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# VILLAGE OF FREEBURG

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VILLAGE ATTORNEY  
Weilmuenster Keck Brown, P.C.

Combined Planning and Zoning Board  
Tuesday, November 14, 2023 6:00 p.m.

The meeting of the Combined Planning and Zoning Board was called to order at 6:00 p.m. on Tuesday, November 14, 2023 in the Municipal Center by Chairperson Steve Woodward. Members present were Chairperson Steve Woodward, Terry Gamblin, Rita Green, Gary Henning, Gary Mack, Lee Smith, Mark White, Village Administrator Matt Trout, Village Engineer Tim Pruett and Office Manager Julie Polson. Guests present: Ron Waters, Chad Rhutasel, Nick Dodson, Ron Eiskant, Edward Helf, Bethany Helf, Derrick Stumpf, Dave Self, Judith Self and Trustee Mike Blaies. There were no guests present via Zoom.

Gary Mack swore in Mark White as a member of the Combined Planning and Zoning Board.

## PLAN COMMISSION:

### A. Old Business:

1. Approval of October 10, 2023 Minutes: *Lee Smith motioned to approve the October 10, 2023 minutes Terry Gamblin seconded the motion. All voting yea, the motion carried.*

### B. New Business.

1. Phillips Development on Adele St./Route 15: Village Engineer Tim Pruett advised the property has been purchased, and the developer would like to get our thoughts on their draft proposal. Mark White advised the board that he is not part of this project. Village Administrator Matt Trout stated the property is currently in the county, and when annexed would come in as single-family residential. If the developer would want anything other than that, they would come before this board for a zoning amendment. Some of the concerns raised include traffic flow, detention area, and dumpsters. Tim does not think additional traffic on Old Fayetteville Road is a good idea and would like to see an entrance onto Urbanna. Steve Woodward asked what will village have to do to make Silver a usable street. The lots on the west side of Milford are zoned MR-1, Cedar Trails is zoned MR-2, and the lots on Adele and Silver are SR-1. Lee commented he is good with the land use. The proposed development is based on a similar one in Swansea that has 2-story townhomes and would need to be zoned MR-2.

## BOARD OF APPEALS:

### A. Old Business: None.

### B. New Business: None.

1. Ronald Waters' Area Bulk Variance Request, 1109 S. State Street 6:00 p.m.: Chairperson Woodward read the notice, and Gary Mack swore in those individuals wishing to speak. Mr. Waters has lived at this residence for 31 years, and the accessory building was constructed 23 years ago. He has always been zoned agriculture, and 15 years ago, he annexed into the village. He ran his business in the building behind his house and annexed into the village 15 years ago. He has since moved business to the Industrial Park because he ran out of space, so that

building is vacant and still zoned for business. He was approached by Chad to rent office space, and discussed this with neighbors, and all of them seemed to think it was fine. Matt said in December of 2009, a special use hearing was held for a home occupation and shortly thereafter annexed into the village. Steve Woodward commented a special use permit allows the owner to do something that is allowed in the code but is specific to that person. If you sell the property, that special use is gone. If a variance is granted, anyone from now on can use that space for a business. That is why it is more difficult to get a variance. In the SR-1 residential district, since Chad doesn't live there, it would be running a business in the SR-1 district. Chad Rhutasel said he would run Hydro Services there which has been in Freeburg for over 50 years. There would be 2 cars there at one time, a secretary 3 days a week and no traffic aside from the employees. Steve Woodward the Standards for Variance are set by state statute, and there are certain criteria that must be met. Steve read the 6 standards, and said 3 of them are mandatory. Gary Mack asked if there is anything else he can qualify for. If we allow a business in an SR-1 district, what are we doing here? Matt doesn't think there is another avenue with the property being zoned SR-1. At that time, it was a perfect use for Ron. Matt reviewed this with Chad a couple of months ago. Chad does not live there, and that is part of the issue.

*Gary Mack motioned to approve Ron Waters' Area Bulk Variance Request, and Mark White seconded the motion. **ROLL CALL VOTE:** Mark White – yes; Terry Gamblin – no, does not meet the standards for variance criteria; Rita Green – no; Gary Henning – no; Gary Mack – no, does not meet any of the criteria; Lee Smith – does not meet any of the criteria; and Steve Woodward – no, does not meet the criteria. He is concerned since the variance would remain with the property and whoever owns it. This would allow other business in the future to operate on that property. With 6 no votes and 1 yes vote, the motion is denied.*

*Gary Mack motioned to close the hearing at 6:20 p.m., and Less Smith seconded the motion. All voting yea, the motion carried.*

2. Nick Dodson's Are Bulk Variance Request, 347 Sleeping Indian 6: 15 p.m.: Chairperson Woodward read the notice, and Gary Mack swore in those individuals wishing to speak. Ron Eiskant, building contractor and Nick's father-in-law, said they have a pie-shaped lot that is narrow in the front. They want the variance so they can bring the house closer to the front of the property to match the houses in the neighborhood. Derrick Stumpf said he is opposed to this since everyone else built their home according to the 25-foot rule. It would set a precedent if this is granted to lower that amount. If it can fit on the lot, there is no reason for the variance. Edward Helf questioned the side setbacks, and Matt advised you look at the total number of 25 feet. They can go 10 feet on one side and 15 on the other. This variance is to go from 25 to 20 feet. He is against it as well, agreeing there are rules in place for the subdivision and thinks we should stand by it. Rita Green asked Ron if he is planning to build on the front building line? Mr. Eiskant stated he wants to get as close to it as he can to help match with the other homes. Rita then asked how far back would you have to go to meet the 25-foot requirement? Mr. Eiskant stated where it is staked now is pretty close. Terry Gamblin doesn't think pushing it back that far would be an issue, and then the variance would not be needed. Tim asked Ron for a site plan, and Tim said based on the plans he gave us, the house would be 27.5 feet from the property line with 10-foot setbacks on each side, and the house would be 36 feet back with 12-foot setbacks on each side. Gary Mack stated it is basically an aesthetic issue. Steve Woodward stated you can drop the house back and be fine. Dave Self doesn't have a problem with Ron's request. He thinks what Ron is trying to do is make the house look equal, and doesn't think 5 feet would matter. Dave Self questioned some recent board decisions, and Gary Mack responded by stating that is why he takes a hardline stance.

Chairperson Woodward reminded them that the Standards for Variance are set by state law. He further commented he has never granted a variance because someone was in a good boy's club. Edward Helf asked if this board has anything to do with subdivisions, and Chairperson Woodward said yes. They have to bring in a preliminary plat, lot size, drainage issues, and a final plat submitted with engineering plan that has to be done before it is platted with the county. Lee Smith said we don't enforce subdivision covenants. Dave Self asked if variances have changed since the subdivision was built? Tim Pruett believes you mean setback requirements, and no, they have not.

*Gary Mack motioned to approve Nick Dodson's Area Bulk Variance Request, and Rita Green seconded the motion. ROLL CALL VOTE:* Mark White – yes; Terry Gamblin – no; Rita Green – no; Gary Henning – no; Gary Mack – no; Lee Smith – no; and Steve Woodward – no. With 6 no votes, and 1 yes vote, the motion is denied.

*Gary Mack motioned to close the hearing at 6:50 p.m., and Terry Gamblin seconded the motion. All voting yea, the motion carried.*

Tim stated it is the homeowner's responsibility to locate the pins. He will help Mr. Eiskant, and does not believe it will as bad when we get it laid out once the pins are located.

**C. General Concerns:** None.

**D. Public Participation:** None.

**E. Adjourn:** *Lee Smith motioned to adjourn the meeting at 7:11 p.m., and Terry Gamblin seconded the motion. All voting yea, the motion carried.*



Julie Polson  
Office Manager