

**VILLAGE OF THIENSVILLE  
PUBLIC HEARING BEFORE THE VILLAGE BOARD  
MINUTES**

**DATE: Monday, October 24, 2016**

**LOCATION: 250 Elm Street  
Thiensville, WI**

**TIME: 6:00 PM**

**I. CALL TO ORDER**

President Mobley called the Public Hearing to order at 6:00 PM.

**II. ROLL CALL**

President:	Van Mobley	
Trustees:	Kim Beck	Kenneth Kucharski
	Ronald Heinritz	David Lange
	Rob Holyoke	Elmer Prenzlów
Administrator:	Dianne Robertson	
Attorney:	Tim Schoonenberg	
Asst. Administrator:	Colleen Landisch-Hansen	
Clerk:	Amy L. Langlois	

**III. PUBLIC HEARING TO CONSIDER AN APPEAL BY MSP REAL ESTATE OF THE HISTORIC PRESERVATION COMMISSION DENIAL FOR A DEMOLITION PERMIT OF THE FORMER M&I BANK BUILDING AT 200 GREEN BAY ROAD**

A. Administrator to read and explain Notice.

Administrator Robertson read and explained the Notice.

B. Administrator to give brief explanation of the Public Hearing.

Administrator Robertson explained that this Public Hearing is to consider an appeal from MSP Real Estate from the Historic Preservation Commission regarding the denial of a demolition certificate of appropriateness for the property at 200 Green Bay Road.

C. Comments from anyone present to be heard.

Trustee Heinritz addressed the Board. The Village has given the Historic Preservation Commission a special charge and operates under Chapter 42 which states to “protect, enhance and perpetuation such improvements and districts that represent or reflect elements of the Village culture, social, economic, political, engineering and architectural history,” and also to “safeguard the Village’s historic and cultural heritage as embodied and reflected in its historic structures, sites and districts.”

The historic name of the property is the Thiensville State Bank. This building lies within the Thiensville Historic District and is listed and covered by the Thiensville Historic Ordinance Chapter 42 of Historic Preservation.

This building is one of two buildings designed by Grellinger & Rose. It is a colonial style revival style building built in 1963 and features a red brick façade with bump-out corner corbelling, fireplace chimneys, mutton style windows with key stone appointments and a cupola on the roof. The front entrance consists of four columns supporting a gable entrance roof. It is one of the most elegant buildings within the Village.

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In 1910 the Thiensville State Bank was established and was located at 136 Green Bay Road with John F. Nieman as bank President. In 1929-30: It became apparent that the bank facility was too small, and it moved to a new Art Deco style bank building at 118 Green Bay Road. In 1963: The bank made its third move to a new colonial revival style building at 200 Green Bay Road. In 1973: The bank changed its name to Colonial State Bank and remained so until being sold to Valley Bank. Information on this building and a history of the Thiensville State Bank can be found in the "History of Thiensville Bicentennial 1976 Edition and the Village of Thiensville Historical/Architectural Survey. The building is over 50 years of age and may be eligible for listing on the National Register of historic buildings. The building may be eligible for a 20% federal and 20% state tax credit - (40%) for renovation of historic income producing buildings. The State Historical Society has a fast track review available to pre-determine if a building could qualify for tax credits for renovation.

On September 14, 2016 MSP Realty requested to be on the Historic Preservation Commission Agenda requesting demolition of the property at 200 Green Bay Road. There was no future development plan submitted for the site; no plans for the parking lot, driveways, the curb cuts or removal of the well. There was no environmental evaluation of the grounds submitted but it was conveyed that the building does contain asbestos. There was no hardship claim regarding the building or landscape plan presented.

During the discussion, MSP represented that they had no interest in the historic tax credit programs or interest in preserving the building. The Commission then proceeded with the formal request for the demolition, a vote was taken and the request for demolition was denied. The two options that remain are to appeal the decision or the applicant can apply again for demotion at a future date.

MSP chose to appeal the decision to the Village Board. The appeal questioned the Historic Preservation Commission's authority over 200 Green Bay Road. 200 Green Bay Road is located within the Thiensville Historic Preservation District and all structures and sites within the District are subject to the Village of Thiensville Historic Preservation Code Chapter 42 Ref: Sec. 42-2, Sec. 42-57, Sec. 42-58 and Sec. 42-58 (e). Also, it was presented that the Commission has no jurisdiction over demolition on a landmark site. Sec. 42-32 (4) of Chapter 42 states "Regulate construction, reconstruction, exterior alteration and demolition activity on or affecting any historic landmark site, structure or district."

MSP also stated that the Historic Preservation Commission must enter into a 10-month period of discussions for the purpose of saving the building and if no plan can be arrived upon, the committee will be forced to issue a demolition permit. This also requires the serious cooperation for the purpose of saving the building. MSP has stated that they have no interest in saving the building or in cooperating with the Thiensville Historic Preservation Commission. Entrance into the building was never allowed, there was no interest in pursuing tax credits that may be helpful in the sale of the building. The Commission then proceeded with the formal request for demolition which was denied by the Historic Preservation Commission.

Also, MSP stated that the Historic Preservation Commission erroneously treated that building at 200 Green Bay Road as a historic building. 200 Green Bay Road is located within the Thiensville Historic Preservation District as indicated on the Thiensville map and is subject to the historic Ordinance Chapter 42. The historic significance is based on Sec. 42-57 and Sec. 42-58 and is listed by street address in Sec. 42-58 (e).

The architectural features of the building were identified to show its significance within the Village of Thiensville. There is also some confusion on the part of MSP regarding a group of buildings on the west side of Green Bay Road that is listed on the National Register and State Register of historic places listed as the Green Bay Historic District. This is a separate designation administered by the Wisconsin Historical Society and should not be confused with the Thiensville Historic Preservation District. The Green Bay Road District lies within the Thiensville Historic District and is subject to Chapter 42.

In summary, there were no approved construction or building plans submitted for this site and demolition would result in the loss of a significant building in the Thiensville Historic District only to be replaced by a vacant lot. This would be detrimental to the public interest and general wellbeing of the residents of Thiensville.

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Jesse Daily - 215 Madero Drive – Mr. Daily indicated that he had the opportunity to tour the building and believes that MSP has been negligent in keeping up with the maintenance. There is black mold and asbestos in the building. Mr. Daily does not want to see another empty lot in Thiensville and does not believe MSP will sell this building based on its current condition. Also, Mr. Daily indicated that MSP has a history of building high-quality apartments and when these apartments don't get filled, they then become low income housing that are subsidized by the government. If there was a plan in place, demolishing the building makes sense but Mr. Daily does not want another empty lot.

Randy Short – 217 Riverview Drive – Mr. Short has lived across the street from 200 Green Bay Road for 24 years. Mr. Short finds the building aesthetically pleasing and has always thought that the best development would be to put in some type of business in the existing building. So far the only proposals have been huge apartment complexes or a health care facility that are extremely large for the location. He would much rather look at a vacant building than a vacant lot. If there is development in the future, Mr. Short would not like to see a large apartment complex but maybe a mixed use to look historic to blend in with the neighborhood.

Sam Cutler – 250 Green Bay Road – Mr. Cutler thanked the Board for the opportunity for the public to comment on this proposal from MSP. Without a plan for future development creates a sense of unease in the neighborhood and stated that any new construction should be harmonious with the character of this Historic District. Since 1993 the state legislature has designated the stretch of Green Bay Ethnic Trail to be part of one of the most historically important roads in the entire state. The Towne Center Plan gives guidance into what would constitute a harmonious redevelopment of this parcel. 200 Green Bay Road is right in the middle of the Historic Village District as defined by the Towne Center Plan. A redevelopment plan should be presented before a demolition permit is granted. The 10-month waiting period should give ample time to come to an agreement between the Village and MSP.

Karen Martin – 230 Riverview Drive – Ms. Martin shared that she is nervous and hopes that the Board will do their best. Ms. Martin does not want a huge apartment complex.

Wil Miles – 204 Kenwood Drive – Mr. Miles has recently moved to Thiensville and likes the historic feel of the Village. Mr. Miles does not feel that it makes sense to demolish the building and feels that it has great potential.

Kasey Utech – 233 Kenwood Drive – Ms. Utech has been a resident of Thiensville for 25 years and has spent a lot of money remodeling her home. Ms. Utech feels that the building at 200 Green Bay Road is stunning and would like to see it stay and questioned that if an offer is made for purchase of the building, how can MSP turn the offer down legally? Ms. Utech inquired if the building and property can be allowed to be in such disrepair and suggested that the building would be a great Police Station, Fire Station, City Hall or church and would hate to see the building demolished.

Attorney Doug Buck, Foley & Lardner - Attorney for MSP Real Estate, representing Milo Pinkerton – Attorney Buck was asked by Milo Pinkerton to address the Board this evening regarding the decision of the Historic Preservation Commission to deny the demolition permit. Mr. Pinkerton's General Counsel, Mark Hammond was also in attendance.

Mr. Pinkerton has hoped to sell or develop this property for a number of years. A previous petition to rezone this property was abandoned some time ago after it encountered some complications. Mr. Pinkerton would now like to demo this building in hopes that it would increase its marketability and also reduce the cost of maintaining and insuring this property. The building has been abandoned since 2007, almost a decade ago. It is also pretty certain that any redevelopment of this property would not reuse the existing bank building that was built in the 1950's. Attorney Buck has spoken to the Village Attorney about the decision. After this conversation, Mr. Pinkerton decided to appeal the decision of denying the demolition certificate of appropriateness by the Historic Preservation Commission.

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Mr. Buck stated that Trustee Heinritz did a great job of explaining the basis for the appeal. In summary, they are as follows:

The first basis for the appeal is that the property is a Historic Site; it is not in a Historic District. Simply by saying it is in a District does not mean it is in a District. Since the building is not in a Historic District, the Commission does not have jurisdiction to stop this from being torn down.

Second, in accordance with the Village's Ordinance, the Commission is limited to delay the issuance of the permit for a 10-month period. After the 10-month period, if the parties cannot save the building, it can be demolished.

Finally, even if you assume the property is in the District, which again we feel is incorrect, and the standards in the statutes are applied, you will find that the building should be demolished.

It is agreed on by all that this building is not a Historical Site. This was the home of a pioneer who helped found Thiensville by the name of William Carlsby. His house was on this property but years ago this house was torn down. There is no historic structure on this property and the Village has never found that the M&I Bank building has any historic significance. This was never discussed until a demolition permit was applied for. This is simply a Historic Site. According to the Village Ordinance, the HPC has the authority over demolition permits only over a Historic Landmark Structure, which this is not.

The Village has never made a finding that this abandoned bank building is a historic structure and the current property was built in the 1950's or 1960's. Mr. Buck also pointed out that in 2015 the State Legislature passed a bill making it more difficult for communities to designate buildings as historic structures because there are a lot of consequences when these buildings are purchased. MSP was aware at the time of purchase that this was a historic site but was not made aware that the structure is historic. Act 2015-176 requires notice to property owners that their property has been designated a historic structure which then allows the owner to make a presentation on the issues of the historic value of the structure. This has never taken place in this case.

On the point of whether the site is in a historic district there seems to be some disagreement between MSP and the Village. Prior to the Hearing, the Village was unable to produce any maps showing the Historic Districts within the Village. A map was found by Foley & Lardner from the year 2004.

There were two districts that were certified to the State; the Main Street District and the Green Bay District. The Green Bay Road Historic District has a period of historic significance of 1884 to 1924. This is the period the community is seeking to preserve. After the appeal was filed, the Village shared a 1996 map indicating the Districts. This map indicates both Historic Districts and Sites. The definition in the Ordinance of a Historic District identifies two parcels.

Since 200 Green Bay Road is not in a clearly defined District and does not have any historic significance and the building itself has never been found to be historically significant, the Commission does not have authority to deny the demolition. It is our position that the 1996 map does not adequately indicate to owners whether their property is in a District or is a Historic Site. Attorney Buck also feels that the Village should be bound by its more specific delineation of where its Districts lie.

According to the express language of the statute, the HPC's sole authority is to withhold the permit for a 10-month period while the Commission and the applicant shall undertake serious and continuing discussions for the purpose of finding a method to save such property. After such denial and the passage of 10 months, the Ordinance states that if a property cannot be saved, the Commission shall authorize issuance of the demolition permit. MSP believed that after submitting the appropriate application to the HPC that the Village would be bound to issue the permit if a method for saving the property could not be found.

Finally, even assuming that this building is in a Historic District and assuming the Village has the right to deny a demolition permit for more than 10 months, an application of the standards in the statutes calls for the issuance of a

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demolition permit. In other words, even if you disagree with the grounds that MSP is objecting to, the reading of the express standards in the Ordinance requires the issuance of the demolition permit.

Attorney Buck shared the seven Regulations of Demolition from the Ordinance for consideration:

1. Is the building of architectural or historical significance  
MSP disagrees with this. It is agreed that the building has value and that the residents are attached to the building but this abandoned bank building does not have historical significance.
2. If the building is not historic but contributes to the historic character of the district  
Again, the Districts historical period is three decades before this building was built.
3. Would the demotion be contrary to the historic preservation plan  
There is no historic preservation plan.
4. Is the building so unique that it cannot be reproduced  
MSP does not feel that this is the case.
5. The building promotes the study of American history, architecture and culture  
Attorney Buck does not feel this building promotes the study of American history, architecture or culture.
6. Has the owner left the building deteriorate  
This is simply not true. The demolition permit is not being requested because the outside of the building is in need of repair. The owner feels that the property can be better marketed without a structure on it.
7. Will a new structure be compatible with the district  
If this is, in fact, in the Historic District, the Village will have the opportunity to review it on the basis of the District's standards.

Reviewing all of these criteria, the HPC has relied on the fact that the building is historically significant. This is an erroneous application of the statute. The site cannot be turned into a historic building during the process of the application.

On the basis of all that has been presented, Attorney Buck requested that the demolition permit be approved for 200 Green Bay Road.

Mr. Mark Hammond, General Counsel for MSP Real Estate addressed the Board. Mr. Hammond has been working on trying to sell this property. The list price is \$690,000. The general feedback during various showings are that the building would not work and that great value in the land was shown.

Mr. Hammond believes that in order to find a buyer for this property, that the structure would need to be demolished. There was an inspection in 2012 that indicated asbestos in the ceiling, floor, insulation, pipe fittings, caulk in the windows and in the mastic that holds the vinyl flooring. There was a showing last week.

The Plan Commission is cooperating with MSP with the installation of a "For Sale" sign. MSP is actively trying to sell the property. The building is assessed at \$387,900 and is not at all uncommon to have a property for sale for more than the assessed value.

Mr. Hammond thanked the Board.

Jim Heyer – 226 Alta Loma Circle – Mr. Heyer has lived in the Village for 47 years. There are many residents that value the look and feel of the Village. Mr. Heyer feels that the owner of the property should find a solution that makes the Village as a whole happy and is asking for a solution that makes the property marketable in a way that is appealing to the Village and is good for everyone.

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Cindy Reilly – 231 Riverview – Ms. Reilly has been a resident for 30 years and inquired that if the building was demolished, what improvements are planned so there is not a vacant lot.

D. Administrator to read any correspondence received related to the request.

There was no correspondence received.

E. Comments from the Village Board.

Trustee Beck inquired about two proposals that were offered and it was confirmed that those were not refused but withdrawn. It was also confirmed that Port Washington State Bank's new site lies within the Historic Preservation District and came before HPC with a plan for redevelopment of the site that was reviewed and approved with the contingency that the Plan Commission approves the plans. The Plan Commission approved the plans and then came before the HPC with the demolition permit which was reviewed and approved. It was stated that the HPC does issue certificate of appropriateness permits when there is an approved plan for the site in order to avoid vacant lots. If there is not a development plan approved the owner should supply a landscaping plan.

**IV. CLOSE OF THE PUBLIC HEARING**

**MOTION** by Trustee Prenzlou, **SECONDED** by Trustee Beck to adjourn the Public Hearing at 7:07 PM.  
**MOTION CARRIED UNANIMOUSLY.**

Submitted by,



Amy L. Langlois  
Village Clerk

Approved by,



Dianne S. Robertson  
Administrator