

VILLAGE OF EGG HARBOR PLAN COMMISSION
TUESDAY AUGUST 18TH, 2020 – 6:00 P.M. Meeting Minutes

<https://villageofegg Harbor.zoom.us/j/94130060330>

Call in Number: 312 626 6799 Meeting ID: 941 3006 0330

1. Call Meeting to Order

- Chair Joe Smith called the meeting to order at 6:04 PM
- Commission Members Present: Joe Smith, Chair, Paula Cashin, Kathy Navis, Lou Nyberg, Emily Pitchford, Jim Vander Heiden, Jon Kolb.
- Village Staff: Ryan Heise, Jess Reinke, Tom Strong, James Kalny

2. Approve agenda

- **Kathy Navis moved to approve the agenda. Second by Lou Nyberg. Motion unanimously approved.**

3. Pledge of Allegiance

4. Approve July 28, 2020 and August 4, 2020 meeting minutes

- July 28 second page: second item Ryan Heise need should be needed.
- August 4 second page: there is an unfinished sentence.
- July 28 second page: 6 bullet point. Leave should be live.
- **Joe Smith motioned to approve the amended July 28, 2020 and August 4, 2020 minutes. Second by Kathy Navis. Motion unanimously approved.**

5. Open Session

- Jon Kolb: Does the Village own the property behind the fire station where the ball park is?
- Joe Smith: Yes that is Village land.
- Scott Biemeret Town of Egg Harbor: I would like to voice my displeasure at the current status of the gas station and the plans going forward. I've kept abreast of it through the media and local individuals within the village. My concern is that we talk about these variances and I'm worried that we continue to give these variances. When is it going to stop? When are we going to think about the quaintness of Egg Harbor and what draws people to Egg Harbor and reconsider where we are going with this development? I use the situation with other restaurants who have moved in. The parking situation is atrocious. I think we're losing sight as to what originally drew people into Egg Harbor. Others have referenced other villages as examples of where we don't want to go. I'm worried about this. I want to voice my displeasure and not support this development. I understand that the Muellers have been there for a long time. My mother is 4th generation Egg Harbor. I've taken her through the village. She can't believe how it's changed but it hasn't changed for the positive. There is a right way to do it. I would like to voice my displeasure.
- Renee Schwaller: 4234 Cty E Town of Egg Harbor: I don't want to say too much but I just want to say I agree with Scott. I think the developers did a nice job downsizing, but I don't think they downsized it enough. I just think still going to look like a huge box in the heart

of our village. I like the way they changed the design. That looks really nice. I love that they are keeping the historical building. I just think it's too big. I agree. I worry that we're continuously changing the small town feel of Door County. Some day it's going to feel like a Florida resort town which is way over developed. People will still come but not the nature loving people that we're used to having. I say please move forward cautiously. I'm afraid this is going to continue to happen. In 3 to 5 years we'll have more huge buildings. When is it going to stop. Thank you for your time.

- Frank Kauzlarich 7885 Apple Ridge Road Village of Egg Harbor: My concern is about the scope of the project and the infrastructure that supports it. I've heard that there will be parking added on Church street. Will that include curb and gutter? I haven't heard. Who is going to pay for all the infrastructure and supporting all that? We have a lot of other projects on the docket with costs that are in the millions of dollars. I am a resident, not a business owner. I've lived here for 5.5 years and I haven't seen much that is to enhance that which is for residents. If we are going to say yes, what is the infrastructure to support this project and who is going to pay for it? Parking is a problem. Parking is a problem for residents who simply want to go to the grocery store. Now we're saying that people are going to walk from Church Street? What does that say to people who can't walk from Church Street to the bathrooms in the park? Are we going to build bathrooms on church street next? It just goes on and on. There are ramifications for every action the village takes. I don't think the ramifications have been thought out.
- Susan Stauber 7909 HWY 42 Village of Egg Harbor: I have to agree with the speakers to this point. We received the video from one of our neighbors. It's promoted as how it fits in the village. First the fly in they made the surrounding buildings much larger than they actually are. This building is massive. This is double that and it's right up against the sidewalk as well. There is no space for outdoor dining or green space. It is right next to the sidewalk and across the street is shipwrecked. It's like the corridor of doom there. There won't be any sunlight. When we do these surveys, people love the quaintness of the village. There is nothing quaint about this project.
- Lisa Van Laanen 7806 Horseshoe Bay Road Village of Egg Harbor: On behalf of the developers I think they have some strong points. They did buy the property and they are doing what the village allows them to do. The density is a little higher but the rest they are doing according to village ordinances. I don't think it's unquaint. It's big but everything around there is big. I don't think it is going to be as dire as it is being portrayed. The development has positive aspects of it as well.
- Scott Biemeret: If the property has already been sold, and they know what the parameters are for that site, why do we need to consider any variance? Why not just let them build what they can and not go ahead with these variances?
- Joe Smith: They are not asking for a variance. They are asking for a conditional use permit. This process sets out a list of things they can do if they come and get permission first. There is a part of the zoning code that lets them do some things without review based on what is in the code. There are these other things that you can do if the plan commission looks at it first to make sure it's done right. That is the process they are following. They are not looking for a variance for this project. That is the big public misperception. This is not a variance. This is allowed under our code if done properly.

6. Village View Condominiums Presentation of Findings of Fact and Conclusion of Law

Ryan Heise: Reviewed the Findings of Fact and Conclusion of Law

Ryan Heise: After the last meeting this commission asked Village Staff to review this project and formalize the conditions to be discussed. Jim Kalny and I came up with the following:

1. That an application for a Conditional Use Permit was originally filed by the Applicant with the Village on January 20th, 2020 (the “Application”) for that property located at 7784 State Highway 42 Egg Harbor, WI 54209 more particularly described on ATTACHMENT “A” hereto (the “Property”). Plan was revised, and a new conditional use permit was applied for on June 23, 2020. The revised plan provides for a mixed-use condominium and retail development providing for 2 retail spaces and 14 residential units as more particularly described in ATTACHMENT B (also referred to herein as the Project). ATTACHMENTS A and B were both made part of the record. The Property is comprised of 2 lots. Lot one contains an historic gas station that Applicant represents will be improved as provided in ATTACHMENT B.

2. That a Public Hearing regarding the application was duly noticed and published as a Class 2 Notice under Chapter 985, Wis. Stats., which notice was published in the Peninsula Pulse on July 24th, and the 31st of July. 3. ¹That the Property is currently zoned C-1, Commercial District - pursuant to § § .152.025 of the Village of Egg Harbor Municipal Code (EHCO) ; further that pursuant to § 152.025(6) (B) EHCO a conditional use is required for any: Medium density, multi-family structure, not exceeding eight dwelling units per acre.

3. § 152.025(6) (B) EHCO a conditional use is required for any: . That pursuant to § 152.026 EHCO, the Property is subject to the Special Development District overlay zone; further that Applicant applied for and was granted relief for the maximum floor area ; the front yard setback for parking lots and the requirement that fences shall not include trees but shall include vegetative hedges planted along the immediate lot line. This relief was reviewed by the Plan Commission in a public hearing immediately preceding the hearing on this conditional use; further that the Applicant also applied for special relief for the 35 foot height restriction, such relief being denied. Section § 152.26 (2) EHCO; does not allow for height variance by the Planning Commission as part of overlay relief.

4. That testimony, under oath, was presented by the development team for the “Village View” project, Mr. Michael Schwantes testimony reviewed and explained ATTACHMENT B. A presentation was made after the public testimony by the development team to review the project.

5. That testimony, under oath was presented by Ryan Heise; Village Administrator, on behalf of the Village that for the Project to obtain Village approval, a Conditional Use Permit under the provisions of § Sec. 152.042, et. Sec. of the Code would be required. Mr. Heise’s staff report was reviewed and made part of the record. The Staff report is incorporated as ATTACHMENT C.

6. § 152.025(6) (B) EHCO a conditional use is required for any: That testimony in opposition to the Project was given by Angela Lensch stating the that conditional use was

almost twice the threshold for requiring a conditional use; testimony was also given by Steve Richard and Cambria Mueller who stated a structure of this nature will adversely impact the character of the community. TC Johnson also testified in support of the project.

7. That due to the location of the Property in the heart of the business district, there needs to be some assurance that the construction stay on schedule and be completed in a timely matter. The Village has a strong interest in seeing to it that the construction is not prolonged and is completed to avoid blight in the Village's business district.

8. That due to the age likely more fragility of the building stock surrounding the Project some assurance of coverage and a better understanding of the blasting insurance is needed.

9. That the Property currently includes the adjoining lot that houses an historic gas station that Applicant wishes to renovate/improve. Provision for concurrently completing that project to the extent showed in the plan is in the public interest.

10. That the size and scope of this project is unlike other structures allowed per zoning in the commercial district. There has been considerable exception already granted to this Project any variation from the Plan as approved must be prohibited unless there is prior Plan Commission approval.

11. That the amount of impervious surface, proximity to STH 42 and density of the development all raise concern. The Village should be provided copies of all relevant permits before the occupancy permit is granted.

12. That to meet parking requirements a shared driveway is utilized. Provision must be made to ensure that the shared driveway remains available for the use of both lots.

13. Due to the central location of lot 1, any conveyance of lot 1 the Village has a strong interest in how it is developed

14. That a variance is needed for the elevator shaft that exceeds the Village's 35 ft. height requirement. This elevator is required if the roof of the Project is to be handicapped accessible. The Plan Commission believes the height variance is consistent with the public interest and the intent of the zoning code.

15. The plan reflects forty (40) off-street parking spaces.

Conclusions of Law

1. That the Plan Commission has proper jurisdiction to hear this matter.

2. Due notice was properly given to all parties and public of the Public Hearing was duly and properly held.

3. The proposed project requires a conditional use as it exceeds eight dwelling units per acre

as provided at § 152.025(6) (B) EHCO.

4. The record in this matter contains substantial evidence that the application and all requirements and conditions established by the Village relating to the conditional use are or shall be satisfied.

Based on foregoing Findings and Conclusions, the Plan Commission determines that the Applicant may be granted a Conditional Use Permit for the Property subject to the following reasonable and to the extent practicable, measurable conditions. The commission also imposes certain of these conditions:

1. That applicant applies for and obtain a height variance. If the variance is denied, the commission will allow the Applicant to amend the plan and resubmit it without refile an application for a conditional use however a public hearing may be necessary to approve any alternative plan. No conditional use permit shall issue unless and until either a height variance is granted or the Plan Commission has reviewed and approved an alternative plan that is in compliance with the Village Code and Federal and State law.
2. The Applicant must supply to Village staff a detail of the financing of the project including lot 1 and lot 2, that shows to the satisfaction of the Village staff that the Applicant is financially capable to carry out all of the terms and conditions of the Project. The financing shall include a bond or other financial assurances that the Village may draw on to raze, remove and level any partial construction if the project is not completed within 18 months after the Village of Egg Harbor building permit has been issued.
3. Prior to the commencement of construction, a copy of the following is required:
 - a. All state approved building plans,
 - b. Any required Department of Transportation (WiDOT) approval for stormwater drainage and Highway 42 access,
 - c. All environmental impact statements- Phase one (1) and two (2) environmental impact statements,
 - d. A copy of the blasting permit and blasting insurance policy together with contact information regarding how to file a claim; and
 - e. Any and all required DNR stormwater management plans.
4. Before occupancy of lot 1 or 2 is permitted the construction of the improvements to lot one as provided in the amendment to ATTACHMENT B must be completed and approved. Lot 1 shall not be conveyed without notice to and approval of the Village such approval shall not be unreasonably withheld but may be subject to reasonable conditions.
5. A restrictive covenant allowing for the shared use of the parking areas between lots 1 and 2 as illustrated and explained in ATTACHMENT B (entire plan set), shall be filed with the Door County Register of Deeds. The restrictive covenant shall be reviewed and approved by

Village staff and shall contain a provision requiring Village concurrence for any modification of the restrictive covenant.

6. All terms of the Project as described in ATTACHMENT B (entire plan set) shall be strictly adhered to except for minor internal modifications to layout of the residential and construction specifications, with no changes to the number of units or other uses. A minimum of forty (40) parking spaces required including both lots.

7. Any modification of the Project plan including modification of the construction schedule shall be subject to prior approval by the Plan Commission. Failure to gain such approval shall be deemed a breach of the conditional use permit and is subject to §152.012 Certificate of Conformance.

7. Deliberation and possible action on the conditional use permit application filed by Michael J. Schwantes (Village View Condominiums) for 7784 STH 42

- Jim Kalny: What we've been referring to as Attachment B is the entire plan. They have amended attachment B with what they are going to do with the building on Lot 1. Exhibit A is also a part of the record. That is the original plan they initially submitted.
- Kathy Navis: Does that mean they are required to build the project to the plans submitted? That is, they have to put in 22 parking spaces as drawn.
- Jim Kalny: Yes. To not do so would be a breach of the second last condition.
- Jim Vander Heiden: I know it isn't entirely up to us but it seems that our opinion on it should matter to the Zoning Board of appeals. I think many of the comments regarding quaintness in the village, I think many of those comments relate to the height of a building. Downtown Egg Harbor has a unique context in that there is the bluff to the east. Those view corridors are important to the people who live there. When we built the Kress Pavilion we paid a lot of attention to make sure we didn't exceed the height limitations and block those views. I feel strongly that allowing a variance ultimately for building height is where I would personally draw the line on the scale and building itself. If we start to open that box there is more than could come down the road. I would like to hold the line – that is my opinion.
- Joe Smith: Under conclusions of Law, Number 2, I thought the length of time for construction could be a little tighter?
- Jim Vander Heiden: Yes. I don't know that 12 months is reasonable. There is probably a few months for mobilization that needs to occur then a 12 month construction period seems accurate. If we can get it down to 14 months that would be helpful for those who have existing businesses in the area.
- Joe Smith: Under number 3, Environmental Impact Statement, I think just adding the extra details will be beneficial. There were prior discussions about the radius. Any thoughts by the commissioners?
- Jim Vander Heiden: The key here is where do we monitor. If there is no monitoring done, then it becomes more difficult for anyone to prove damage is the result of this construction. It's a matter of what is reasonable. The downtown has quite a few historic buildings. I didn't do a detailed look based on different radiuses, but monitoring is definitely an important aspect of this. One other point on the issue of height, the one thing that I failed to mention is that the request for height variance, it's for the benefit of the 14 unit owners, not for the public. That is an additional reason to be careful about permitting additional height for the benefit of a few people.

- Paula Cashin: This is for the benefit of disabled people – correct? (Yes correct)
- Jon Kolb: Ryan, do you know the height of Mojo Rosas?
- Ryan Heise: I do not. Jim Kalny, would you expand on the elevator shaft and your review of how that might work?
- Jim Kalny: The reason elevator would be needed is to allow handicapped access to the roof. I believe they are required to do that to go to three stories. With regard to conclusion of law #1, it's my understanding that if the variance is not granted it could prohibit the project unless they go to 2 stories. The developer's Attorney might have some comments on that.
- Development Team Attorney: There is a requirement for the retail units on the bottom that is designed for that type of use, that everyone has handicapped access to that floor. The reason for the elevator shaft is going to be a limited obstruction because Shipwrecked is already 40 feet, the corridor view argument dissipates because the elevator shaft is located in the back of the building and it wouldn't affect the public's view of a corridor.
- Jon Kolb: The majority of the building is how tall? (Under 35 feet). So the height of the building that people will see falls within the zoning limits. Jim Kalny, does anyone worry that the public will see?
- Jim Kalny: I think that is a factor to consider in regard to the project having no negative impact on the public. But you still need to apply the height restriction.
- Joe Smith: Ryan or Jim, under number 6 there are some blanks. Could you add the names of those who spoke?
- Jim Kalny: Yes we have to look at the minutes and insert those additional names in there. We also need to add names to number 4.
- Paula Cashin: Pointing out where the elevator shaft is pointed out.
- Planning commission reviewed the findings of fact and conclusion of law document section by section. Updates to the findings of fact:
 - Item 4, Added Michael Schwantes, removed, Ed Fisher, added sentence about team presentation at the August 4th meeting.
 - Item 6: Added names Angela Lensch, Steven Richard, Cambria Mueller testified against the project. Terrance Johnson testified in support of the project.
 - Item 3: Clarified wording regarding 35 foot height relief being denied. 152.26 does not allow for height variance by the Planning Commission as a part of overlay relief.
 - Item 14: Joe Smith and the committee closely reviewed.
 - Jim Vander Heiden: I don't want to get into the design of the building but there are traction elevators that have a lower overrun that allow for less height. I don't think we're trying to take away the 3rd floor but if staying within 35 feet jeopardizes use of the roof, then I think that is an outcome I'm comfortable with. I feel we should hold the line at 35 feet. There are options for elevators. If they can prove there is no other way. It seems there are ways to move past this by selecting different equipment.
 - Paula Cashin: I have no problem with that elevator shaft. It will be at the back of the building. You won't see it from the street. We need to provide for handicapped people.
 - Added item 15: Strict compliance with no changes to number of units and number parking spaces according to the plan.
- Updates to the conclusions of law:
 - Item 2: Updated time duration to 18 months from the issuance of the building permit.
 - Item 4: Added 'amendment to' before ' ATTACHMENT B'

- Item 6: Clarified the blanket statement about adhering to the overall plans presented while leaving some room for adjustments on the interior items.
 - **Joe Smith moved to approve the findings of fact and conclusion of law. Second by Kathy Navis. Motion unanimously approved.**
8. Public Arts Initiative Donation
- Ryan Heise: Provided an overview of the Little Dancer Aged 14 and Three dancers. PPW reviewed the locations with the PAI, John Heller and PPW. The proposed location for the Three Dancers is at the Peg Egan. The Little Dancer proposed location is at the entrance of the walking trail on Hwy G. Details are in your packet. The PAI group through the Little Dancer would be better suited in it's rustic form. The artist has agreed to it. He is a talented artist in my opinion.
 - Paula Cashin: The village has insurance for artwork?
 - Ryan Heise: Correct. Any time a new piece comes into the village we have full coverage. I should add the artist has agreed to maintain these going forward.
 - **Joe Smith moved to recommend the approval of the placement of these sculptures to the board of Trustees. Second by Paula Cashin. Motion unanimously approved.**
9. Open Session
- Lisa Van Laanen: I know a lot of people don't like the concept of this project but as I recall the same concerns were brought up when Main Street Market and Newport Resort was built. Time marches on. We can't stop the clock. It reminds me of a quote I would like to close with: Please give me the courage to change what I can, the grace to accept what I can't and the wisdom to know the difference. I think you all made a good decision.
10. Next Meeting
- September 22, 2020 6:00 PM
11. Adjourn
- **Kathy Navis moved to adjourn the meeting. Second by Lou Nyberg. Motion unanimously carried.**
 - Meeting adjourned at 7:53 PM

Minutes submitted by Tom Strong on Tuesday August 25, 2020