

February 28, 2023

The Malcolm Planning Commission meeting was called to order at 7:00 p.m. Members present: Adam Benischek, Trevor Cotton, Evan Gunn, Jon Mohr, Jared Ritze. Members Absent: Lecia Teten, Sandy Streeter.

It was noted that the Open Meetings Law is posted and located on the wall as you enter the Village Hall.

The minutes of the January 25, 2023, meeting were reviewed. Benischek moved to approve the minutes, seconded by Cotton. Chairman Mohr called for the vote recorded as follows: AYE: Benischek, Cotton, Gunn, Ritze. NAY: None. Motion carried 4-0; Members absent: Teten, Streeter; Members Abstain: Mohr

Streeter arrived at 7:04.

Chairman Mohr made motion to change the order of the agenda to New Business item #2: Building Permit for 126 E. 2nd street, seconded by Benischek. Chairman Mohr called for the vote recorded as follows: AYE: Benischek, Cotton, Gunn, Mohr, Ritze, Streeter. NAY: None. Motion carried 6-0; Members absent: Teten

New Business Item #2: Building permit for 126 E. 2nd Street to lift home and put new foundation.

Benischek made motion to the Village Board to approve contingent on Village of Malcolm inspector's final approval, seconded by Mohr. Chairman Mohr called for the vote recorded as follows: AYE: Benischek, Cotton, Gunn, Mohr, Ritze, Streeter. NAY: None. Motion carried 6-0; Members absent: Teten.

Chairman Mohr made motion to change the order of the agenda to New Business item #3: Building Permit for concession stand at ballfield, seconded by Benischek. Chairman Mohr called for the vote recorded as follows: AYE: Benischek, Cotton, Gunn, Mohr, Ritze, Streeter. NAY: None. Motion carried 6-0; Members absent: Teten

New Business item #3: Building permit for concession stand at ballfield. Ritze made motion to the Village Board to approve contingent on Village of Malcolm inspector's final approval, seconded by Cotton. Chairman Mohr called for the vote recorded as follows: AYE: Benischek, Cotton, Gunn, Mohr, Ritze, Streeter. NAY: None. Motion carried 6-0; Members absent: Teten.

Chairman Mohr made motion to change the order of the agenda to Unfinished Business item #2: More clarification for adding Ag Residential zoning to the Village Codes, seconded by Benischek. Chairman Mohr called for the vote recorded as follows: AYE: Benischek, Cotton, Gunn, Mohr, Ritze, Streeter. NAY: None. Motion carried 6-0; Members absent: Teten

Unfinished Business Item #2: More clarification for adding Ag Residential zoning to the Village Codes.

Benischek made motion to share draft with Village board for further comment, seconded by Streeter. Chairman Mohr called for the vote recorded as follows: AYE: Benischek, Cotton, Gunn, Mohr, Ritze, Streeter. NAY: None. Motion carried 6-0; Members absent: Teten

Public Hearing:

1. 7:30pm – Change of zone from Residential to Commercial – Lots 1 and 2 Hudkins second addition off Malcolm Road.
 - a. Daycare has been proposed for this location
 - b. Scott and Lacy Smith: 550 Malcolm Road currently under construction
 - i. Shared handout highlighting specific components of the comprehensive plan
 - ii. Asking to delay approval to have more time to investigate the impact of development on their property value.
 1. Concerns:
 - a. This will negatively impact the appraisal of their home which currently under construction.
 - b. Increased traffic with commercial daycare
 - c. Current setback shown at 5'-0" but commercial side yard by code is required to be 15'-0".
 2. Representation is currently looking into legal recourse specific to a covenants on the subdivision that requires only residential land use.
 3. Daycare grant being used – which daycare grant being used?
 - a. Can funds be used for purchase of land and new construction?
 - iii. How long would Scott & Lacy request a delay?
 1. Amount of time to get appraisal.
 2. Main concern is to delay long enough to get their home financed after construction.
 - iv. Opposition to zoning change – they were under the impression that this was residential when they purchased the property.
 - v. Setbacks:
 1. Clarification: A 15'-0" side yard is planned on revised layouts of the property between the proposed daycare and the Smith property.
 2. Chadd Drapper provided the latest plans to Nadine to share.
 - vi. Village Council to investigate protective covenants and coordinate with Smith's Council.
 - c. Chadd Draper
 - i. Address Issues that they've been made aware of.
 1. Traffic: Two driveways for traffic flow
 2. 15'-0" setback from residential
 3. Church has sent letter of support for variance to reduce setback to 5'-0" between the proposed daycare and church property
 4. Landscaping in lieu or in addition to a 3'-0" privacy fence
 5. Playground 25'-0" from residential house
 6. Plan to take advantage of grant if able to – need to submit by March 24, 2023. Need to be open and operating by June 2024. Facility needs to have construction complete by March 2024 to open June 2024 – allow time for inspections/certifications.
 7. Variance would be a part of building permit submission – no action requested at this time on the building permit, only the zoning change.
 - d. Larry Hudkins –
 - i. Are there any conditions that would make daycare development acceptable?

- ii. In 1979, protective easements that were granted – not sure if those cover this piece of ground.
- iii. Current covenants
 - 1. 1/3 brick
 - 2. 18ft driveway
 - 3. 2 stall garage
 - 4. 1500 square feet
- iv. Didn't mean to not inform anyone – Just found out about covenants issue today.
- e. Cary Sandell
 - i. Speaking on behalf of Malcolm United Methodist Church voicing support of a variance to reduce building setback from 10'-0" to 5'-0" & zoning change.

Chairman Mohr made recommendation to close public hearing at 8:04pm, seconded by Benischek. Chairman Mohr called for the vote recorded as follows: AYE: Benischek, Cotton, Gunn, Mohr, Ritze, Streeter. NAY: None. Motion carried 6-0; Members absent: Teten.

New Business Item #1: Change of Zone for lots 1 and 2 Hudkins second addition on Malcolm Road – from Residential to Commercial. Benischek made motion to approve zoning change contingent on neighborhood and protective covenants being worked out and agreement by among homeowners in the association, seconded by Mohr. Chairman Mohr called for the vote recorded as follows: AYE: Mohr, Benischek, Cotton. NAY: Streeter, Ritze, Gunn. Motion failed 3-3; Members absent: Teten.

Second motion for a recommendation by Mohr to table vote until further investigation into existing protective covenants, seconded by Benischek. Chairman Mohr called for the vote recorded as follows: AYE: Benischek, Cotton, Gunn, Ritze, Streeter, Mohr. NAY: None. Motion carried 6-0; Members absent: Teten.

Unfinished Business:

1. Welcome to Malcolm Sign. Benischek made motion to have Village Board solicit input from the Village of Malcolm residents to determine preference on design options 1, 2, & 3 – location to be determined, seconded by Cotton. Chairman Mohr called for the vote recorded as follows: AYE: Benischek, Cotton, Gunn, Mohr, Ritze, Streeter. NAY: None. Motion carried 6-0; Members absent: Teten.

With no further business, Mohr moved to adjourn at 8:35 p.m. Benischek seconded the motion. Chairman Mohr called for the vote recorded as follows: AYE: Benischek, Cotton, Gunn, Mohr, Ritze, Streeter. NAY: None. Motion carried 6-0; Members absent: Teten

Evan Gunn, Secretary

Recommendations to the Village Board
February 28, 2023

Recommendation 412 – The Malcolm Planning Commission recommends to the Village Board to approve building permit for 126 E. 2nd Street to lift home and put new foundation contingent on Village of Malcolm inspector’s final approval.

Recommendation 413 – The Malcolm Planning Commission recommends to the Village Board to approve building permit for concession stand at ballfield contingent on Village of Malcolm inspector’s final approval.

Recommendation 414 – The Malcolm Planning Commission recommends the Village Board review current draft of Ag Residential for further comment and input and have the Village Council review.

Recommendation 415 – The Malcolm Planning Commission recommends to the Village Board to table voting on change of Zone for lots 1 and 2 Hudkins second addition on Malcolm Road – from Residential to Commercial until further legal investigation can be performed into protective covenants already in place.

Recommendation 416 – The Malcolm Planning Commission recommends the Village Board solicit input from the Village of Malcolm residents to determine preference on Welcome to Malcolm Sign options 1, 2, & 3.

Evan Gunn, Secretary