

Minutes from the Public Hearing – Town of Trenton

Date and Time: October 9, 2018 – 7:10 P.M.

Location: Town of Trenton Town Hall, 1071 STH 33 East, West Bend, WI 53095

Town Board Supervisors Present: Ed Doerr, Jeff Esselmann

Plan Commissioners Present: Joan Baumgartner, Jerry Carmody, Vice Chairman Scott Schweizer, Robert Roden, Dennis Kay, Zoning Administrator Barbara Davies. Excused: Chairman Joe Gonnering, Commissioner Ray Werhand.

Others Present: Town Attorney Tim Schoonenberg

Vice Chairman Schweizer called the Public Hearing to order at 8:17 P.M. following the close of the 7:00 PM Public Hearing. Schweizer read the Notice of Public Hearing called to consider the application of Fromm Grading & Excavating, Douglas Fromm, Owner, for a Conditional Use Permit to be issued to Fromm Grading & Excavating in accordance with Chapter 380, Zoning, Article IV, Conditional Uses, of the Town of Trenton Zoning Ordinances. The application seeks a Conditional Use Permit in accordance with Town of Trenton Ordinance Sections 380-14, Zoning, Exclusive Agricultural District; 380-14(F) Conditional Uses, 380-48(J), Residential and quasi-residential uses. The Conditional Use Permit is being requested to allow the following, as printed exactly as submitted by the applicant: storing equipment; employees reporting for work; home office consistent with a landscape/grading excavating business.

The property which is the subject of this application is located at 1896 CTH NN, West Bend, WI 53095, and is approximately 40.48 acres in size. A complete legal description of the property was published in the Notice of Public Hearing.

Vice Chairman Scott Schweizer called on Doug Fromm, Fromm Grading & Excavating, for an explanation of his application. Fromm stated that he is asking for more employees than allowed in the 2009 Conditional Use Permit, including a high school student as an apprentice.

A brief discussion followed on the Notice of Public Hearing, which stated that the application was submitted with a request for employees; under 380-48(J), employees are not allowed.

Attorney Tim Schoonenberg stated that the Public Hearing was now open to the public for comment.

Attorney O'Callaghan referred to Section 380-14, Town Code of Ordinances, allowing a home-based business. Ordinance Section 380-56(B) Permitted Home Occupations lists 10 specific standards that apply, but O'Callaghan again referenced 380-56 as allowing Fromm to operate the business if the Town issues a Conditional Use Permit for it. O'Callaghan submitted copies of the Minutes from March 2017, showing that Fromm's landscaping business, the business he was operating at that time, would be allowed as a Conditional Use. Per those minutes, the Town Board made that judgment in its findings. O'Callaghan stated that 380-9 also allows the Town Board to make determinations on applications for conditional uses even if those uses are not a conditional or permitted use in EA zoning. Fromm has applied for three employees plus himself for his business operations (total four). O'Callaghan concluded

that he thought this was consistent with the Town's ordinances that allow the Board to make this decision.

Vice Chairman Schweizer called on Attorney Tom Schmitzer, representing John and Ann Pechstein. Schmitzer referred to the Notice of Public Hearing which states that 380-48(J) applies, allowing no employees. Schmitzer said he did not think it could be much more clear – Fromm can't have employees. Schmitzer objected to the characterization of the landscape/excavating equipment as farming equipment: it is landscape/excavating equipment. Pechsteins ask that you recommend denial of this application. Schmitzer questioned whether Fromm is in violation of the current Conditional Use Permit. Schmitzer stated that this continues to inch forward to a commercial property. Schmitzer stated that this use is not in conformity with the Town's plan. Schmitzer again asked that the application be denied, as this is not a farming operation on the property.

Letters in favor of the application and opposed to the application were, in many cases, combined with comments on Seoul Creek Farm's application. Attorneys O'Callaghan and Schmitzer referenced those letters on behalf of their clients.

Vice Chairman Scott Schweizer called on John Pechstein, who asked the Commissioners to keep the previously played videos in mind. Pechstein stated that multiple large trucks and large pieces of equipment are being operated by Fromm Excavating. Fromm's driveway is in close proximity to Pechstein's home. Pechstein stated that the noise, dust, etc. from Fromm's operation lessens the enjoyment and quiet use the Pechsteins can make of their property. Pechstein stated that he had moved his home office to get away from the noise, which starts around 6:00 AM. Pechstein stated that he understands that a resident can have a truck and use it to come and go from his/her residence, but Fromm's operations utilize multiple trucks driven by multiple employees.

Courtney Fromm stated that they have approached Washington County multiple times to change the location of the driveway, but it can't be changed because of wetlands at the front of the Fromm property. Fromm stated that the Fromm Excavating equipment has multiple uses, and it is not all excavating equipment.

Attorney O'Callaghan stated that he respected Pechsteins' complaint about the traffic and the noise. O'Callaghan pointed out that the Town Board had found at the March 2017 Meeting that dual use of the equipment was acceptable. O'Callaghan also referenced approval of Doug Fromm plus one employee (under the home-based business provisions) at that same Town Board Meeting. Fromm is applying to expand the number of permitted employees from one to three.

Vice Chairman Schweizer asked three times for any additional questions or comments. There were no additional questions or comments.

Schweizer closed the Public Hearing at 8:40 PM.

Respectfully submitted,

Barbara Davies

Zoning Administrator/Clerk of the Plan Commission

Affidavit of Posting: These Minutes were posted at the Town of Trenton Town Hall Bulletin Board on Friday, October 12, 2018. Barbara J. Davies, Clerk of the Plan Commission. Subject to Approval: These Minutes will be considered for approval by the Plan Commission at its November 13, 2018 Meeting.