

Sherwood Plan Commission Meeting
Monday, November 4th, 2024 – 6:30 pm
Village Hall – W482 Clifton Road, Sherwood, Wisconsin

To *'join'* the meeting at 6:30pm via Webex: Go to the Village home page at www.villageofsherwood.org. The Webex meeting link is located in the upper right-hand side of your computer screen. You may print or save a copy of the complete meeting packet.

Join via telephone (without video): Tel #: 1-408-418-9388. Access Code: 628 186 722# Attendee ID: 51#

- 1) Call to Order/Roll Call.
- 2) Pledge of Allegiance.
- 3) Approval of the Agenda.
- 4) Approval of Minutes: October 7th, 2024.
- 5) Citizen comments on agenda items.
- 6) Officer's Report.
 - a. Plan Commission – Chair.
 - b. Zoning Administrator.
- 7) Old Business:
- 8) New Business:
 - a. *Special Exceptions Modifications.*
- 9) Correspondences:
- 10) Adjourn.

Sherwood Plan Commission Meeting Minutes

Monday October 7, 2024 – 6:30 pm

- 1) Call to Order/Roll Call—Chairperson Summers called the meeting to order at 6:30pm with roll call:

Present:

*Tom Herrmann
Roger Kaas
David Miller
Kathy Salo
Scott Sheppard
Steve Summers*

Absent:

Brad Schmidt

Others Present:

*Padrick Dunn, Administrator
Sadie Slotke, Clerk/Treasurer
Kris Moscinski, Deputy Clerk/Treasurer
Diane Wessel, MSA (virtual)*

- 2) Pledge of Allegiance—*Recited.*
- 3) Approval of the Agenda—*Salo moved to approve the agenda. Sheppard Seconded. Motion carried without dissent.*
- 4) Approval of Minutes: September 3—*Salo moved to approve the minutes. Miller Seconded. Sheppard and Herrmann abstain. Motion carried without dissent.*

Citizen comments on agenda items.

Carol Solberg, N403 Robinhood Drive. Questions where proposed road will be. After seeing map she no longer has questions regarding the location.

Ted Parsons, N423 Robinhood Drive. The proposed cul-de-sac and private road would begin about 5 feet from the edge of his property line. Has been in contact with Jesse Troestler about possibly purchasing property to increase distance between cul-de-sac and his property line. Questions whether this is best practice in proper planning when considering PUD in general and the Village's own guidelines. Asks the commission if the PUD is approved, to allow for possible revisions to the original CSM to accommodate for changes depending on the outcome of his discussions with Jesse Troestler.

Tony Genisot, N489 Robinhood Drive. Is not opposing PUD. Has questions regarding where the water will be coming down from the hills. Understands there are some ditches on both sides, a culvert and that one is between his lot and the far north parcel. He has no issue with that. Questions if there is any clarification on that issue. Kaas believes this is a question for the engineers.

Stuart McCoy, N431 Robinhood Drive. Expressed concerns about wetlands and configuration of the private drive which would take a near his backyard. Concerned about the angle or the relief of the hill. Questions if they are going to excavate or bring in fill. Also questions if the houses are going to be where circles are on the map. States concerns that there is a lot of water that runs down there and there are wetlands down below. He does not like this plan at all.

look at the number of egress points vs. the number of houses. Does not know if Harrison Fire Department provides that service.

Steve Bishop, W4292 County B, Bishop Brothers Trust. Asks if moving forward the commission could explain what the top four reasons would be for it or against it.

Sheppard explains this will be discussed during the agenda item.

Stewart McCoy questions what has been done and what is still up for approval.

Summers explains it is the PUD overlay they are discussing this evening. The plan commission is a recommending body. They consider the planning issues involved, but they only make a recommendation to the Village board and the Village board has the final decision on what steps to take.

With no other comments, Salo moved to close the public hearing at 6:58 p.m. Miller Seconded. Motion carried without dissent.

- 6) Officer's Report. *Summers explained after 8 years on the Plan Commission, Brad Schmidt is resigning. He has agreed to stay on until a replacement is found. If anyone has names of potential replacements they are to let Summers or Joyce Laux know.*
 - a. Zoning Administrator. – *no updates*
- 7) Old Business: none
- 8) New Business:
 - a. *Rezone Request; PUD Overlay-Robinhood Drive*

Salo does not see a problem with this primarily because it such an odd piece of property. It is being utilized the best way possible. Does not think anyone was interested in the 16 houses that were originally proposed. Reducing this down to three lots with a private road is a little more palatable.

Wessel, previous interim administrator, indicates the homes will have to meet set back regulations and that will dictate where the homes have to be. The current property owner has the right to remove landscaping that other property owner's have put over their lot lines.

Herman challenges comments about set back regulations. His understanding of a PUD is that the setbacks the Village adheres to are no longer valid in a private PUD. That is the reason the cottages went into a PUD.

Wessel explains the underlying zoning is still in place. The only reason they are putting the PUD in is because the road would not otherwise be allowed. PUD is an overlay district

Sheppard makes a motion to table it until they know what the proper avenue is. Herrmann does not think it should be on the agenda. Motion dies. Kaas makes a motion to table until such time as the property owner requests a change. Seconded by Herrmann. Sheppard suggests verifying what ordinances say before we limit it to what is in the minutes.

Kaas amends his motion to table until such time as they have reviewed ordinances and determined whether or not it needs to be initiated by the landowner. Seconded by Sheppard. Motion carried without dissent.

Dunn states they need to speak with the Village's attorney regarding the regulations and how this was brought up. Any property that has the opportunity to bring in as much development as possible is his goal.

c. Zoning Code update estimate

Dunn obtained pricing from MSA of \$30,000 and Cedar Corporation of \$22,500 - \$32,500.

Sheppard moves to recommend approval of \$40,000 for the zoning re-write to make sure we are in accordance with state law. Herrmann seconded. Motion carried without dissent.

Herrmann suggests motion is amended to recommend the board budgets \$40,000 for re-zoning.

d. FY2025 Budget

9) Adjourn.

Sheppard moved to adjourn at 7:30 pm. Kaas seconded. Motion carried without dissent.

Respectfully submitted for review and approval by Kris Moscinski, Deputy Clerk.

**VILLAGE OF SHERWOOD PLANNING COMMISSION
EXECUTIVE SUMMARY OF AGENDA ITEM**

FROM: Padrick Dunn, Administrator
MEETING DATE: November 4, 2024
AGENDA ITEM TITLE: Special Exceptions Modifications
AGENDA ITEM CATEGORY: New Business

ISSUE IDENTIFICATION:

Our attorney has advised that the Plan Commission & Village Board to consider an ordinance that would validate construction completed under an approved building permit from the past, even in possible instances where a Village ordinance may have been unintentionally misapplied during the approval process. The Village Board is authorized to grant a special exception to waive or modify any requirements of this Ordinance if, in the judgment of the Village Board, it would be inappropriate to apply literally the provisions of this Ordinance due to erroneously permitted work, to the extent deemed just and proper on a case-by-case basis after receiving and considering a recommendation from the Village of Sherwood Plan Commission.

Next Steps:

Recommend to the village board for approval.

ORDINANCE NO.

AN ORDINANCE TO CREATE SECTION 22-107 J.OF THE VILLAGE OF SHERWOOD ZONING ORDINANCE,REGARDING MODIFICATIONS BY SPECIAL EXCEPTIONDUE TO ERRONEOUSLY PERMITTED WORK

WHEREAS, the Village of Sherwood Plan Commission initiated consideration of a possible amendment to the Village of Sherwood Zoning Code, to allow the Village Board the authority to grant special exceptions in limited circumstances; and

WHEREAS, the Village Plan Commission has initiated this possible amendment out of a concern that has been raised by citizens who allege that the Village Building Inspector permitted construction in error; and

WHEREAS, the Village Plan Commission has found that, in fairness, leniency should be granted to property owners to some extent, if the Village Building Inspector erred in granting a permit, but this concern is best addressed on a case by case basis to ensure that the facts alleged in each case are satisfactorily proven, and to determine the extent to which leniency should be granted, if at all; and

WHEREAS, the leniency in this ordinance is granted as a privilege, not as a right or out of obligation, as it remains the law and the Village's position that the Village is not equitably estopped or in any other manner restrained from enforcing the Village Zoning Ordinance even if violations arise out of work conducted pursuant to a permit issued by the Village or its agents; and

WHEREAS, the Village Plan Commission has prepared a draft ordinance in this regard in consultation with Village staff, and has referred its recommendation in this matter to the Village Board for consideration; and

WHEREAS, upon due notice as specified in Section 22-109 F. of the Village of Sherwood Zoning Ordinance, the Village Board held a public hearing in this matter on _____, 20_____, pursuant to Section 22-109 F. of the Village of Sherwood Zoning Ordinance; and

WHEREAS, the Village Board of the Village of Sherwood, having carefully reviewed the recommendation of the Plan Commission, having determined that all procedural requirements and notice requirements have been satisfied, and having given the matter due consideration, and having based its determination on the effect of the zoning amendment on the health, safety and welfare of the community, and having given due consideration to the municipal problems involved as well as the impact on surrounding properties as to noise, dust, smoke and odor, hereby determines that the zoning amendment will not violate the spirit or intent of the Zoning Code for the Village of Sherwood, will not be contrary to the public health, safety or general welfare of the Village of Sherwood, will not be hazardous, harmful, noxious, offensive, or a nuisance by reason of noise, dust, smoke, odor or other similar factors and will not for any other reason cause a substantial adverse effect on the property values and general desirability of

properties affected by these zoning amendments, and further finds that these amendments will be consistent with the Village of Sherwood Comprehensive Plan.

NOW THEREFORE, The Village Board of the Village of Sherwood, Calumet County, Wisconsin, does hereby ordain as follows:

SECTION 1: Chapter 22 of the Village of Sherwood Municipal Code entitled "Zoning," Section 22-107 entitled "Zoning Permit; occupancy permit; compliance statement; fees," Section 22-107 J. entitled "Special Exception Due To Erroneously Permitted Work," is hereby created as follows:

J. SPECIAL EXCEPTION DUE TO ERRONEOUSLY PERMITTED WORK

The Village Board is authorized to grant a special exception to waive or modify any requirements of this Ordinance if, in the judgment of the Village Board, it would be inappropriate to apply literally the provisions of this Ordinance due to erroneously permitted work, to the extent deemed just and proper on a case-by-case basis after receiving and considering a recommendation from the Village of Sherwood Plan Commission. The procedures and standards to be applied are as follows.

A. Procedures.

1. **Petition.**

A party seeking a special exception shall file a petition with the Village Clerk. The petition shall include all of the following:

- a. A detailed written description of the existing development or use, the permit that was granted, and the reason why the special exception is sought.
- b. Any further information as required by the Village Staff, Village Plan Commission, or Village Board to facilitate the making of an evaluation of such request, such as, parking, traffic impact, landscaping treatment, drainage, sanitary sewer, erosion control and other factors as would be pertinent including the impact on public facilities.

2. **Fee.**

The petition shall be accompanied by a fee payment as set from time to time by the Village of Sherwood Village Board to defray the cost of publication, notification, and holding a public hearing, administrative expenses and expenses of Board members. The Petitioner shall also pay reimbursement to the Village of Sherwood for all costs incurred for legal, planning, engineering, and administrative work necessary to administer the application and oversee all procedures and activities related to the application.

3. **Plan Commission Public Hearing.**

The Village Plan Commission shall hold a public hearing upon receipt of such petition. All interested persons may be heard, in sworn oral testimony.

Notice of such hearing shall be provided as described in 22-109 F. of this Ordinance, to the same extent as though this were consideration of a zoning code amendment.

4. **Plan Commission Findings and Recommendation.**

As soon as practicable following the public hearing, the Village Plan Commission shall make written findings and a recommendation to the Village Board, regarding whether the petitioner has proved an adequate basis for granting a special exception, and if so, regarding any conditions that the Plan Commission recommends be included in any such grant of a special exception.

5. **Village Board Action.**

The Village Board shall review the recommendation of the Village Plan Commission, and make a decision in writing, of whether to grant, conditionally grant, or deny the requested special exception.

B. Basis of Approval.

An application for a special exception may be approved, denied, or approved with conditions. The Village Board shall consider the recommendation of the Village Plan Commission, but is not bound to follow the Village Plan Commission's recommendation. The Village Board may rely upon the sworn testimony received by the Village Plan Commission, or in its discretion the Village Board may take additional testimony from any witness(es) of their choosing. In order to approve or conditionally approve the special exception, the Village of Sherwood Village Board must find that the applicant has demonstrated all of the following:

1. *Permit Error.* That the Petition seeks approval of a structure that was constructed pursuant to a building permit or zoning permit issued by the Village of Sherwood Building Inspector or Zoning Administrator, in accordance with the plans filed with the permit application and all conditions of the permit approval, and only after completing construction was the structure found to be in violation of a provision of this Ordinance.
2. *Preservation of Property Rights.* That the special exception is necessary for the preservation and enjoyment of substantial property rights possessed by the applicant.
3. *No Substantial Detriment.* That the special exception will not create substantial detriment to adjacent property or the general desirability of the Village of Sherwood and its environs, and will not materially impair or be contrary to the purpose and spirit of this Ordinance, or the adopted Village of Sherwood Comprehensive Plan, or the public interest.

C. Determination.

The action of the Village of Sherwood Board shall be stated in writing, and shall include findings of facts setting forth the basis for the decision. If a special exception is granted, or is conditionally granted, it shall be subject to

the written approval of the applicant, and upon such approval it shall be recorded at the office of the Calumet County Register of Deeds. Such recorded document shall be in a form approved by the Village Attorney and shall include all of the following: (a) A description of the particular non-compliant conditions on the property that are allowed to remain; (b) all conditions imposed by the Village Board upon the grant of the special exception; (c) a statement that in the event a non-compliant structure or use is destroyed or otherwise removed from the property, either wholly or in part, for any reason, such non-compliant structure or portion thereof shall not be replaced; (d) a statement that the grant of a special exception under this Section does not render the structure or use legal non-conforming, and no legal non-conforming rights shall apply. The decision of the Village of Sherwood Village Board shall be final, and shall not be subject to appeal to the Zoning Board of Appeals.

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this _____ day of _____, 20_____.

VILLAGE OF SHERWOOD

Joyce Laux, Village Chair

ATTEST.

Sadie Slotke, Village Clerk/Treasurer

Published and/or posted this _____ day of _____, 20_____.