

**Minutes of a Special Meeting of the Plan Commission – Town of Spring Green**  
October 24, 2017 - Spring Green Town Hall, E4411 Kennedy Road, Spring Green, WI 53588

**Attendees:** Dave Radel, Stephen Peterzak, Mary Peterzak, Tim Calder, Jo Ann Finn, David Hardyns, Charles Williams, Jean Thompson, Bill Falcon

**1. Meeting called to order by Iausly at 7:03 pm.**

**2. Roll call** Plan Commission members present: Fred Iausly, Michelle Thomas, Nate Robson, Carla Carmody, Kolby Hirth; excused: none; absent: none

**3. Iausly attested that proper public notice had been made.**

**4. Motion approving agenda as posted by Thomas, seconded by Carmody. Motion carried.**

**5. Business Items:**

**a. Driveway ordinance: Meet with landowners of property accessed by a private drive south of Leone Rd to discuss driveway ordinance compliance in this area.**

Iausly read into the record a communication from the Town attorney: "Legal Counsel for the Town has advised that you should recuse yourself from hearing this matter given your financial interest. Counsel advised that section 19.59 of the Wisconsin Statutes provides that local officers may not take official action substantially affecting a matter in which the official has a substantial financial interest. Under a proper recusal, you should not discuss, deliberate or vote on the matter and the minutes should reflect that you withdrew from the room." Robson recused himself and left the room.

Iausly recapped that a building permit was requested this Fall, but has not been approved due to the lack of a driveway permit with the building permit application. A letter from Town counsel to Chairman Lins and Plan commission Chair Iausly suggested holding a meeting with all landowners due to the eventual impact to all landowners in the ESR [extraterritorial seasonal recreational] district.

The Plan Commission sent a letter (attached) via certified mail to all landowners in the ESR, which identified several items in the ordinance to be discussed at this special meeting:

- Limit of 3 residential structures for a shared driveway
- Access easement does not meet 66' width
- Road bed and clearance do not meet width (18') and height (14') requirements
- Access easement lacks a recorded maintenance/repair agreement
- Potential encroachment on southern end of the existing drive onto neighboring DNR property
- Minimum driveway surface requirements
- Enough area for a cul-de-sac with a minimum radius of 60'

Iausly read a letter from Mel and Alice Levy, E5313 Leone Rd, to be read into the record. Attached.

Iausly showed the ESR area and existing drive on a large map and relayed that the local DNR property manager, Matt Sequin, and a Fitchburg office representative stated that they will work with affected landowners and the Township, but their preference is to not

have a private drive on the DNR property. An attendee asked if one option was to put in a public road; the Plan Commission answered 'yes.'

Tim Calder stated that it is zoned private drive with an access easement. Iausly explained that the area is zoned ESR and that the driveway is governed by the Town's driveway ordinance.

Iausly further explained that prior to 2000 the County controlled zoning. In 1999/2000 the village established extraterritorial zoning authority within 1.5 mi beyond the village boundary. The ESR district was created for the situation that existed at that time. In 2009 during the Town's codification of ordinances, the town passed a driveway ordinance, which is similar to those in other rural communities and which addresses issues of access, protection of town infrastructure, preservation of residential value, undisputed access, etc.

Jean Thompson said that the DNR bought the property in 2009 and "they [DNR] bought it that way." Tim Calder said that the Town has no authority to enforce DNR property restrictions. Mary Peterzak said that the existing shared drive constitutes an implied easement. Jo Ann Finn said she talked to Matt Sequin [DNR] earlier in the day and Matt relayed that the DNR had no idea when the property was purchased that the drive extended onto public land; she said Matt relayed he would be willing to work with the Town and landowners. Iausly stated that working with landowners does not preclude moving the private drive off of public land, though it may mean a boundary change. Tim Calder said that Warden Dave Youngquist has been to their property several times and he [Youngquist] has never had an issue with it.

Jo Ann Finn stated that she wanted the Plan Commission to come up with a proposal. Iausly replied that Peterzaks permit application is the ultimate driver and that the neighbors need to come up with a proposal after reviewing the stipulations in the Town ordinance, which we are here to clarify.

Bill Falcon said that his property borders Highbanks Rd, so he has no need or interest in upgrading the private driveway.

David Hardyns asked why the ordinance has any exceptions. Iausly explained that exceptions, for example laying gravel for maintenance, is not a change in use.

Jean Thompson asked what do you [Plan Commission] want? Hirth answered to review the specifications in the ordinance, especially those outlined in the certified letter, then for the neighbors to come up with a proposal to come into compliance with ordinance.

Mary Peterzak asked what is the change that is prompting the need to come into compliance? Mary said the shared driveway has been in existence for about 100 years and that she and Stephen have been using it for years to access their property. Iausly reiterated that the shared component is changing to exceed the limit of 3 residential structures per shared drive, so the drive needs to be brought into compliance and have a maintenance agreement. Mary Peterzak responded that there has never been a maintenance agreement because the owners are all family. Mary said she talked to the Town attorney who relayed that they needed to apply a base and gravel; Mary said, so we regraded. Mary went on to say that the Town attorney said we needed a maintenance agreement to cover when homeowners are not present, so Mary said, she and Stephen said they would do all the plowing and maintenance. Mary also said they have a letter from the Fire Dept. and that Dave Radel had attended the meeting. Mary said that the stipulations feel like "onesies" and bad faith stalling. Mary said their building permit application is being held in abeyance and has not been denied because they have not received anything

in writing. Hirth responded that the building inspector advised her to contact the Board, and that Chairman Lins invited her written concerns. Mary responded that I did not know what was said during their phone conversation.

Mary Peterzak said she objects to the 'nastigram' [certified letter announcing the special meeting] and contests the change in use. Iausly responded that the path to the end is for all affected parties is to agree, and then present a complete application.

Bill Falcon asked if the issue was the fire dept? Iausly responded that it was fire, EMS, septic, utilities, FedEx, UPS and general compliance with ordinance that is applied throughout the Township.

Jean Thompson asked if gravel was good enough? Thomas answered that 66' easement is specified, not 49.5' and an 18' roadbed is specified not 14'.

Tim Calder asked if they could just submit a written agreement amongst them? Thomas explained that the easement agreement has to be recorded, so that the future owner cannot retract from the agreement to the expense of other properties in the area.

Jean Thomason asked what is the proper road surface. Iausly referred to item 24 in the ordinance.

David Hardyns asked if the road has to be in the middle of the 66'? Iausly answered that it needs to be enough to put a road in, but may not need to be in the exact center. Hirth said if it can be justified, then the position within the 66' easement may be an opportunity for a waiver that specification.

Jo Ann Finn asked if there have been any waivers? Iausly responded not on the number sharing a drive, but there was a waiver of the specifications of the interface with the Town road because geological features precluded a 5% dip for runoff; more recently, on Paulus Rd an adjustment for the passing lane was made to be located at a curve and to take into consideration of the slope of the terrain.

Bill Falcon asked why/where did the limit of 3 sharing a driveway come from. Iausly answered that initially the Town didn't want any shared drives due to eventual problems with landowners, but the land division ordinance allows 3 lots with a CSM, and more than 3 lots requires a plat.

Jean Thompson asked do you want us to hire an attorney or is gravel OK? Dave Hardyns interjected that they want a general idea of what the Plan Commission will do. Iausly referred him again to the ordinance and referred him to the 7 specific points outlined in the certified letter. Iausly advised that moving forward the neighbors use this letter as guidance, record the easement with the maintenance agreement amongst the landowners including a Plat. Hardyns asked if a Plat was necessary. Hirth responded that the Board would have difficulty approving a drive that is not on property they own, so a Plat would almost certainly be required.

Jo Ann Finn said that they would apply for a driveway permit as a group.

**6. Public Comment:** none

**7. Adjournment:** Motion to adjourn by Thomas, seconded by Carmody at 9:45 pm. Motion carried.

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(Kolby Hirth, Secretary)

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(Fred Iausly, Chairperson)

10/19/2017

Melvin and Alice Levy  
E5313 Leone Road  
Spring Green, WI 53588

Planning Commission, Township of Spring Green  
E4411 Kennedy Road  
PO Box 218  
Spring Green, WI 53588

Dear Board Members and Attendees:

Thank you for bringing this issue forward. Unfortunately, we are unable to attend this Special Meeting.

In lieu of our appearance we would like to submit written comments to be read into the record / minutes.

1. We are opposed to the Township Board to implementing any correction to the "issues" listed in your letter of October 11,2017.
2. We are willing to correspond with our neighbors in an effort to find a solution to this issue that will be satisfactory to the Township Board and our entire community.
3. They may email or write to: Mark Levy, [ml72044@gmail.com](mailto:ml72044@gmail.com) or send mail directly to 17462 Olive Hill Road, Modjeska Canyon, CA 92676. Email is preferred.

Sincerely,

Melvin and Alice Levy  
Property Owners,  
E5313 Leone Road



October 11, 2017

TOWN OF SPRING GREEN  
E4411 KENNEDY RD  
SPRING GREEN, WI 53588

[ LANDOWNER ADDRESS]

Dear [Landowner],

A recent building permit application has highlighted compliance issues with the access drive in the area south of Leone Road.

We will be holding a Special Meeting for public discussion at the Spring Green Town Hall (E4411 Kennedy Rd) on Tuesday October 24, 2017 at 7 pm. The Town driveway ordinance (Chapter 5) is accessible on the Town's website at: <http://www.tn.springgreen.wi.gov/> and click on Ordinances on the left side of the page. Any construction of a residential structure will require compliance with Chapter 5.

Some of the items to be discussed at the special meeting are as follows:

- Limit of 3 residential structures for a shared driveway
- Access easement does not meet 66' width specified by ordinance
- Road bed and clearance do not meet width (18') and height (14') requirements
- Access easement lacks a recorded maintenance/repair agreement
- Potential encroachment on southern end of the existing drive onto neighboring DNR property
- Minimum driveway surface requirements
- Enough area for a cul-de-sac with a minimum radius of 60'

Since these items will be affecting you now or in the future, we encourage you to participate in this special meeting. We also invite you to submit written comments, especially if you are unable to attend in person. Letters can be mailed to the address above or e-mailed to Plan Commission Chair at [fred\\_tsg@msn.com](mailto:fred_tsg@msn.com).

Sincerely,

Town of Spring Green  
Plan Commission