



# VILLAGE OF PENTWATER

## Planning Commission

ON PENTWATER LAKE AND LAKE MICHIGAN  
65 N Hancock Street, P.O. Box 622, Pentwater, Michigan 49449  
(231) 869-8301 – FAX (231) 869-5120

### Regular Meeting Minutes – September 26, 2023

Chairperson called the regular meeting of the Pentwater Village Planning Commission Meeting to order at 6:00 pm, in-person at Park Place, 310 N. Rush Street, Pentwater, with the Pledge of Allegiance.

#### ROLL CALL

**Present:** Bruce Koorndyk, Amy Roberson, Mary Marshall, Dan Nugent, and Ron Stoneman (6:02pm).

**Absent:** Chris Conroy.

**Staff Present:** Katie Anderson, Zoning Administrator.

#### APPROVAL OF AGENDA

**Motion** by Mary Marshall, second by Amy Roberson to approve the agenda presented.  
Voice Vote: Ayes: 4    Nays: 0    Absent: 2    Motion passed.

#### APPROVAL OF REGULAR MEETING MINUTES

**Motion** by Bruce Koorndyk, second by Mary Marshall to approve the August 22nd regular meeting minutes as presented.  
Voice Vote: Ayes: 4    Nays: 0    Absent: 2    Motion passed.

#### PUBLIC COMMENTS FOR ITEMS ON THE AGENDA

Ted Cuchna – 529 S. Clymer St. – Will the whole ordinance be read in the Public Hearing?

**Motion** by Ron Stoneman, second by Dan Nugent to close the regular meeting and open the public hearing at 6:10pm.  
Voice Vote: Ayes: 5    Nays: 0    Absent: 1    Motion passed.

#### PUBLIC HEARING

**Public notice is hereby given that the Planning Commission of the Village of Pentwater will hold a public hearing at the Park Place, 310 North Rush Street, Pentwater, Michigan, on Tuesday, September 26, 2023, at 6:10 p.m.**

**The public hearing is for the purpose of considering comments regarding an amendment to the**

**Village of Pentwater Zoning Ordinance, in accordance with the Michigan Zoning Enabling Act (Public Act 12 of 2008). The proposed amendment to the Zoning Ordinance would amend Section 12.04(D) to change the maximum building height in the C-3 Central Business District from 35 feet to 47 feet. The amendment would also clarify the existing side and rear yard setback requirements.**

### **Public Comments from the Public Hearing**

Kathy O'Connor – 337 N. Rush St. – I am not in favor in raising the height from 35 to 47 (feet), I think in light of the fact that the entire community is up in arms over the impact that a city form of government would have on the quaintness and charm of the Village, this would do more to have a negative impact on the quaintness and charm of our Village than who would send out our taxes. I also do not believe there is a strong business for this.

Paula Degregorio – 270 E. Sands St. – I do not know if all of you remember the condos went up down near the Marina and people went crazy. For years there were “No More Condos” signs and maybe people have changed from that and they do not care anymore and I wonder what advantage there will be to Pentwater to make me feel like I am living in Brooklyn again with high buildings around me. This may not happen in my life time with everything becoming 47 feet, but its going to change the look and do we care about the change. I think everyone should remember what it was like when the condos went up originally.

Ted Cuchna – 529 S. Clymer St. – I thought I read in the ordinance that would allow for appurtenances, or items above the 47-foot level for air conditioning or a false façade. Does this come from a particular builder or developer or is just some feeling that the Village has to expand. Is there a plan afoot?

Sue Schrupf – 530 S. Clymer St. – I agree that it will take away from the quaintness, I think the condos on the corner where Betty's used to be is plenty high enough. I understand that they are looking at a boutique hotel to replace the old Village Hall and gymnasium, and I would be concerned about parking if they end up doing that. I do not think we need to raise the roof any higher, especially if it can go as high as 50, I do not like that idea at all. I love the quaintness of the Village that it is today and I have been here for many, many years.

Dean Jessup – 420 Chester St. – My comment is for the Zoning, Planning, and Council is to get something uniform and set. The bouncing up and down and the change, I think the condos are 48 feet, the Gustafson (Dan's building) is 47.5 (feet), that has been there for ages. Set something and leave it, get it set in stone so there is not this dance up and down and people getting nervous about the height going up more and more. With the condos up there at 48 (feet) and Dans at 47.5 (feet), if 47 (feet) will get it then set it and be firm to what you are setting and do not cave in for the next developer that wants to come at 50 (feet) or 52 (feet), set it, be firm and stand on your firmness of picking a height.

### **OLD BUSINESS**

None

**Motion** by Bruce Koorndyk, second by Ron Stoneman to close the public hearing and reopen the regular meeting at 6:21pm.

## **NEW BUSINESS**

- A. Consideration for Proposed Text Amendment to the Zoning Ordinance to amend Section 12.04.D to change the maximum building height in the C-3 District from 35 feet to 47 feet and clarify the existing side and rear yard setback requirements.

**Motion** by Amy Roberson, second by Ron Stoneman for the consideration for the Proposed Text Amendment to the Zoning Ordinance to amend Section 12.04.D to change the maximum building height in the C-3 District from 35 feet to 47 feet and clarify the existing side and rear yard setback requirements.

## **Discussion**

Mary Marshall – I went through down town to look at the heights of the buildings. If we are changing an ordinance then any building could be at that level and I started imagining if that (the Gustafson building height) was on both sides of the street, all the way up and down. The ordinance would allow for all buildings to be the same height, an additional 12 feet on a few buildings would look fine but do I want it that tall on both sides of the street all the way up and down Hancock Street, which could happen at some point. That worried me and I wanted to make that point to start the conversation.

Ron Stoneman – Parking is a concern. I would like to have the vision of how we are going to solve some of the other problems that will come potentially from this decision and have a better understanding of what the current project is entailing or suggesting. I feel that there are components that are missing and this is a single decision that will have ramifications for other decisions related to consideration and I am concerned of not addressing it all in one package or at least a stronger understanding of where this is going and what the potential is and vetting that. I think handling one item at a time is not necessarily a good plan.

Bruce Koorndyk – The one thing we have to remember is that this does not automatically give everybody the right to do it (build to 47 ft.), its all going to come back to us (the Planning Commission). So, whether its 47 feet or 42 feet, its coming back to us. That is when we will deal with parking and the other things that could arise. We should not try to tie that in to anything tonight because that is not what we are asking or proposing. There are some concerns that even if the Village property is sold and it is developed at 47 feet, what is to stop someone just down the street who has something at 35 feet or 30 feet to come in and build on top of their current building. It is probably not going to happen but it could. One way we could handle that is to add a consideration that if its new construction that the 47 feet would be allowed but not for buildings that are already established, that would help assure us that were not going to have people adding on with condo units. There is a lot of concern that there is only going to be condos going in at the Village property and people do not want that on the premises. I think the other thing that should be considered is that we worked hard on the height discussion in the

Master Plan, and our thought was to go 47 feet on the east side of Hancock St. and 42 feet on the west side. That is what is in the draft Master Plan right now, that is strictly the Master Plan, that is not an ordinance.

Mary Marshall – Asked Village Staff about variances and if that is something that could be considered for any proposals that come forward with the Village property or future properties in the C-3 District.

Bruce Koorndyk – I want to remind everyone that Harbor View Condos are at 48 feet, the ordinance did not allow it, so something was done to get it to that height. The Planning Commission has the final say, it would have only been allowed to be 48 feet with approval. I do not see a problem with the 47 feet, if we were willing to put it in the Master Plan on the east side so why not on the west side? The Village Council has requested that we look at this ordinance and that is what we have to consider.

Ron Stoneman – What was the purpose of proposing 42 feet on the west and 47 feet on the east? This proposal is not congruent with the Master Plan.

Mary Marshall – It is not congruent with our current Master Plan (2015).

Amy Roberson – I am curious if we have looked at other Villages or neighboring communities and what their height requirements are and if they are similar to ours. Manistee's downtown height is 35 feet, and I have looked at a few others and the highest has been 42 feet and those were for bigger cities and if we have considered that before we decide this issue.

Dan Nugent – We are a long way from downtown being a 47-foot tunnel on both sides. In the last 41 years, the only new building that went up on main street is the Harbor View Condos at 48 feet. If the height requirement is at 35 feet, then they would have gone through the Planning Commission would have had to give some sort of approval to allow the 48 feet. If we raise it to 47 feet right now, it guarantees anybody who would purchase or currently owns property in the C-3 District, that they could go up to 47 feet and yes, they would still have to come through the proper channels to move forward with their plans. If its at 42 feet, someone would still need to ask for a variance if they wanted it at 47 feet (if they are building on the west side).

Mary Marshall – Something that worries me is that there is a vacant lot right across the street from old Village Hall, if we went with the new construction, we could end up with new construction at 47 feet on both sides of the road.

Dan Nugent – I have battled this a lot over the last couple of weeks, I was one of the members of Council to push this through to approve this. I have many conversations, not negative, not super positive, just conversations. With a 48-foot building going in 10 years ago, it is always possible to go beyond 35 feet through the proper channels. The lot across from old Village Hall has been empty since it was torn down in the early 2000's and has sat empty. Whoever owes it or if someone wanted to purchase it, could have always during this time could have asked for a

variance to go beyond the 35 feet and could have done something with the lot. I do not think we are going to have a big influx of the businesses in the downtown building up to the 47 feet if we were to increase the height in the C-3 District. You can not make enough money, whether you own or rent, that building to tear a building down and rebuild like a development company. I am not concerned about everybody coming in and purchasing everyone's property and building up to 47 feet. When it was brought up at Council, we were considering 42 feet or 47 feet, 5 feet is not going to make that much of a difference, even with the buildings right next to each other.

Ron Stoneman – Does this have the potential of increasing the property values if we raised the height? Does that change the asking price for any of the property for sale by the Village? To say the height is guaranteed or if they have to ask for a variance, there is a difference there and the availability to do something with that property.

Bruce Koorndyk – If it raised to 47 feet, there are other conditions that will have to be considered. For example, if we are at 47 feet, you have to have an elevator, and the elevator shaft is going to be about 8 to 10 feet and it has to be above the 47 feet. Right now, the Ordinance has a height limit of 50 feet for appurtenances and that would have to be considered for new construction.

Ron Stoneman – We are heading towards a very serious conversation about parking because the Ordinance is in contrary to this. If we have new construction at the old Village Hall, we are going to get to the parking discussion anyways.

Dan Nugent – For new construction, isn't the Ordinance requirement to have any new construction to have their own parking on site or a site available of their own?

Ron Stoneman – We have already had conversations with this Board about how parking is not going to work with what is in the Ordinance right now with anything new coming into the downtown. That is what is triggering me to be concerned and that is the next Ordinance we have to look at and a variance may occur with parking because its not addressed right now. I am not opposed to the 47 feet, but I want to address the entirety of the impact of something like this (raising to 47 feet).

Mary Marshall – The challenge is that the request is very nonspecific, its very general, just raise it to 47 feet. I do not know the background of the request, is it more attractive if we raise it to 47 feet?

Zoning Administrator, Katie Anderson – The Building and Grounds Committee had a meeting about what items they would like to see at that property (old Village Hall), one of the things they were discussing was a boutique hotel and what could be done to make that easier to have something like that in the downtown. Buildings and Grounds brought their findings to the Village Council and what heights they would like to see. At that meeting, I reported what the draft Master Plan was discussing having 42 feet on the west side on Hancock Street and 47 feet

on the east side. During that discussion, the Village Council felt that 5 feet would not make much of a difference and requested the Planning Commission look at 47 feet for the increase.

Ron Stoneman – What can you put on top of 47 feet? Could you have a deck bar? It is not livable space so is there is an ordinance to stop that from happening? If it was a private situation, I think the Ordinance reads that there is not livable space about a certain height so if there was a deck situation and none of the permanent fixtures were more than 5 feet (bar, umbrellas, canopies, etc.) could that be something that could happen? If this motion passes, what comes next?

Amy Roberson – Why can't we just do a special use? Why are we changing this and why can't we do it based on circumstances or situational needs? Why are we being forced to make this decision and not just take this case by case?

Dan Nugent – It is in the draft Master Plan, it has it 47 feet on the east side and 42 feet on the west side.

Ron Stoneman – I think that a developer with the assurance that they what project they are starting and the owner understands what can be done without having to go through a variance.

Mary Marshall – I think that we are a little early in the process. The Master Plan recommends that but we have not even gone through the Public Hearing for the Master Plan. In my mind, we should table a decision until after the Master Plan is approved.

Ron Stoneman – What are the ramifications if we table this? The Village Council put this to us and we are required to have this hearing and have the vote. What if it is not a successful vote? Can we postpone our decision?

Zoning Administrator, Katie Anderson – I will take whatever action that is decided today and bring that to the Village Council. Whether you vote in favor or against, that is what will go to the Council. Yes, a postponement is an option.

Ron Stoneman – What is the time table for the Master Plan?

Zoning Administrator, Katie Anderson – The Master Plan Public Hearing is Tuesday, October 3<sup>rd</sup> at 6pm at Park Place.

Dan Nugent – I have done a lot of thinking over the last couple of weeks about the height change. My gut tells me that there is no reason why should not keep this on a case-by-case bases. I am also comfortable with 47 feet; I do not see it happening for a very long time or if ever (in regards to the entire downtown being a tunnel at 47 feet). I like the idea of keeping the control and the power in the hands of the Village Planning Commission, the Village Council, and the Village people. If someone wants to do something outside of our comfort level, they have to come to us first and keep coming back to the table instead of saying look what we can do.

## Section 20.05 Criteria for Amendment of the Official Zoning Ordinance Text

The Planning Commission and Village Council shall, at minimum, consider the following before taking action on any proposed amendment to the text of this Ordinance:

- A. Compatibility with the basic intent and purpose of the Ordinance;
  - The Planning Commissioners agree that the proposed amendment is consistent with the basic intent of the Ordinance.
- B. Consistency with the goals, objectives, and future land uses of the Village of Pentwater Master Plan, including a sub-area or corridor studies;
  - No, the Planning Commissioners stated that the proposed amendment aligns with the draft Master Plan but not with the current 2015 Master Plan
- C. The requested amendment will correct an error and/or clarify an ambiguity in the Ordinance;
  - No, the Planning Commissioners stated it will not correct an error and/or clarify an ambiguity as there is not an uncertainty established.
- D. The requested amendment will resolve an inequitable situation created by the Ordinance and does not grant special privileges;
  - No, the Planning Commissioners stated that there is not an inequity in the current Zoning Ordinance.
- E. The requested amendment will not result in unlawful exclusionary zoning;
  - The Planning Commissioners agree that the requested amendment would not result in unlawful exclusionary zoning.
- F. There is documentation from Village staff or the Zoning Board of Appeals indicating problems and conflicts in implementation or interpretation of specific sections of the Ordinance;
  - The Planning Commission stated that documentation was provided by Village Staff at the direction of the Village Council to address the height regulation, however there is not a problem or conflict with the specific section of the Ordinance at this time.
- G. The requested amendment will address changes in State or Federal legislation or regulations or other Village ordinances; and
  - The Planning Commission agrees that the requested amendment is a directive from the Village Council to change the regulations in the Zoning Ordinance but does not address changes in State or Federal legislation or other Village ordinances.

H. The requested amendment will resolve potential legal issues or administrative problems with the Ordinance based on recent case law or opinions rendered by the Attorney General of the State of Michigan.

- The Planning Commissioners stated that there is not any potential legal issues or administrative problems with the current zoning that it would need to be changed at this time.

Roll Call Vote: Ayes: 0

Nays: Roberson, Stoneman, Nugent, Koorndyk, and Marshall      Absent: 1      Motion fails.

**Motion** by Mary Marshall, second by Dan Nugent to postpone the consideration of the change in height to 47 feet until the 2023 Master Plan has been approved.

Roll Call Vote: Ayes: Marshall, Nugent, Stoneman, Koorndyk and Roberson

Nays: 0      Absent: 1      Motion passed.

#### B. Election of Officers

**Motion** by Bruce Koorndyk, second by Ron Stoneman to postpone the election of officers until next month, as there are not any members at today's meeting that want to be the Chair and not all members are present.

Voice Vote: Ayes: 5

Nays: 0      Absent: 1      Motion passed.

#### C. 377 E. Second St. – Parcel ID No. 64-044-707-008-50 – Review of Proposed Pergola Addition to Nonconforming Building.

**Motion** by Ron Stoneman, second by Bruce Koorndyk to approve the proposed pergola addition to the nonconforming building at 377 E. Second St.

Roll Call Vote: Stoneman, Koorndyk, Nugent, Marshall, and Roberson

Nays: 0      Absent: 1      Motion passed.

#### D. 801 E. Lake Rd. – Parcel ID No. 64-044-370-005-00 – Review of Repair and Reinforcements to Nonconforming Building.

**Motion** by Ron Stoneman, second by Amy Roberson to approve the repair and reinforcements to the nonconforming building at 801 E. Lake Rd. subject to an EGLE permit and EGLE approval.

Roll Call Vote: Stoneman, Roberson, Nugent, Koorndyk, and Marshall

Nays: 0      Absent: 1      Motion passed.

### COMMITTEE/DEPARTMENT REPORTS

**A. Zoning Administrator** - Ms. K. Anderson's written report was accepted by the Planning Commission.

**B. Zoning Board of Appeals** – No Meeting, No Report.



## **PUBLIC COMMENTS**

Paula Degregorio – 270 E. Sands St. – Someone mentioned parking at the Yacht Club, the solution for parking at the Yacht Club was for them to use the Village Green, which was voted by the Council. The lot across the street from old Village Hall, Marty Rapp about 10 years ago came before the ZBA for variances to build a building that would have a business on the first floor, and parking that had the lifts that took you down and had asked for several variances including parking in the back and she was refused. There was a plan for that property that was not approved.

Ted Cuchna – 529 S. Clymer St. – Throughout my career, I have worked for, with and against developers. A vote to put this at 47 feet gives a developer a starting point to start his variances or his requests for. I think anything beyond the existing code should be on site specific and plan specific. I questioned the Planning Commission years ago, when they would just give an ordinance change without a drawing or a plan or no idea what was coming next. Even the Nickerson Inn developer at that time would say “Resort” but would not give information on what that meant or what he wanted but he wanted all kinds of variances. By changing this, you now give them a starting point, 47 feet what happens when they want to put a swimming pool and a couple of condos on that roof. It should be plan specific on an individual case.

Ron Stoneman – Is the parking on the Village Green exclusive to the Yacht Club?

Marian Garbowsky – 5686 Longbridge Rd. – I have lived here for a long time and spent my childhood here. I remember when we had the cool things, the bakery, the market, and that’s part of the charm that this place has and has always had. The condos to me have always been kind of horrible. I think that the variance has to be considered on a case-by-case basis and cannot do it across the board. It does not make sense for Pentwater, and it does not make sense for the reasons here. I think it has to be carefully considered by structure, parking, and utilities. All the things that maybe Pentwater does not have. The other point of this is, there has to be a special interest group going on here, (we do not have people applying for these types of things) unless someone has invested interest. I do not know who that person is but that is kind of hanky for Pentwater.

## **COMMUNICATIONS FROM PLANNING COMMISSION MEMBERS**

Mary Marshall – the reason I made that second motion is, we know we have a draft Master Plan right now and we are not really playing with a level field until we know what the Master Plan says and has been approved. I think its only fair that we are considering the text of the revised Master Plan to make our final decision. I want the public to know we have to be on a level field. And not say that we got it done ten minutes before the Master Plan changed, that does not feel right.

Ron Stoneman – I agree and I appreciate you bringing that forward.

Dan Nugent – There is no reason to rush it.

**ADJOURNMENT**

**Motion** by Mary Marshall, second by Dan Nugent to adjourn the meeting at 7:24pm.

Voice Vote: Aye: 5      Nay: 0      Absent: 1      Motion passed.

Respectfully Submitted,

*Katie Anderson*

Katie Anderson, Zoning Administrator

September 27, 2023

Approved by the Village of Pentwater Planning Commission on \_\_\_\_\_.