

PLAN COMMISSION - MINUTES

September 5, 2024

At 6:00 p.m. Chairperson Allen called the meeting to order and noted compliance with the open meetings law.

Present: Jim Allen, Don Larson, Patricia Witter, Dean Bothell, Claire Barnett, Gary Kowalke

Others Present: Melissa Ryan, Bill Clary, Jeff Thelen, Julia Potter, Ronald Ballweg, David Bauman, Chris Bruni, Matt Filus, Andrea Dumke, Mike Arndt, David Mitchell

Absent: Doug Hill

The Pledge of Allegiance was recited.

Moved by Barnett, second by Bothell, to adopt the agenda as posted. Motion carried.

Moved by Larson, second by Barnett, to adopt the minutes of the August 1, 2024, Plan Commission meeting. Motion carried unanimously.

Jeff Thelen gave the commission a zoning update.

Dean Bothell gave the commission a Village Board update.

The Plan Commission reviewed and discussed the proposed two-lot certified survey map dividing property owned by D. Mitchell LLC located at 150 Shaw Street (PIN 191-0363-00000). Motion by Bothell, second by Kowalke to adopt the following recommendation of the Zoning Administrator contained in his memo dated September 3, 2024:

*If both of the requested special exceptions are granted, recommend approval of the subject CSM with the following conditions:*

- 1. A note be added to the CSM that states "the roof over the easternmost set of stairs on Lot 1 shall be removed within 180 days after the recording of this CSM."*
- 2. A note shall be added to the CSM that states "separate water and sewer lateral hookups must be installed for each lot (and all associated hookup fees paid) before an occupancy permit will be issued for either lot."*
- 3. A note shall be added to the CSM reflecting the grant of the special exceptions and any conditions imposed, with language to be drafted by the Village Attorney.*

*If one or both of the requested special exceptions are denied, recommend disapproval of the subject CSM for failure to comply with the minimum lot size and/or maximum lot coverage requirements, as applicable.*

Motion carried unanimously.

Attorney Potter gave a high-level summary of the special exception process for the Plan Commission and members of the public in attendance for the public hearing.

At 6:21p.m. a public hearing was conducted regarding application by D. Mitchell LLC for special exceptions from Section 17.24(6)(a)/ 17.23(6)(a) of the Municipal Code of West Baraboo to decrease the minimum lot size required for a two-family dwelling to 8,602 square feet and from Section 17.24(8)(a)/17.23(8)(a) of the Municipal Code of the Village of West Baraboo to increase the maximum lot coverage for a principal building to 44% in connection with a proposed certified survey map dividing property located at 150 Shaw St. (PIN 191-0363-00000).

Village Clerk Ryan swore in Zoning Administrator, Jeff Thelen. Zoning Administrator Thelen addressed the commission to give background about the special exception application, and read from his memo dated September 3, 2024.

D Mitchell LLC requested two special exceptions to the certified survey map they want to have adopted. A certified survey map is required in order to allow the church to be converted to a residential use while the parsonage house is also used as a single-family dwelling. The Village ordinances do not allow for two primary structures on one parcel in the residential district. The church and parsonage were both built in the 1940s which was before the Village of West Baraboo was incorporated. Therefore, the church is a legal nonconforming structure. If created, Lot 1 would not meet the minimum lot size of 10,000 square feet for use as a two-family dwelling. Lot 1 of the proposed certified survey map is 8,602 square feet therefore; the applicant requests a special exception to decrease the maximum lot size required for a two-family dwelling to 8,602 square feet.

In addition, the current church building already exceeds the maximum lot coverage, covering approximately 38% of proposed Lot 1. The maximum lot coverage for a principal building in R-2 is 30% and the maximum lot coverage for a principal building in R-1 is 25%. The applicant intends to build a garage in order to accommodate indoor parking, increasing the total building coverage to 44%. The applicant is asking for a special exception to allow for a maximum lot coverage of 44%.

Clerk Ryan swore in applicant, Dave Mitchell. Mr. Mitchell agreed with Mr. Thelen's summary of the special exceptions. He added that the extra space for the garages was needed. Going further into the building wasn't an option without disturbing the structure.

Attorney Potter explained that the proposed garage would comply with the required front yard setback from Shaw Street, which is 8 feet (because Shaw Street is 100 feet wide).

Clerk Ryan reported that there were three people who came into the Village Hall to get information about the public hearing. Clerk Ryan noted that all three parties were present at the hearing.

The Zoning Administrator gave his analysis and recommendation to the Plan Commission and reviewed the remainder of his September 3, 2024 memo in detail.

The Zoning Administrator recommends that the Village Board grant both special exceptions. For the reasons set out above, an unnecessary hardship exists due to the unique physical characteristics of the property and the size and location of the existing buildings and the granting of the special exception will neither harm the public interest nor undermine the purposes of the Village Codes. The zoning administrator recommends imposing the following conditions:

- Building materials for the garage construction must be similar in color to the church siding and roof.

Clerk Ryan swore in Mike Arndt, 140 Shaw St. Mr. Arndt testified that the hardships faced by the applicant were financially driven and personal to the applicant. He pointed out that other developers had looked at the property, done their homework, and decided not to purchase it because of the costs of developing it in compliance with the Village ordinances. He pointed out that it is possible to develop the property in compliance with the Village ordinances by moving or demolishing the parsonage house. He also expressed concern about public safety, citing the dangers of placing an additional driveway near the intersection of an already hazardous road and the issues related to the necessity for additional parking.

Discussion by Chairman Allen about the Shaw Street/ Willow Street intersection being dangerous and possibilities of addressing some of that danger by adding additional stop signs.

Clerk Ryan swore in Ronald Ballweg, 318 Willow St. Mr. Ballweg pointed out that the applicant's request constituted a self-imposed hardship. He noted that moving the house would not require any special exceptions. By keeping the parsonage in its current location and establishing the lot lines as shown on the certified survey map, the applicant had created a self-imposed hardship. Mr. Ballweg also felt that the applicant had not conducted sufficient research before purchasing the property. Mr. Ballweg also discussed parking logistics, the danger of backing out of a new driveway in Lot 1, and the likelihood that duplex owners would have additional cars that would not fit into the garage and that would be parked in front of the garage and possibly interfere with use of the sidewalk. He explained that if the parsonage house is moved, that would create enough space for the necessary parking on Lot 1.

Clerk Ryan swore in Andrea Dumke, 300 Koch St. In her testimony, she confirmed that she agreed with Mr. Arndt and Mr. Ballweg's statements. She expressed concern about the safety hazards on Shaw Street due to the driveway placement and criticized the applicant for not conducting adequate research before buying the property. She said that she had spoken to a prior potential developer of the property who wanted to purchase some of her land and he ultimately decided not to move forward with the project, because he did his homework. She thinks that the grant of the special exceptions will harm the public interest and the neighbors solely to allow the developer to generate more income from the property. She testified that the church had a lower impact on the neighbors than a new duplex would. Additionally, she was

worried about the potential precedent that could be set if these special exceptions were granted.

Clerk Ryan swore in David Bauman, 201 Willow St. Mr. Bauman called into question why the applicant would change the zone from R-1 to R-2.

Attorney Potter described the difference between the R-1 and R-2 lot size and coverage requirements and the uses allowed in each district. She explained that two-family housing is a permitted use in the R-2 district and a conditional use in the R-1 district.

Clerk Ryan swore in Chris Bruni, 540 Bluebird Circle, Poynette. Mr. Bruni's company owns the property next door on Shaw Street. He was concerned about the garages and noted that the existing parking lot would be sufficient and safer than the alternative if the lot was not divided. He also suggested that the two existing buildings could be combined into a single building to comply with the requirements of Village ordinance.

Mr. Mitchell gave his final testimony. He feels this is a good project that will work very well on the property. The number of other developers who looked at the site and decided not to purchase it is evidence of the hardship associated with the property – something has to be done or the buildings will sit there and degrade and eventually need to be torn down. But right now the roofs need work but the foundation is solid.

Commissioner Kowalke said that, based on what he's hearing, he thinks Lot 1 should stay in R-1 and not be converted to higher density. He would like to see something done with the property, but doesn't think granting the special exceptions is appropriate because it will cause safety issues and because it would be possible to develop the property in compliance with the ordinances by moving the parsonage house.

Commissioner Witter thinks it is likely that families with children will move into the duplexes, because they each will have three bedrooms, and is concerned that the smaller lot and larger lot coverage will mean that there's not sufficient yard space for children to safely play outside. And because there's quite a bit of speeding on Shaw Street, it's not a particularly safe place for children to cross the street to get to Haskins park. She's concerned about speeding on Shaw Street and is not sure that the Village has the power to solve that problem. The applicant suggested that he could put a turnaround in the yard so that residents don't have to back out, but pointed out that most residents already in the area back out of their driveways onto the road.

Commissioners Kowalke and Barnett asked about how the garages and basements would be configured. The applicant explained that garages would take up 1/3 of the basement space and mechanicals will take up most of the remaining space. The basement will be divided and accessible from the duplexes, but not finished.

Commissioner Kowalke asked about whether the applicant could move the parsonage house further to the east. The applicant said that you do the numbers on that and start losing money on the project.

Chairman Allen asked the applicant to explain the research he did before purchasing the property. The applicant said that he walked through the buildings and used his own knowledge and experience about what could be done. He put a verbal offer on the property before anyone else did. He got feedback on what others were thinking of doing and reviewed their plans and thought they were not feasible. He ran numbers and based his plans on his knowledge of what is usually allowed in other places.

The applicant answered questions about other possible configurations of buildings and stand-alone garages on the property. He passed out preliminary plans for the renovation of the church building.

Commissioner Barnett asked questions about the condition of the buildings and the applicant said that the foundation is solid, but the roof and windows need work. She believes that moving the parsonage house further to the east solves all of the problems with the site and would make special exceptions unnecessary, to the extent that the parsonage house is in good enough condition to be worth saving. The applicant believes it would be a substantial hardship to move the house or tear it down. Commissioner Barnett asked whether he has a sense of what demolition of the parsonage house would cost, and the applicant responded that he estimated about \$20,000 to demolish the house, remove the foundation, get rid of the waste, and separate out the utilities. That is just a rough estimate and could be higher if the house contains asbestos or other hazardous materials. And then he would end up with no rental income from the house.

Chairman Allen asked what the applicant plans to do with the parking lot on Lot 2. The applicant responded that the parking lot is approximately 70' x 70' and by the time he adds a detached garage on it that complies with the setback requirements, it will be a lot smaller in actual usable area.

Commissioner Larson understands the applicant's perspective, but rules and regulations are there for a purpose. Although we need to make exceptions where warranted, he doesn't think it is warranted in this case. He is concerned about public safety, parking, and the danger of speeding on Shaw Street. Although the lot is oddly shaped and the buildings are pre-existing, so some minor special exceptions may be warranted, the requested special exceptions are too substantial and are not close enough to what the ordinances require. If you grant these special exceptions, then the ordinances mean nothing.

Commissioner Barnett understands that the historical circumstances and the fact that Shaw Street is diagonal contribute to the difficulties of developing this site. But the request here is self-created because of the new lot line that the applicant wishes to draw. Lot 1 does not have enough space and Lot 2 ends up with a lot of unusable space. If the Lots had already been

divided this way and there was no option to reconfigure the lot lines, that would be one thing, but this is all one lot now and development can be accomplished on this lot in a way that complies with Village ordinances. Because there are other reasonable possibilities for development, a special exception is not appropriate.

At 7:36, Chairman Allen closed the hearing.

The Commission discussed the special exception requests and the evidence introduced in the public hearing. Commissioners reiterated the comments they made during the public hearing and made additional observations. Commissioner Barnett believes that any hardship is self-imposed and for financial reasons. She understands not wanting to move the house or tear it down, but the new division between Lot 1 and Lot 2 causes problems for Lot 1 that wouldn't be there because the applicant wants to keep both structures in their current location and use them for residential purposes. Commissioner Witter agrees and believes that the hardship is self-imposed and financially driven and that the requested special exceptions are not in the public interest. Commissioner Bothell believes that there are other ways that the property could be developed in compliance with the Village ordinances and looks forward to reviewing those proposals, but does not favor granting the requested special exceptions. Commissioner Allen agrees that the hardship is self-created and financially motivated. Compliance with the strict letter of these restrictions is not an undue hardship, and tearing the parsonage down or relocating it to make development on the property comply with the Village ordinances is not unnecessarily burdensome. Any hardships that do exist are due in part to the property's physical characteristics and existing buildings, but are self-imposed because there are other options to divide and develop the lots that would be in compliance, but the developer wants this configuration to maximize profit. Negative impacts to traffic with proposed new access on Lot 1 poses a danger to the public, neighbors, and the potential residents. Granting the special exceptions would undermine the purposes of the Village Code to require a certain amount of space on the lot for yards, parking, and amenities and require specified building density.

Motion by Larson, second by Barnett to recommend that the Village Board deny both special exceptions for the reasons stated on the record. Motion carried unanimously.

At 8:13 p.m., a public hearing was conducted regarding application by D. Mitchell LLC to rezone the western 8,602 square feet of 150 Shaw St. (PIN 191-0363-000000) from R-1 single-family residential to R-2 two-family residential as reflected in Village Board Resolution 24-14. No members of the public appeared to offer testimony about the proposed rezoning.

Motion by Kowalke, second by Larson, to recommend that the Village Board not rezone the western 8,602 square feet of 150 Shaw Street from R-1 to R-2, but instead leave the property zoned R-1. Motion carried unanimously.

The Plan Commission reviewed and discussed the proposed extraterritorial two-lot certified survey map of property owned by the William E. & Margery A. Ramsey Living Trust at S4339 Fox Hill Circle (PIN 002-0846-00000). The Village Zoning Administrator explained the application and

reviewed his memo dated August 29, 2024. Moved by Kowalke, second by Larson, to recommend to the Village Board adopt the following recommendation of the Zoning Administrator contained in his August 29, 2024 memo:

*Recommend conditional approval of the subject CSM, subject to the following conditions:*

- 1. The Owner's Certificate must be signed by Margery A. Ramsey, Trustee (or another person with authority to sign on behalf of the Trust, as established to the satisfaction of the Village Attorney)*
- 2. Village of West Baraboo Approval Certificate must be modified to read: Resoled, that this Certified Survey Map located within the Village's extraterritorial plat review jurisdiction is approved by the Village Board of the Village of West Baraboo on this \_\_\_\_\_ day of \_\_\_\_\_, 2024.*
- 3. The Surveyor's Certificate must be updated to add a reference to the Subdivision Ordinances of the City of Baraboo.*

Motion carried unanimously.

November Plan Commission meeting was moved to November 12, 2024.

At 8:22 p.m., it was moved by Larson, second by Bothell to adjourn. Motion carried unanimously.

Respectfully submitted,  
Melissa Ryan, Clerk/Treasurer