

**MUNICIPALITY OF GERMANTOWN PLANNING COMMISSION
MINUTES OF MEETING HELD MAY 24, 2011**

1

The Municipality of Germantown Planning Commission met in regular session on May 24, 2011 at 7:00 p.m. in the Municipal Building Council Chambers.

MEMBERS PRESENT:

The following members were present at the Call to Order: Brent Byerly, Matt Lang, Andrew Rohrbach, and Ed Schwaberow.

MEMBERS ABSENT:

Jeff Jones was absent.

ALSO PRESENT:

Also present were Anna M. Sizemore, Municipal Manager, Kelli Novak, Clerk of Council and several visitors.

EXCUSE ABSENT MEMBERS:

Mr. Lang motioned to excuse Jeff Jones.

ROLL CALL: Mr. Byerly, yes; Mr. Lang, yes; Mr. Rohrbach, yes; Mr. Schwaberow, yes. 4-yes, 0-no. MOTION CARRIED.

APPROVAL OF MINUTES:

Mr. Byerly moved to approve the April 26, 2011 meeting minutes as submitted.

ROLL CALL: Mr. Lang, yes; Mr. Rohrbach, yes; Mr. Schwaberow, yes; Mr. Byerly, yes. 4-yes, 0-no. MOTION CARRIED.

PUBLIC HEARINGS:

Mr. Rohrbach stated the order of business tonight is the Public Hearing on Application #11-02 to consider a petition for change of zoning district, made by Tom and Beth Ball to change from the current zoning R-3, Multi-Family Residential District to C-2, Downtown Business District to allow an antique and primitive shop on the property located at 203 North Main Street.

Applicant Presentation:

Beth Ball, 203 N. Main Street, stated that she and her husband have lived in this home for about a year now. They are requesting to rezone their property for a small business. They would like to open a small antique business in the carriage house. The carriage house faces Warren Street and is separate from their home. When they bought the property the realtor informed them that the property was zoned for business. According to the internet the previous owners ran an antique business out of their home. Later they found out that their property is not zoned for business as they were told. They would like to open the business by the fall of

**MUNICIPALITY OF GERMANTOWN PLANNING COMMISSION
MINUTES OF MEETING HELD MAY 24, 2011**

2

this year. Until that time they are planning to restore the carriage house but not take away from the character or the historical value. The merchandise they would like to focus on selling would be refinished antique furniture and primitive items. This business would not be a weekly garage sale or flea market atmosphere. This will be a small shop filled with quality items that are of value and are collectables. She takes great pride in her home and she loves the historical aspect of it. She grew up in the community and she works as a teacher in the Valley View School District, she banks in the community, and she supports the local businesses. She would love to have the opportunity to be a part of the small business in town.

Staff Summary:

Mrs. Novak stated that one resident came to the Municipal Office to look at the application and after looking at the application stated she had major concerns regarding the parking and additional traffic flow in the residential area.

Mrs. Novak received a phone call from another resident with concerns of spot zoning and stated that if the Ball's wanted to start a business in Germantown she would like to see them located in the Downtown Business District. This resident also had concerns regarding the addition traffic flow in the residential area.

On Friday a letter was delivered from the Emmanuel's Evangelical Lutheran Church which stated that they also had concern about the Ball's property being rezoned.

Mrs. Novak did look up on the internet and did find the antique business that Mrs. Ball was referring to, that was located at the property. However there is no paperwork in the Municipal file for 203 North Main Street that ever allowed a business.

Mr. Schwaberow stated that the previous owners of 203 North Main Street did deal in antiques. People may have come to the home to view items and purchase items, but there was never any signage located on the property and never any formal rezoning for a business that he knows of.

Proponents Recognized:

Lois Campbell, owns property located at 128 North Main Street, other neighbors have the sidewalk blocked with stuff from a garage sale that seems to go on all the time. She does not believe that the traffic would be affected and would not be a problem.

Robbie Drumm, 144 North Main Street, stated that he does not have a problem with a business going in at the Ball property as long as there is no changes aesthetically. He feels there could be a problem with parking.

Opponents Recognized:

Ted Caudill, 216 North Main Street, stated he had concern with the rezoning request for a number of reasons. He does not wish to keep anyone from earning a living in any way. Mr. and Mrs. Ball have been very good neighbors. His main concern is the parking and traffic patterns. If the zoning changes from R-3 to C-2 what other business can go into the residents of 203 North Main Street. If the Ball's were to move and another business moved in they may

**MUNICIPALITY OF GERMANTOWN PLANNING COMMISSION
MINUTES OF MEETING HELD MAY 24, 2011**

3

not care as much about the aesthetics as the Ball's do. If the zoning would be changed it could hurt the property values of the other neighbors. He does not want to see his neighborhood become part of the Downtown Business District. He feels that if the property is zoned C-2 people may not want to purchase his property if he were to sell.

Mr. Roharbach stated that the Board would decide if just the property at 203 North Main Street is the only one zoned C-2. The application that we have received is for the property located at 203 North Main Street.

Robbie Drumm stated that he would have concern that if this property is rezoned then is someone else in the neighborhood wanted to have their property rezoned, it would be hard for the Board to deny one resident and grant another.

Mr. Schwaberow read the C-2 guidelines from the Zoning Code. He stated that once this property is rezoned any one of the listed business may be located on the property.

Karen McGhee, 229 North Main Street, stated she does not have any issues with the Ball's wanting to start a business. Her concern is the future owners of the property and what they may do with the property. Her other concern would be other residents on the street may also want to be rezoned for C-2 that may not keep their property as nice as the Ball's do.

Don Johnson, 33 East Warren Street, questioned if it would be allowed to put in a contract that she would not be allowed to sell to anyone else that would want something different than what Mrs. Ball is asking for.

Mrs. Sizemore replied that she does not believe that we can control the sale of Mrs. Ball's property to someone else. If the property is rezoned commercial it will most likely always be zoned commercial.

Lois Campbell questioned if there was a onetime zoning that could be granted to Mrs. Ball that would only allow the Ball's to have a commercial property and not any other owners.

Mrs. Sizemore replied that she was not aware of any onetime zoning privileges

John Cooke, 261 North Main Street, stated he commended Mrs. Ball for trying to open a business and going thru the proper channels to do so. He is opposed for the property to be rezoned because the neighborhood is full of children and the only way for them to get to the park is to walk past the Ball's property on Warren Street.

John Cooke went on by saying that he only lives three homes from the applicant and did not receive a letter from the Municipality. He feels that the rule of 200ft notice to residents should be widened.

Julie McNamara, 275 North Main Street, came forward and reviewed the zoning map the Board was reviewing. This would be considered a spot zoning and she has a concern with that and is usually not advantageous to anyone. To allow commercial zoning that far into the residential district sets precedence. This would not be zoned for immediate use and the Board needs to look at the harmony of the area. This would be a big intrusion into the residential

**MUNICIPALITY OF GERMANTOWN PLANNING COMMISSION
MINUTES OF MEETING HELD MAY 24, 2011**

4

district by a city block and a street. She has concern that the C-2 zoning could go as far as the school on Comstock if this is allowed. This would be zoned for all time not for just a single use.

Wade Rattliff, 52 West Warren Street, stated that he has lived in his home for 38 years. He has concerns with the parking and the neighborhood. This could affect the property values of the neighboring homes. If the zoning does change it will open the doors for the rest of the neighbors to apply for applications to be rezoned for a commercial use. He knows of at least 2 or 3 that would apply for rezoning. He would like to see this application turned down.

Mr. Schwaberow questioned the residents what their observation of what the previous owners were doing with their business/home.

Karen McGhee replied that the previous owner had an actual store in the downtown area. She never saw anyone coming and going for business except when the Village had the Community Garage Sale. They would store items at the house and take the items to other locations.

Final Statement of Staff:

None.

Final Statement of Appellant:

None.

Close Public Hearing:

Mr. Rohrbach closed the Public Hearing at 7:32 p.m.

Deliberation and Decision:

Mr. Byerly stated that he is on the Church Council for Emmanuel's Evangelical Lutheran Church that sent the letter with concerns. The Council made a motion to have Pastor Havey send this letter to the Municipal Building. We also had concern of the parking in the church parking lot. People already use the Church parking lot without permission.

Mr. Schwaberow stated that the Emmanuel's Evangelical Lutheran Church objected to the zoning being changed but suggested a variance be issued.

Mr. Lang questioned what the hours would be if this application would be approved.

Beth Ball replied 9:00 a.m. to 5:00 p.m., weekends and maybe 1-2 days a week.

Mr. Schwaberow thanked the residents for attending the Public Hearing. The Board will have to make a recommendation to Council within 60 days. Council will have the final determination on the application.

Mr. Schwaberow questioned the voting process.

**MUNICIPALITY OF GERMANTOWN PLANNING COMMISSION
MINUTES OF MEETING HELD MAY 24, 2011**

5

Mrs. Sizemore replied that the Planning Commission would vote on yes or no and it would be sent to Council next. Then another Public Hearing will happen again in front of Council and Council will have the final vote regardless what the Planning Commission's vote is.

Mr. Schwaberow stated that he was not ready to make a decision tonight and suggest that that the Board meet in June to discuss the information more. Then at that time make a recommendation to Council.

Mr. Schwaberow questioned if the Ball's planned to remove the oversized garage doors.

Beth Ball replied that she is planning to replace the garage door and purchase carriage house doors and have an entrance door.

Mr. Byerly questioned if the Ball's had planned on having any signage.

Beth Ball replied that would depend on what is allowed by the Village.

Mr. Schwaberow moved to table the decision for Application #11-02 until the June 2011 meeting.

ROLL CALL: Mr. Lang, yes; Mr. Rohrbach, yes; Mr. Schwaberow, yes; Mr. Byerly, yes. 4-yes, 0-no. MOTION CARRIED.

NEW BUSINESS:

None.

OLD BUSINESS:

Mr. Byerly questioned if MVRPC had been contacted to do the comparison of the Village lot sizes and building fees.

Mrs. Sizemore replied that MVRPC does not do that kind of work any longer. She has contacted Dan Boron who has worked with us in the past and we should be asking for a proposal from him.

Mr. Lang questioned if the Municipality was going to pursue anything with the Junction located at Rt4 and 725. He would like to see improvement, not shut them down.

A brief discussion took place regarding the Junction at Rt4 and 725.

ADJOURNMENT:

There being no further business to come before the Committee, Mr. Schwaberow moved to adjourn the meeting.

**MUNICIPALITY OF GERMANTOWN PLANNING COMMISSION
MINUTES OF MEETING HELD MAY 24, 2011**

6

The meeting adjourned at 8:05 p.m.

Respectfully Submitted,

Kelli R. Sanders-Novak
Clerk of Council