

**TOWN OF GENESEE PLAN COMMISSION MEETING
MINUTES
JANUARY 24, 2022**

Chairman Leair called the meeting to order at 6:00 p.m.

Present were: Town Chairman Sharon Leair and Supervisor Jeff Schmittinger. Also present were Plan Commission Members Bob Christiansen, Brett Engelking, Jeff Lightfoot, Mike Toole, and Joe Turzynski. Also present was Deputy Clerk Cindy Zignego. Absent was Planner Jeff Herrmann.

Discussion only for conceptual land division for Rebecca Fedak, S54 W31502 State Road 59, North Prairie, WI 53153. (Tax Key GNT 1551-999)

Leair explained that the only discussion at this meeting will be regarding the 5 acre parcel. Future use of the property will not be discussed because it will require a Conditional Use. The 5 acre parcel will be for a home. Leair referred to Herrmann's report regarding the width of the lot. The proposed width is 200 feet and 300 feet is the required width. The petitioners changed the configuration of the lot and cut a corner off to meet the 300 feet width requirement. A drawing of the revised lot was handed out to Commissioners. This revision also changes the shape of the lot. Herrmann will review the revised plan for the lot.

The PEC and wetlands do not need to be approved by SEWRPC at this time, but may need that for future use. In the future, a waiver for the remnant parcel not to be shown on the CSM would require approval of the Plan Commission.

Prior to submitting the CSM, Leair advised the petitioners to discuss the CSM with Herrmann.

Engelking stated that he usually does not like L-shaped lot around another parcel. However, there is no road and you cannot combine the parcels.

The petitioners and Herrmann have met with Waukesha County and the State regarding the road on the property. Christiansen liked the idea of cutting off the corner and extending the lot in order to meet the 300 feet width.

The Plan Commissioners had no problem with the revised proposal.

Engelking said for this proposed parcel, there is no concern regarding wetlands.

The next step would be to discuss with Herrmann the CSM.

Memo

To: Town of Genesee Plan Commission
From: Jeffrey Herrmann, Administrator-Planner
Date: January 17, 2022
Re: German-Fedak Property – Land Development Proposal

The purpose of this memo is to provide the Town of Genesee Plan Commission with information regarding the proposed development for Doug & Nina Fedak, 157 Poplar Court, Hartland, Wisconsin (the "Petitioners"), for property owned by Peter German & Rebecca Fedak, S54 W31502 STH 59, North Prairie, Wisconsin (the "Owners"). The property is described as part of the SW ¼ of Section 28, T6N, R18E, Town of Genesee and is

located on the north side of CTH ZZ and east of Grush Road. The property is bordered by CTH ZZ on the South, the Wisconsin and Southern Railroad on the west and a residential property to the east along with wetlands/conservancy on the north and east. The property is zoned A-5 Mini-Farm District, E-C Environmental Corridor District and C-1 Conservancy District. The property is approximately 95.10 acres in size and contains a single-family dwelling, a duplex, two (2) existing garages, a barn and three (3) accessory structures.

The Petitioners are proposing to create a five (5) acre parcel to construct a new single-family residence. The new parcel will be L-shaped. The proposed lot will contain 200 feet of frontage on CTH ZZ. The parcel will extend 548 feet to the north and 800 feet to the east. The parcel will contain a shared access with the 90-acre remnant parcel. The new parcel will be vacant and all of the existing buildings will be located on the remnant parcel, which also has access onto STH 59, but that access may be eliminated in the future by the Wisconsin DOT. There is also access to the remnant parcel via the old CTH ZZ that was never abandoned. The road is privately maintained, but is still considered a county highway until abandoned.

The purposed and intent of the A-5 Mini-Farm District is to provide for very low-density single-family residential development and the conversion of older farm dwellings to two-family units in predominantly rural areas in order to maintain, to some degree, the agricultural character of the property. These lands are best suited for small farm units, i.e., truck farms, horse farms, hobby farms, orchards and other similar agriculturally-related activities and usually contain a predominance of U.S.D.A. defined statewide significant category soils or prime category soils on parcels which do not qualify for agricultural preservation zoning or in areas which have an existing pattern of scattered or low-density residential development. Such a district is intended to be used to implement the Town of Genesee Comprehensive Development Plan - 2035 category entitled "Five (5) Acre"; however, this property is in the Mixed-Use category in the Town of Genesee Comprehensive Development Plan – 2035.

This lot is unconventional (L-shaped). According to the Town of Genesee Zoning Code, the minimum average width is defined as “the mean horizontal distance measured between side lot lines, perpendicular to the lot depth and at a point in relation to the depth where the product of the two would produce the minimum required lot area”. The required minimum average lot width for the A-5 Mini-Farm District is 300 feet. The Petitioners are proposing a lot with only 200 feet in minimum average width; therefore, the lot **does not** meet the requirements of the Town of Genesee Zoning Code. The petitioners will need to widen the frontage on the road or reconfigure the proposed lot to meet the requirements.

The current use (a single-family dwelling and a duplex on a single lot) is defined as Legal Nonconforming Use, which is a lawful use which existed at the time of the adoption or amendment of this Code and may be continued as a legal non-conforming use, although the use of the structure and land does not conform with the provisions of this Code, however; no such use shall be expanded or enlarged; Upon petition to and approval of the Town Plan Commission, such use may be changed to another use provided the Town Plan Commission determines that the new use would not result in a greater degree of non-conformity than the current use; When any such use is discontinued for a period of twelve (12) consecutive months or eighteen (18) cumulative months during a three-year period, any future use of the land or structure shall conform to the use regulations of the applicable district. Seasonable uses shall be excluded from this provision. When a structure which houses such non-conforming use is damaged beyond 50 percent of its present equalized assessed value, it may be restored for any use in conformity with the applicable district regulations, and total structural repairs or alterations to a structure housing a non-conforming use shall not exceed, on an accumulative percentage basis, 50 percent of the present equalized assessed value of the structure.

In July 2019, the Town Plan Commission approved a request by the former owner for a Conditional Use for a Legal Non-Conforming Use Permit per Section 40 (B)(23) Legal Non-Conforming Uses of the Town of Genesee Zoning Code to allow the residential home and duplex to be located on a five (5) acre parcel. The Town Plan Commission determined that the proposed Use was not adverse to the public health, safety, or welfare; not in conflict with the

spirit or intent of the Code; and not otherwise detrimental to the community and particularly the surrounding neighborhood.

It is the opinion of the Town Planner, that the Owners would need to apply for a new Conditional Use Permit per Section 40 (B)(23), since the previous Conditional Use required the Non-Conforming use be restricted to a five (5) acre parcel. Just the opposite is happening, as the five (5) acre parcel being proposed will be vacant and the single-family residence and duplex will be located on the remnant ninety (90) acre parcel, thereby reducing the size of the lot upon which the non-conforming structure is located.

In addition to the Petitioners creating a five (5) acre parcel, the Owners of the property are proposing a life-long adventure to preserve the rest of the property in a conservation easement. The Owners are proposing to establish a sustainable living community, which will allow the family to be closer together. They wish to inspire a passion for sustainable community building in this generation and the next. Since this will be a potential Conditional Use request in the future, this matter cannot be discussed with the Plan Commission as it may violate the quasi-judicial requirements of the Wis. State Stats. **Therefore, it is extremely important that the Town Plan Commission Members not discuss the future development of the sustainable living community with the petitioners or amongst each other until a Conditional Use Hearing is commenced.**

The Petitioners and Owners are presenting this conceptual land division to the Plan Commission to get any comments or suggestions to help them decide on the feasibility and layout prior to making a formal submittal.

The following are comments to be considered when reviewing the proposed land division:

- The Town of Genesee Comprehensive Land Use Plan 2035 (the “Plan”) designates this property in the Mixed-Use category allowing a mixture of business and residential development and in the Primary Environmental Corridor Category, which calls for the protection and preservation of the natural resources located within that category. The proposed use complies with the intent of the Town of Genesee Comprehensive Land Use Plan – 2035.
- A portion of the property is located within the Waukesha County Shoreland and Floodland Protection Ordinance. Therefore, the Petitioners and Owners should contact Waukesha County regarding any potential issues they may have with the proposed development and if Waukesha County needs to be involved in the land division process.
- No Soil testing has been performed on the property. According to the Waukesha County GIS, the soils on the property are mainly comprised of Fox Loam soils (FsB, FoA, FoC2, and FmC2), Casco Rodman soils (CrF, CeC2, and CrE), Warsaw Loam soils (WeC2 and WeA). All of these soils are considered well drained and do not experience limitations for development. Soils on the northern portion of the property are identified as HtA (Houghton Muck) and Ru (Edwards Muck) which are poorly drained soils and usually are represented as wetlands/conservancy lands. Soil testing will be required for the new parcel to ensure a septic site is available, but there doesn’t appear to be any issues. The new parcel should be able to accommodate a conventional septic system.
- According the Waukesha County GIS, approximately 32.87 acres or 34.5 percent of the parcel is considered wetland and primary environmental corridor (PEC). The wetlands and the PEC area have not been identified in the field by a professional ecologist, biologist or by the Southeastern Wisconsin Regional Planning Commission (SEWRPC). At this point in time, it may not be necessary to have a delineation completed, however, in the future the Town Plan Commission may require the wetlands and PEC be field identified, surveyed and submitted to the SEWRPC for review and approval. It should be noted, that according to the Town of Genesee Zoning Code, for parcels which lie partially within and partially outside of the Environmental Corridor Zoning District, the area of disturbance shall be limited to that area outside the Environmental Corridor District.

- The property appears to contain a tributary to the Genesee Creek and therefore contains a navigable waterway of the state. Any type of development in this area will require Waukesha County involvement.
- The property has a relatively flat topography. Except for a small ridge in the southeast corner of the property that drops in elevation from 950 msl near the existing buildings to 920 msl to the north. Most of the property ranges in elevation from 920 msl to 950 msl across almost 2,000 feet. The concept plan does not delineate steep slopes greater than twenty (20) percent as required on the Town of Genesee land development checklist. These areas will need to be delineated and also preserved in open space uses. A detailed analysis of the slopes will be required, especially on the proposed new lot.
- Based on the concept plan submitted, it appears the new lot contains a buildable area large enough to accommodate normal residential development. In addition, all requirements of the Town of Genesee Zoning Code in regards to offsets, setbacks, floor area ratio, etc. will need to be reviewed and approved.
- No storm water management facilities are shown on the concept plan. Since no roads are being constructed as part of this development, stormwater management practices may not be required. The owner or the owner's engineer should review the Waukesha County's Stormwater Ordinance. The Town requires all stormwater facilities to be shown on outlots (if applicable).
- The area of the property where the potential home site is to be developed is currently zoned A-5 Mini-Farm District, requiring a minimum lot size of five (5) acres.
- The proposed land division shall comply in all respects to the Town of Genesee Land Division and Development Ordinance. Some issues of concern are:
 - The buildable area on the proposed lot is somewhat restricted by the steep terrain. The buildable area may contain slopes in excess of 20 percent, which cannot be built on and must be preserved in open space uses. Building envelopes may be required to eliminate confusion with steep slopes and the buildable areas.
- Any waivers or variances granted by the Town of Genesee Plan Commission or Town Board shall be placed on the face of the final CSM.
- Access to CTH ZZ will need to be reviewed and approved by the Waukesha County Department of Public Works.

Items to be discussed by the Town Plan Commission:

1. Is the Town Plan Commission ok with the proposed lot design (L-shaped) given the development in the area? The width of the lot will need to be 300 feet.
2. Does the Plan Commission agree that a new Conditional Use Permit is required for the legal non-conforming use?
3. Does the Town Plan Commission want the PEC and wetlands to be field identified and approved by SEWRPC prior to allowing a land division?
4. The Owner is contemplating whether a waiver not to show the remnant parcel on the CSM would be approved. How does the Town Plan Commission feel about remnant parcel not being shown on the CSM?
5. A Conditional Use may be required for the future development of a Sustainable Community Development.

Discussion/Action – Approval of November 22, 2021 Plan Commission Minutes.

Lightfoot made a motion to approve the November 22, 2021 Minutes. Christiansen seconded the motion. Engelking abstained. Motion carried with one abstention.

Review Pending

None.

Correspondence

None.

Adjourn

Schmittinger made a motion to adjourn. Christiansen seconded the motion. Motion carried unanimously.

Meeting adjourned at 6:19 p.m.

Cindy Zignego
Deputy Clerk
January 26, 2022