

Town Board and Genesee Plan Commission Joint Public Hearing Minutes

September 25th, 2023

5:30 p.m.

Chairman Leair called the meeting to order at 5:30 p.m. Present were Town Board Chairman Leair and Supervisors Morris, Ross, and Houston. Also present were Plan Commission members Toole, Engelking, Lightfoot, and Christiansen. Absent was Town Board Supervisor Braun and Plan Commission member Turzynski. Also present was Town Planner Herrmann and Deputy Clerk Workman.

Chairman Leair reopened the adjourned Public Hearing from August 28th, 2023. The purpose of the public hearing was to consider zoning amendments on Section 19 (A) of the Town of Genesee zoning code to base accessory building sizes on lot size instead of zoning. Chairman Leair turned it over to Planner Herrmann to review tables he made which showed different percentages of lot size and how those calculations would impact said lots. Planner Herrmann also went over what other municipalities do in our area concerning accessory building size. Plan Commission member Lightfoot asked for clarification on what determines an accessory building. Planner Herrmann clarified that it is a detached building that is not considered a principal structure. Town Board Supervisor Houston asked what the rules for an attached structure was. Planner Herrmann stated that it is 15% of lot size. Chairman Leair then opened it up to the floor for public comment and asked anyone wishing to speak to state their name and address for the record.

Kathy Gutenkunst, attorney from Axley Attorneys, representing Watts Up spoke of the Waukesha County basic zoning code. She states that she did not see the restriction of accessory buildings being only one story. Planner Herrmann pointed out that it is in section 3.10 Height Restrictions, which states that if you are in R-1, R-2, R-3 or E-C you are restricted on height. Gutenkunst stated that Waukesha County uses a building envelope to do calculations. She stated that no matter the height the roof is the same, the amount of run-off is the same. She states her client is asking that the Town adopt the 2% but without the limitation as to one or two floors. She states it will force people to have surveys done which is beneficial to the Town for assessment purposes. Also, she states that it allows the Town to uniformly enforce the rule across all zoning districts as its all what is “under roof”. She states that the DNR adopted a couple years ago that you could vertically expand a non-conforming structure up to 35 feet in height. That by adopting this ordinance without floor restriction, the Town would be allowing better free use of property.

Chairman Leair said that this Public Hearing is about zoning amendments only, and does not pertain to any one conditional use and to please speak only about the zoning amendments.

Adam Coker, W305S3077 Brookhill Rd then spoke. Chairman Leair read the following e-mail from Mr. Coker into the record.

Dear Town of Genesee Board,

After reviewing Waukesha County's approach to accessory structures, I found that the County uses building footprint as their area calculation. Here is the table the County uses: It seems that the most effective manner to update the Town's accessory structure ordinance would be to do the following:

1. Use the County's calculation method. Instead of "aggregate floor area": the town should use "Building Footprint".

First, this matches the County's valuation methodology.

Second, it's more efficient for Town staff b/c it is easier to calculate.

Third, the current "aggregate floor area" calculation limits what people can do inside their buildings, which reduces potential tax benefits for the Town. For example, "aggregate floor area" could prevent a person from adding a second floor, which would have increased the property's overall assessed value.

2. Accessory Structure change in Percentage. 5% seems appropriate in light of the Town's rural character and larger parcels. The height restriction remains so this increased percentage should not have a major impact.

Thank you for your time and consideration on this topic.

Adam Coker

Mr. Coker then stated that he questions why we are wanting to limit the aggregate floor area on something. The reason for zoning codes is to prevent a property from appearing "overbuilt" and maintaining rural character. He believes that having one or two stories would not matter in looking "overbuilt". He states that he has 21 citizens throughout Genesee Depot which have signed his email in support of 5%. See Exhibit A attached at the end of these minutes.

Steve Winters, W304S3030 Brookhill Rd, questioned what makes up an adjoining structure. Planner Herrmann stated that you can have a breezeway from a principal structure to an accessory structure of 6 feet.

Adam Knox, S30W30285 Valley View Rd, stated that he really likes the idea of increasing the size to match the county. He questioned using an arbitrary number of acreage and feels instead using percentages is more favorable. He feels that having flexibility for a larger building will be a good selling point in future home sale as well as adding to quality of life for residents able to pursue their hobbies easier.

Andrew LaRoche, S52W30969 Old Village Rd, spoke on how there is a discrepancy between what is attached and detached size-wise. He thinks that if you go up a couple percentage points for detached, it does not alter the size that much.

Gary Shadley, W302S2944 S. Bethesda Circle, states that he knows for a fact that one of the people who signed Mr. Coker's email, was told by Mr. Coker that "if they have a business, they better get a lawyer, because they are going to be in court just like him" He feels like all the heavy traffic will ruin the roads in the subdivision. He then commented on a matter that was not the

subject of the public hearing. He states that when he built his building, he had to follow certain criteria to limit the amount of environmental impact. He feels that his neighborhood is very nice and wants to keep it that way. He states that in the past, Wern Farms wanted to remove peat moss from the area and they were denied because of the impact on the roads.

Steve Winters, W304S3030 Brookhill Rd, he stated he wants the option which shows 5% on Planner Herrmann's List. He is also in much support of allowing one- or two-story accessory buildings. He feels that having an enormous ranch house with three or four attached garages wouldn't be any different.

Chairman Leair asked three times if there were any more comments from the floor. There were none. Chairman Leair brought it back to the table. Planner Herrmann made clarification on the footprint the county uses for certain calculations is for the principal structure mainly. The county has different requirements for accessory buildings, which is in his presentation. He states that the county is not giving anymore square footage then the Town is in R-1, R-2 R-3 and EC zoned parcels. He states that we have had many problems with larger accessory building being used to run unauthorized businesses out of. So many in fact, that the Town of Genesee has made people who build an accessory building larger than 1,600 square feet, file a deed restriction with the county stating that there will be no commercial activity out of it. Planner Herrmann brought this issue forth based on a conversation with a resident. He recommends getting rid of the maximum accessory building size within each zoning district and going to lot size instead.

Town Board Supervisor Houston asked a question about the building envelope and it being smaller on certain lots. Planner Herrmann clarified that this would be because there may be environmental corridor or other features that make that portion not buildable. The 2% however would be based on the entire lot size, not just the building envelope size but the accessory building would have to fit within the envelope. Houston stated that he would be in favor of increasing the size for 1 acre lots and up. Chairman Leair clarified that this issue will be on the next Town Board meeting and the Plan Commission will take action on a recommendation to the Town Board tonight. Town Board Supervisor Morris commented that he thinks the minute to allow people to start building two-story buildings, you will get in trouble from people ruining sight lines, etc. Plan Commission member Christiansen pointed out that if they want a two-story building, they could build an attached one as an option.

Chairman Leair stated that some of the percentages get you a very large building and that we need to be careful how large we allow as there have been many problems in the past. Supervisor Morris stated that he may be in favor of increasing a percent or two for larger lots like 3 acre lots. Town Board Houston thinks that 1,000 square feet is a bit too restrictive for 1 acre lots. Planner Herrmann states that the Town does not use footprint in its zoning and that it would require a total rewrite of the Town zoning code.

Planner Herrmann then went over some calculations for how large a house can be built on certain lot sizes. Supervisor Houston stated that his neighbor built a building but could not attach it based on setbacks and being too close to his septic on the other side. He stated that one rule does not fit everybody. Plan Commission member Engelking states that this ordinance is allowing for

larger garages. He states that having a septic too close is a self-imposed hardship that would not allow a variance and we cannot plan for that. This would allow for a 4-car garage which is an extremely large building. The Town is rural residential and allowing bigger accessory building does not maintain that rural character. Engelking referenced Mr. Coker's testimony about overbuilding a property and stated by allowing larger accessory buildings, we are allowing overbuilding of properties. He does not agree with that. The ordinances as is, allows for those larger parcels that may be zoned R-1 or R-2 which could accommodate a larger building would be allowed with these proposed changes. The use of arbitrary size limits is our zoning and zoning is there to create character in areas of the town to allow for different uses. If we allowed everyone to do whatever they want on their property, we will not like what will come about. We have approved larger buildings for horses and agricultural use which is under our current ordinance. This change allows the smaller lot sizes to have a greater use of the land. If it was attached it wouldn't matter as long as it meets the setbacks. He feels like we should tread cautiously in adding percentages to what is proposed. Houston clarified that the combination of accessory buildings would be the maximum square footage, not per building.

Adam Coker, W305S3077 Brookhill Rd, stated that people would typically want a second story storage on top of accessory building. Planner Herrmann says they typically don't count areas above the garage which are less than 7 feet in height as square footage, so that would not count against it. Mr. Coker states that he is 6' 6" tall and would need more space than that.

Chairman Leair then asked for anymore comments from the table. There were none. The adjourned public hearing was closed at 6:24 p.m.

Public Hearing to consider an amendment to the Town of Genesee Zoning Map to rezone property owned by FAM 228, LLC, N17 W24222 Riverwood Drive, #250, Waukesha, Wisconsin the A-2 Rural Home District to A-3 Suburban Estate District in order to develop the property into single-family home site was opened at 6:24 p.m. Chairman Leair read the Public Hearing Notice. Petitioner Don Murn was present to represent FAM 228 LLC. Planner Herrmann reviewed the history of the subdivision and relayed that when HWY 83 was redone, this specific outlot had some lands removed from it. This lot is now currently 2.58-acre parcel of land which is still owned by the developer. The developer wants to rezone the parcel from A-2 to A-3 which has a 2-acre minimum instead of a 3-acre minimum.

Don Murn spoke on the reasons for rezone so they can sell it for a single-family home. He states that it doesn't sit in an area that would affect any roads or storm water management.

Chairman Leair opened it up to the floor for public comment and asked those wishing to speak to state their name and address for the record.

Chad Bartkowki, S60W30157 Fields Crossing Dr, stated that when they bought their parcel of land, it was stated that Outlot number 5 would remain an Outlot and green space. That this was one of the reasons that they bought the lot they did.

Don Murn then rebutted stating that he is not sure what the broker for the land told people, but that per the Plat of Subdivision, Outlot 5 is owned by the developer and that it can be developed further per developer rights. He feels for the residents if it was misrepresented but that they were never told that by himself or his father.

Gabe Winzeried, S60W30110 Fields Crossing Dr, stated that the Kings Way broker misrepresented the outlot saying it would remain an Outlot.

Diane Guerrero, S59W30128 Jumpers Circle states that this outlot is not dividable and that she has a deeded fractional ownership of this lot.

Lani Bartkowki, S60W30157 Fields Crossing Dr, stated that they were told by the Kings Way broker that it would remain an Outlot. She also questioned when an HOA would take power in the subdivision and not the developer.

Joel Anders, S59W30287 Fields Crossing stated that they were also told that this would remain an Outlot and that he believes it should remain greenspace.

Connie Kukuwich, S60W30201 Fields Crossing Dr, stated that she was also told it would remain an Outlot. She states she has a deed which grants her fractional ownership of said lot.

Katie Graf, W303S6074 Bridle Lane, stated that she was also told that at the time of purchase of her lot, she was told that this would remain an Outlot.

Don Murn, stated that again, in the Plat of Subdivision, this Outlot is not a part of the deeded fractional ownership.

Diane Guerrero, S59W30128 Jumpers Circle, proceeded to read a portion of her deeded fractional ownership and it was determined that Outlot 5 is not one of these with deeded partial ownership.

Chairman Leair asked three times if there were any more comments from the floor. There were none. She then brought it back to table and asked if there were any more comments from the table. There were none. The public hearing was closed at 7:02 p.m.

Public Hearing to consider an amendment to the Town of Genesee Zoning Map to rezone property owned by Crown Development & Advisors, LLC, PO Box 33, Brookfield, Wisconsin from the B-2 Local Business District to the B-3 General Business District to develop the property into an Automotive Repair Facility, specializing in diesel engines was opened at 7:03 p.m. Chairman Leair read the public hearing notice. Petitioner Ryan Bendler was present representing Crown Development & Advisors LLC.

Mr. Bendler stated that he primarily works on trucks with diesel engines, but not large trucks like semis or dump trucks. He states that there are parcels zoned B-3 right next to this one. Chairman

Leair opened it up to the floor for public comment and asked those wishing to speak to state their name and address for the record.

Marleene Bloom, W305S5035 Homestead Ct, states that she is worried about it becoming a junk yard if they are fixing trucks. She also worries that there may be noise from the operation. She verified that there will be no access from HWY 59 to this new business.

Mr. Bendler states that this is his business and he wants to keep it clean. He also states that most newer diesel engines are as quiet as gasoline engines. He states that what he works on will be no louder than the vehicles that travel on HWY 59.

Chairman Leair then asked three times if there were any more comments from the public. There were none. She brought it back to the table and asked if there were any more comments. Plan Commission member Engelking stated that he knows of Ryan's Diesel and that their reputation is stellar in North Prairie. The public hearing was closed at 7:14 p.m.

Town Board Supervisor Houston made a motion to adjourn. The motion was seconded by Supervisor Morris. The motion was approved 4-0. The Town Board adjourned at 7:17 p.m.