I Environmental Assessment Executive Summary, 7/30/20
- a) Review of document, which summarizes the history of the property and any potential areas of contamination or concern for the usage moving forward.
10. Phase II Environmental Site Assessment Report, 1/7/21
- a) Review of document, which discusses the results and any conclusions on several soil and water test sites on the property, as recommended by the Phase 1 report.
  - b) Discussed village's responsibility regarding the areas that stated there needed to be further testing. Asked if the different tanks at the DPW leaves liability for cleanup to the Village?
    - i. Ross Hammersley: Would like to review the reports for potential vulnerability. There are several different state statutes that could pertain to the circumstances. Statutory trigger for any municipality or developer must be followed and would possibly pertain if there are/were tank above or underground. General rule there is potential liability for the person(s) that may have contributed to, or exacerbated, the contamination. There needs to be demonstration that there is "free product" or contamination that exists. State

could have historical data on the site. Mr. Hammersley is willing to pursue further if needed.

- c) Discussed if it would be to the benefit of the village to work with the county or take remedial action prior to any possible development (by the village or others) or selling?
    - i. Ross Hammersley: Most jurisdictions do not perform their own remediation, but it is possible to do the remediation to make the property look more appealing but there is no quantifiable way to justify spending the money prior to selling or developing.
  - d) Commission stated that there are contaminants of Zinc, Lead, and Barium, as well as a statement that recommends additional testing. As with the previous discussion, this cleanup, if needed, would be handled by whoever was developing the site (be it the village or others).
    - i. Ross Hammersley: Added that we would be limited to liability if the property was sold, as developer would come in and do their own Phase I testing per statute requirements.
  - e) One view we discussed wanting to keep in mind is that the Village is looking from a developer's perspective as well. If the village was to be the developer, then it would take on the statutory regulations themselves as an expense.
  - f) Discussed where the report shows the contaminants are located, the whole property or just portions. The report shows the reported containments are mainly on one lot (the former DPW site area) and the split Lift Station area (that is not a portion of the property we're looking at).
2. Report by Gerald Schatz (Citizen Task Force) 12/16/19
- a) Since Ross Hammersley was available in the meeting, a quick question in regard to this previously reviewed report was asked. In this report, Mr. Schatz questions the quasi use of 7<sup>th</sup> street and how that impacts the original agreement with the State, sought any clarification from Mr. Hammersley on this aspect.
    - i. Hammersley: This claim would most likely come from the State and is not likely a concern.

Additional documents added to the 7th Street Information Gathering List will be reviewed at May PC Meeting: Seventh Street Road Development Plan.

It was also determined that a brief summary of the walk through and discussion that occurred with a preliminary walk-through of the property with a forester, should be written and included in the documents to review next meeting. ZA Scott to reach out to Village Liaison Cindy Edmondson for a summary (as she and Village President Wetherbee were present at the walk-through).

Discussed thoughts and questions to consider prior to next month's 7<sup>th</sup> St property review:

1. Follow up on any pending questions posed in the April and March meetings (there are several topics with answers in progress). ZA Scott will continue to follow-up coordinating remaining requests.
2. Are there further documents or information we need to review?

3. Transitioning to move forward with the facts acquired. What might be the best way to move into the next phase and look at proposals? What information may still be needed to properly vet and discuss proposals presented? How to review the proposals and facts applicable, with the lens of the Master Plan and Recreation Plan in focus. Discuss and determine the process of generating and gathering ideas for use of the property and solicitation of the public for that process.
4. Discussion on the possible need for an appraisal on the 7<sup>th</sup> street property and the cost of an appraisal. Per Commissioner Gale one was done 2 years ago with an estimation of \$300k for the whole lot. Discussion continued to relate to appraisal for the whole lot vs the individual plots. No decision on requesting an appraisal at this time was made, as it was determined there are still too many open questions on the direction of what we would be requesting to have appraised.
5. Commission discussed whether DEQ or the Leelanau Conservation District (Soil Erosion Control) had been consulted, and when or if they should be. No decision on posing questions to DEQ or Soil Erosion Control was made, it was determined there are still too many open questions on the direction of what uses we would be requesting permissions for.
6. Updating the timeline/creating a new one, prior to public hearing, that includes timing for all the documents reviewed by the commission.

Final emphasis from the whole commission was that this entire process is still in review and the commission has not settled on any uses for the property to date, but is still in the fact gathering stage. Reminding everyone that the commission will be looking at a variety of proposals and options for the property and likely will not refer just one proposal, but instead will refer multiple options in line with the village plans, to the council.

**Public Presentation:** Amy Spitznagel

Commissioner Gale introduced Ms. Spitznagel from Idyll Farms and her presentation on a business idea for the Pier Group Building.

Presentation turned over Ms. Spitznagel

Pier Group Building, currently zone as CR1. Currently vacant with hopes to bring in new business, named Alakemi. Four season retreat.

Chair Arbury: Next to work with ZA Scott and what is required for zoning guides.

ZA Scott: Suggests a site plan for a process and special permits.

Sptiznagel: Would like timeline for zoning and to move forward.

ZA Scott: Directs to the Village's website for the form and the cost of \$200 dollars to begin process, and any site plan or documents to begin the review. Once reviewed then it would be

brought to the Planning Commission. Change in use would need a site plan review. Will need to look into the variances and documents to check why it was zoned CR1

Chair Arbury: Would encourage that the next need to go through Zoning Administrator.

### **Return to Old Business**

- Tree Committee – Commissioner Newell reported that the Arbor Day Event will take place on April 29<sup>th</sup> at 10:30 Village President Wetherbee will read the proclamation. The Enterprise will agree to be present, and the Northport Public Schools Second Grade will join the festivities. The committee does have a tree and an area staked out on North Hasserot Park,
  1. Would like a list for tree requests to keep track of the applications and those who take interest in having a tree.
  2. Releaf Application, there are a lot of applications, the main concentration is with those who have never participated before. The Village has had 2 planned plantings but have us down for potential fall. This will not impact the Tree City Application, because once the Arbor Day event is logged then we can continue forth with the application. This will be turned in at the end of the year.
  3. Next is to schedule the tree sub committee meeting.

Bob Newell donated the tree, chose a sycamore-London Plane.

Tree City Application due by the end of the year, after Arbor Day Proclamation and tree subcommittee meetings.

Commissioner Gale: recommending adding to park and trails agenda.

Commissioner Newell: Needs to be some sort of structure, possibly the DPW

Each year must meet the per capita. Possible next meeting May 23<sup>rd</sup> for the subcommittee.

### **New Business:**

Chair Arbury: Change the meeting time for our month meeting. Discussion ensued.

Proposal to change meeting to 6pm- 8pm on the 3<sup>rd</sup> Wednesday of each month

Commissioner Cavendish motioned Commissioner Newell seconded the motion. All in favor.

Need to get information the Enterprise.

Commissioner Cavendish: brought in concerns about more time for the special meeting and review documentation.

ZA Scott: These are working meetings, expect 2 to 3 meetings approx. a month between each meeting.

Discussion about break down and taking the initial step with meeting Wade Trim. There are two levels technical and philosophical questions. Keep a running list of questions. Asking for a working order to know what the focus is as the information is overwhelming. Highlighted vs strike through.

ZA Scott: To check with Wade Trim on the target/agenda for the day.

Meeting for April 26<sup>th</sup>, 2022, at 9 am. Set for 3 hours.

**Motion to extend the meeting until agenda is complete.**

Commission Wessell: motions Commissioner Newell: second

All in favor.

**Zoning Administrator Report**

ZA Scott: Zoning Board of Appeals meeting has been rescheduled to May 12 or the second Thursday of the month. The Council will consider a land division request, then once split happens there will be a violation of the setback so property owners will be requesting a variance. A second variance with Northport Building Supply. We have a lot of permits for revisions and new homes.

**Infrastructure report:** Chair Arbury attended meeting. Report on 4<sup>th</sup> street, one response only.

Street light shielding has start on April 20<sup>th</sup>, 2022.

Commissioner Cavendish talked to the infrastructure committee about signs for the public restrooms, public parking, Aframes for maps and key points in the village. Color coding. Aframes will be changeable. Asking businesses for help towards the cost.

DPW does have an opening.

**Trustee Report-**Commissioner Gale-school is engaging with the Village more. Second grade with or day and older students helping with cleaning up parks and Mill Pond.

**Public Comment:** Joanne Swanson appreciates the thoroughness and the slow down of the process. Concerned about the drainage and watershed and what the consideration from the Village. Concerned that there has not been a permit yet for development of a wetland. Would like a broad request or consultation on ideas and thoughts on 7<sup>th</sup> Street plan. Looking at a buffer zone, worried that there have been trees removed for the buffer zone.

**Chair Arbury:** There will be a public hearing and the goal is to look at a variety of proposals to align with the Master Plan.

Mary Betzoldt: Concerned about drainage and watershed with development. Would like to see a total expenditure in relation to surveys, forester report, and any other expenditures.

Village has not sold or cut down any trees.

**Commissioner Comments:** Commissioner Wessell welcoming Commissioner Woomer  
Commissioner Cavendish: clarification that the Planning Commission is not committed to one project as of now, we are fact finding and exploring options. Directed the public to the 7<sup>th</sup> Street Dropbox. Encourages Ms. Spitznagel to move forward to have a conversation about her site plan with the ZA.

**Chair Arbury:** Please keep track of all continuing education credit for documentation and to demonstrate that you are meeting requirements.

Commissioner Newell motioned to end meeting

Commissioner Wessell seconded the motion

All in favor

Meeting adjourned at 9:20pm

Next Meeting will be May 18<sup>th</sup> 2022 at 6pm.