

# VILLAGE OF EGG HARBOR PLAN COMMISSION

TUESDAY MARCH 2, 2021 – 12:00 P.M.

Members of the public can join the meeting by video conference:

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

Members of the public with limited internet are encouraged to join by phone:

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

Joe Smith, Chair  
Kathy Navis, Commissioner  
Emily Pitchford, Commissioner  
Jon Kolb, Commissioner

Paula Cashin, Commissioner  
Lou Nyberg, Commissioner  
Cambria Mueller, Commissioner

## Agenda:

1. Call Meeting to Order
  - a. Cambria Mueller called the meeting to order at 12:00pm.
  - b. Commissioners present: Cambria Mueller, Kathy Navis, Emily Pitchford, Jon Kolb, Paula Cashin, Lou Nyberg. Joe Smith has recused himself and will be presenting on behalf of Shipwrecked as their General Manager.
  - c. Staff present: Lydia Semo, Tom Strong, Attorney Jim Kalny
  - d. Audience Members present: Kaaren Northrop, Bill White, Pete Hurth, Mary Jo Kolb, Myles Dannhausen Jr., Chris Roedl, Dawn McGinnis, Denny Phillips
2. Approve Agenda
  - a. **Paula Cashin moved to approve the agenda. Seconded by Kathy Navis.**
  - b. **Motion carried. Joe Smith abstained.**
3. Pledge of Allegiance
4. Open Session – Limited to 10 minutes.
  - a. *Kaaren Northrop, representing Main Street Market, asked that the Plan Commission deny Shipwrecked's request based on the requirements Village View Condos were held to, as well as the impact Shipwrecked's lack of parking has had on the surrounding businesses.*
  - b. *Lauren Schar, representing the Fireside Restaurant, asked that the Plan Commission reject the application, and asked that they serve their duty to the community to uphold the Village Ordinances. She is not asking the applicant to fix the Village's parking problem; she is asking them not to add fuel to the raging fire.*
  - c. *Dawn McGinnis wondered if it was acceptable to grant a conditional use permit without proof that it will not negatively impact the area. She noted Shipwrecked has had excessive relief in the past and was concerned about favoritism. She referred to State Statute 346.28, pedestrians travelling along highways need to use the left side of the road, and any pedestrians going to and from Shipwrecked will need to walk on the right side of the road.*
  - d. *Bob Pollman, Sr. addressed in April 2018, they sat down and sent a letter to offer limited easement for the sidewalk property. In May 2019, they received a letter from the Village Administrator stating that it would not be addressed at the time. He also addressed the parking problems. They have not been able to come to a deal with the neighboring property, so they will be eliminating those parking spaces since you can't get in or get out. They have added as many spaces as possible to the property, they also have parking spaces to use at Fat Louie's and Cape Cod. Bob stated that the removed spaces will increase the permeable surface. Bob asked the difference between the statue by the beach and their water feature.*
  - e. *William Woodward came to represent four different business owners within the business district. He sent Attorney Kalny a letter the morning of the meeting with a number of issues regarding the materials submitted by the applicant, which included the new driveway and*

*parking. It sounds as though the plans will change significantly, if that is the case, he did not believe the Plan Commission is in the position to act on an application that is changing by the minute. The biggest issue is parking, and from the client's perspective there has been burden shifting from a property owner under the proposed plan to the Village and its taxpayers. The Cape Cod motel is outside of the 500-foot limitation, and no variance has been requested at this time. The shared parking would have to only include excess parking as it pertains to the primary business. He did not believe that the Village contemplated the use of the fee in lieu of parking to require the Village to take on the financial responsibility of building parking lots, when there is space available on the property and the owner elects to not use it. Under Section 152.030(D)(2)(g), Plan Commission may accept the application proposed by the applicant, the Plan Commission is not required to. He stated it is the client's position that the Plan Commission should not accept the use of the fee in lieu of parking spaces in order to meet the requirements. He believed since the applicant is significantly changing the plan, then for that reason alone the Plan Commission is in the position to deny the pending application.*

5. Correspondence

a. No comments.

6. Deliberation and possible action on the of Special Development District Relief Application submitted by Sojnhomer LLC for an addition at 7791 STH 42 (Parcel # 118- 0125302612N and 118- 0125302612P).

- a. Cambria Mueller: In last week's meeting, we heard public testimony, opinions, and facts from our neighbors and fellow community members. There are a lot of mixed feelings on both sides of this, it is up to the Plan Commission to sort this out. Without the shared use agreement from the neighboring driveway, I don't believe we can approve this today. As Robert Pollman Sr. said in open session, the plans will be changing, and we cannot approve a project that is not up to date. I would like to not approve this project as proposed today, similar to what was done with the Village View Condominiums. Once the shared use agreement is in place and the plans are updated to what they want it to look like, we can go back and review the application.
- b. Paula Cashin: I agree with you Cambria. I would like the Pollman's to look at downsizing their plans.
- c. Lou Nyberg: I agree with you both, I do not think that we will accomplish anything today with the changes that were made.
- d. Kathy Navis: I agree, we don't have a plan. We cannot talk about it until we see what they are intending to do, removing the south parking lot would change the impervious surface ratio. Noreen Pollman suggested putting more parking behind Fat Louie's, I would love for them to explore that option. I also think the sidewalk needs to be in place before we move forward with this project.
- e. Emily Pitchford: I agree, we cannot proceed right now.
- f. Jon Kolb: I would agree, we do not have a plan. I would like to see a back door entrance at the building when the plans come back. When we established the fee in lieu of parking, I don't think our intent was for the Village to have the financial burden of building a parking lot. I could never approve a project that shifts the burden from the business to the Village and the taxpayers.
- g. Joe Smith: We had the hearing for our application, and it is from my understanding that you are supposed to discuss the facts and the information that came from that hearing. I am just wondering what you are basing your decision on today.
- h. Cambria Mueller: Going into this meeting, after listening to the public testimony from Jennifer Blahnik and Bob Hawley, I would like Signature Pieces and Shipwrecked to figure that out.
- i. Emily Pitchford: I would agree with Cambria.
- j. Jon Kolb: Does Robert Pollman Sr. own any part of Shipwrecked?
- k. Bob Pollman Sr.: I own the building.

- l. Jon Kolb: I cannot proceed knowing that Robert Pollman Sr. stated that changes will be made to the plans.
  - m. Bob Pollman Sr.: There's no way it would be resolved by a conversation with the owners of Signature Pieces.
  - n. Joe Smith: We will satisfy the conditions put on to us. We will use the way that the Zoning for parking is allowed in the Village.
  - o. Cambria Mueller: We will need to see plans of what the plans will be, as opposed to just putting conditions on a proposed "what if" structure.
  - p. Jon Kolb: I would personally like to see a proposal at minimum 2-weeks before a meeting, so I have more time to look at the documentation.
  - q. Tom Strong: There will be a recommendation to set up a policy regarding that.
  - r. Kathy Navis: I read and re-read our fence ordinance, I would like clarification. From how I understand it, you can't put in a fence that is over 2-feet high which seems ridiculous to me. I also don't know how our ordinance would define the water feature.
  - s. Cambria Mueller: I think we can discuss that after we have new plans.
  - t. Kathy Navis: I understand, but it is bound to come up again in the future and we will need clarification on that.
  - u. Emily Pitchford: Let's get those questions to Tom Strong prior to the meeting, so we have answers beforehand.
  - v. Bob Pollman Sr.: I thought the conditional use permit was to look at the project to see what it meets and what it doesn't meet, and to then if we agreed to the conditions, we would receive the permit.
  - w. Cambria Mueller: Mr. Pollman, you do not have an agreement with your neighbors that are less than 500-feet from your location, this falls on you for not getting that information prior. Had you have gotten that agreement with your neighbors, then we would not be having this conversation. If your neighbors are not in agreement, then you need to scale your project back.
  - x. **Cambria Mueller moved to deny the Special Development District Relief Application submitted by Sojenhomer LLC for an addition at 7791 STH 42 (Parcel # 118-0125302612N and 118-0125302612P). Seconded by Jon Kolb.**
  - y. Attorney Jim Kalny: While I do think there is substantial evidence that you are not looking at the plan that they can accomplish, which I agree is grounds for denial. In the past, when there have been shortcomings in a plan, you have post-poned to give an opportunity to change the plan. It's semantics, but you would essentially be denying the concept.
  - z. Kathy Navis: When we were dealing with Village View, we postponed their plans and did not deny the concept of the project.
  - aa. Attorney Jim Kalny: If you were to deny, you have grounds based on the fact that plans have changed, and you don't know what you are approving. The plan that they are submitting, we have good grounds even if it is not sworn testimony, we have a statement by the owner of the structure that an agreement will not be reached. There is no substantial evidence that Shipwrecked can do what is on their application, which is a requirement. The difference is, you need the substantial evidence, and you will require them to pay another fee to reapply.
  - bb. Cambria Mueller: I made the motion to deny based on the fact that we are dealing with another party (Signature Pieces) that needs to come to an agreement.
  - cc. Jon Kolb: My second was based on the fact that an owner said they were going to remove a major part of their plan that includes parking. It would need to come back and proposed as a new project.
  - dd. **Motion carried, 3-2. Kathy Navis – opposed. Joe Smith – abstained.**
7. Deliberation and possible action on the of Conditional Use Permit Application submitted by Sojenhomer LLC for an addition at 7791 STH 42 (Parcel # 118-0125302612N and 118-0125302612P).

- a. **Cambria Mueller moved to deny the Conditional Use Permit Application submitted by Sojenhomer LLC for an addition at 7791 STH 42 (Parcel # 118- 0125302612N and 118-0125302612P). Seconded by Paula Cashin.**
  - b. Kathy Navis: I have the same opinion; I think it should be postponed. They are obviously going to come back with another plan, I don't understand why we would deny it.
  - c. Jon Kolb: I think it is because there are such major differences.
  - d. Kathy Navis: This is a much smaller change compared to the Village View Condos, which they cut in half.
  - e. Emily Pitchford: I would like to defer to Attorney Kalny on this matter.
  - f. Attorney Kalny: What you have done in the past with a situation that is reasonably similar is postpone. If you deny, you will see a plan that is completely different as far as configuration. In this case, it is a question of whether the application as presented could have been completed, there is a duty on the applicant to show that the application as presented will be completed – here you don't have that. The question is, do you want to call it a postponement or denial probably won't have as big of an impact besides the applicant having to pay an application fee again, which can be waived.
  - g. Kathy Navis: Would a new proposal have to go back to public hearing?
  - h. Attorney Kalny: Yes.
  - i. **Motion carried, 3-2. Kathy Navis – opposed. Joe Smith – abstained.**
  - j. Joe Smith: When will you be giving us the denial in writing with findings of fact and conclusion of law?
  - k. Attorney Kalny: I imagine in the next several days that could be completed.
  - l. Tom Strong: Which signatures would be needed for that?
  - m. Attorney Kalny: It will probably be best to have all Commissioners sign.
8. Zoning Report
- a. *Tom Strong covered the zoning report as provided in the packet.*
  - b. Emily Pitchford: Something we talked about 60-90 days ago, and now that people in the community are contacting us about the public hearing, it did come up if a building permit was every received for an additional outdoor patio at One Barrel Brewing.
  - c. Tom Strong: There has been no paperwork received. We are looking into the situation, there has been no activity in the last 60 days other than a stack of bricks in their parking lot. I plan to talk to Peter Gentry.
9. Open Session
- a. *Emily Pitchford talked about parking remedies and questioned what the intent was for fee in lieu of parking and if there is a maximum number of spots for that fee in lieu of parking.*
  - b. *Jon Kolb mentioned that the fee in lieu of parking was originally proposed by the Plan Commission \$200 but was approved by the Board of Trustees at \$50 per space which is not a reasonable fee. Recommended to reapproach the Board of Trustees on this.*
  - c. *Tom Strong noted that the Zoning Code and the Zoning Administrator allows for calculations to meet parking requirements. In the section of the code, Plan Commission has the authority to discuss it beyond that. Cambria Mueller asked for the fee in lieu of parking discussion to be added to the next agenda.*
  - d. *Kaaren Northrop believed that the Trustees rushed into that ordinance. There are no parameters set, and it needs to be calculated out.*
  - e. *Joe Smith believed a statement about the sidewalk along CTH G in the first open session clouded the views of the Plan Commission, he discussed the construction process after the fire at Shipwrecked. He stated the Village decided to not approve burying utilities adjacent to Shipwrecked, which caused Shipwrecked to pay \$30,000 to put the pole in when they were willing to offer the sidewalk if the Village would have just buried it for the 100-feet beside the building. A judge is still reviewing this matter.*
  - f. *Lisa VanLaanen spoke to Joe Smith's comment, the Village could not get into a private agreement with every property owner along CTH G since the CTH G project was going to*

*commence. Lisa would like to see the Pollmans cut down the size of their building.*

*g. Paula Cashin agreed that Shipwrecked should downsize.*

10. Next Meeting

a. Tuesday, March 23<sup>rd</sup>, 2021 at 12:00pm

11. Adjourn

a. **Cambria Mueller moved to adjourn. Seconded by Kathy Navis.**

b. **Motion carried. Joe Smith – abstained.**

c. Meeting adjourned at 1:05pm.

Minutes completed by Lydia Semo on March 22, 2021. Submitted for approval on March 23, 2021.