



TOWN OF BLACK WOLF

380 E. Black Wolf Ave. Oshkosh, Wisconsin 54902

MINUTES OF THE August 30, 2021- September Workshop PLANNING AND ZONING Workshop

The Planning and Zoning Public Workshop was called to order by Chairperson Al Stenerson at approximately 6:30 p.m.. Members present were Tracy Kollock, Jim Chitwood, Howard Schwartz, Terry Sweeney, Eric Youngbauer, and Sandra Golliher. Also present Zoning Administrator Tom Verstegen, Town Chairperson Frank Frassetto, Attorney Alex Ackerman, and Secretary Thomas Coppola. Public present were Jim Engle of Sunshine Lane, Potential buyers Greg Henith and Hunter Gardener, Michael Doran- Maguire Development representative for SBA/ATT, and Kevin Pollard SBA.

- **Motion (Youngbauer, Golliher)** to approve August 2, 2021 minutes. **CARRIED**
- Committee to favor Resolution for Luker. Forward to Town Board as review prior to submitting to County. **CARRIED**
- **Discussion** on Cell Tower Standards was led by Attorney Alex Ackerman. Attorney referenced state statute 66.0404 as a preemptive effort on what municipalities cannot do when determining a cell tower review. Subsection A to W specifies what to consider upon review. Attorney updated committee on many facets of review to include standards of review- general standard 4.3, public hearing timeline to include start date of August 2, with defined date of October 4, 2021 for the public hearing at 7:00 p.m. over a 90 day time period, developing a decision to include creating a worksheet of what you can determine to form a basis of recommendation at the public hearing- worksheet can support three methods of decision: approve with conditions, approve fully, or deny. Attorney provided an example of precedent case *Eco-Cite, LLC v. Town of Cedarburg* to demonstrate how cell tower standards were reviewed in the past cases. Attorney reviewed public hearing process to ensure the review process is fully considered with proper information. Chairperson Stenerson asked if under any normal circumstance, the work must progress within 6 months. Attorney advised you cannot limit work to any period. Michael Doran advised at County level the time will be dictated to 6-12 months or you will have to reapply. Doran brought up the financial burden and asked attorney to recite state statute on financial burden. Attorney recited statute and advised of affidavit of financial burden submitted in application regarding the colocation on the existing SBA tower and how it will cause a financial hardship for AT&T, so AT&T prefers Harmoni Tower due to the economic burden being lifted if work directly with Harmoni. James Chitwood asked why the financial burden is concern of the town. Terry Sweeney asked if evidence can be provided of financial burden. Attorney Ackerman advised the best time for questions to applicant is during the Public Hearing on October 4 at 7:00 pm.
- **Discussion** of CSM for Black Wolf Development on Sesame Street was not favored by the committee. Zoning Administrator stated this variance of any sort to be submitted. Attorney stated Land Ordinance- *new parcels must have access to public road*. In order to grant variance, it will be on the topography of the location, not basis of financial burden; seek to create public road. Jim Chitwood confirmed that the responsible party is the owner to bring road to standards. Attorney stated common law dictates that you share a private road cost accordingly, on easements, based off of the age of Sesame St something may be recorded. Chairperson Stenerson asked the committee if the town can accept the road. Chairperson Frassetto shared history of the road and stated Town Board has certain road dimensions to consider that can impact the road and without a board being present no further discussion can happen. Attorney considered emergency vehicle operation. Stenerson asked Zoning Administrator, what it will take to approve this, Zoning stated a variance or private road to town standards. Attorney stated *creation of new lots cannot be created on private road*. Chitwood asked if new parcels can acquire cost. Verstegen advised only the applicant can discuss costs associated to burden. Attorney advised variance can be conditioned upon road maintenance agreement with the new parcels. Zoning asked if agreement will bring road to town standards. Attorney advised *road maintenance agreement framed to meet town standards of variance based off of keeping road private conditioned on road maintenance agreement against new lots*. Zoning Administrator stated *if designed around new lots then the cost can be associated to upgrade road*. Sandra Golliher asked if the road remains private, who owns the road. Attorney advised all parcel owners on private road. Terry Sweeney asked what agreement can enforce work is performed on private road. Attorney stated if granted variance, can set up who is to maintain private road formal relationship of road funded by new parcels equivalent to town standards. Attorney clarified in order to bring road to town standards; applicant must prove to meet standards of said variance, which will allow road to remain private to create new lots with condition of the variance approved subject to road maintenance agreement and town road standards. Stenerson asked attorney to share information with applicant. Buyer Henith shared history of enhanced gravel and possibility of documentation to support the sale of 1 lot to do anything to bring to town standards from parcel owners by Stuart Bedhun. Stenerson discussed the benefit of hard surface, and then explained possible scenarios of outcomes without proper road maintenance agreement. Attorney stated to review land ordinance with variance created from topography only. **CARRIED**

- **Discussion** Conditional Use Application for Harmoni Towers AT&T. Chairperson Stenerson asked if there anything in state statute that will prevent committee from requesting a different location on the parcel for tower. Attorney advised setbacks equal to height of structure known as fall zone, existing height of structure, must identify location on parcel. Michael Doran discussed application submission, zoning ordinance submission, and agreed to moving tower to tree line- possible based off a meeting with AT&T- will relocate tower to a place that is more discreet. Doran advised it is best to have tower next to existing tower. Based off of height 262', putting the antenna higher will extend coverage from where AT&T is located now on existing tower. Stenerson confirmed the signal is transferred from tower to tower. Doran confirmed to relocate tower in the same vicinity as existing tower due to height, it will extend signal further. Stenerson asked of any additional questions. Doran suggested to speak to the financial burden on AT&T- *in rural area costs increase due to 5G, additional radios, and additional cost to cover extended coverage. Harmoni signed an 89 year contract with AT&T depend on the area being rentable, more control for carrier due to cost associated- and to engineer a fall zone for a perfect drop if to fall.* Attorney advised of set back requirements written in 2013. Youngbauer asked if residents have any objections. Attorney offered the public hearing as a time for residents to appear. Doran confirmed Harmoni will abide by colocation and the respected number of antennas and radios. Public Hearing set for October 4, 2021 at 7:00 p.m.
- **Motion (Youngbauer, Chitwood) to adjourn at approximately 7:51 p.m. CARRIED**

Next Workshop – October 4, 2021- Public Hearing at 7:00 p.m.
Respectfully Submitted,
Thomas Coppola, P&Z Secretary

