

**VILLAGE OF THIENSVILLE
SPECIAL BOARD OF TRUSTEES
MINUTES**

DATE: Monday, October 24, 2016

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

TIME: Immediately following Public Hearing at 6:00 PM

I. CALL TO ORDER

President Mobley called the meeting to order at 7:07 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. PLEDGE OF ALLEGIANCE

Trustee Kucharski led the recitation of the Pledge of Allegiance.

IV. BUSINESS

- A. Review and approval of 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

Attorney Tim Schoonenberg addressed the arguments that Attorney Buck presented at the Public Hearing in regards to Historic Site versus Historic District. There are definitely two sides to this. Attorney Schoonenberg stated that this property is an improvement within the Historic District and also believes that going through the material dated back to 1997, that this is likely an improvement within the Historic District. Any Ordinance is construed against us if this were to go to court.

The Village has no other authority to deny or refuse to issue the demolition permit for a period of 10 months. Attorney Schoonenberg believes that there is an argument for the Village contrary to the opinion that our only option is the 10 month waiting period. There is the hope of finding some middle ground and not going to court.

Ordinance states that after a public hearing the Village Board members may by a vote of 2/3 of its members reverse or modify the decision of the Historic Preservation Commission if after balancing the interest of the public in preserving the subject property and the interest of the owner in using it for his own purposes the Village Board finds that owing to special conditions pertaining to a specific piece of property demolition will preclude any and all use of the property and/or will cause serious hardship for the owner provided that any self-created hardship shall not be a basis for reversal or modification of the Commission's decision.

So, if it is felt that the Historic Preservation Commission incorrectly denied the request, the Board could vote today to put this into the 10-month negotiation period or the appeal would stand and would then move to the Circuit Courts or the applicant can reapply at a later date.

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Section 42-59 requires that any exterior alteration requires Historic Preservation Commission approval. This section refers to Historic Sites but the demolition has a different standard.

It is up to the Board to decide whether to reverse, modify or uphold. To clarify, the Board can by 2/3 vote issue the demolition permit and override the Historic Preservation Commission, by 2/3 vote to agree to enter into the 10-month waiting period or to uphold (this does not need a 2/3 vote) which would fail to reverse the decision.

Trustee Beck inquired about eminent domain by the Village to take over the property. This is not part of the scope of the decision and Attorney Schoonenberg suggested not using this as a finding for any decision. It is the duty of the Board to consider the Village as a whole, the competing interest to preserve the historic significance.

Trustee Prenzlou believes that Thiensville thrives on the spirit of the cooperation between local government and developers that come into the Village. The most successful projects have been with developers that work with the Village. Trustee Prenzlou feels that in this case there is a lack of cooperation with the HPC. There are some vacant sites within the Village and are required to act within the law and the Code as it exists today. With that being said, Trustee Prenzlou feels that the Village has jurisdiction over 200 Green Bay Road per Section 42-32 (4) as an existing Historical Site. The lack of plan for the existing site regarding post demolition is concerning and not in good faith by MSP. On this basis, Trustee Prenzlou suggested extending this opportunity to MSP to further negotiate with the community or other interested parties that may want to purchase the property and moves to modify the HPC's decision to extend the negotiation period for 10 months to give MSP time to come forward with a plan.

Trustee Kucharski believes that the arguments presented this evening are more legal arguments than technical arguments and should keep this in mind. Whether this in in the Historic District is an important question. The Ordinance states that there must be an approved landscape plan or development plan presented for demolition to be approved. Trustee Kucharski would like to find middle ground and enter into the 10-month waiting period or possibly MSP would like to offer more time.

Trustee Lange agreed with Trustee Prenzlou and Trustee Kucharski and would like to see a plan presented for after demolition as to how to maintain the empty lot, what will happen with the parking lot, curb, trees and what is going to happen with the sewer. It is a concern that MSP has successfully sued other municipalities and that hopefully in the 10-month waiting period some agreement will be reached.

Trustee Beck does not want this go to litigation with MSP and feels that the Village has too many vacant lots.

Trustee Heinritz is looking forward to cooperating with MSP to come to an agreement. The request came to the Village in a formal matter that needed to be acted upon without the chance to negotiate. At the HPC meeting that MSP requested the demolition permit it was indicated that MSP had no interest in saving the building, looking at tax credits that would be used by a future owner of the building that can be used to refurbish the building and were not left with any options. Trustee Heinritz does not favor the 10-month waiting period because at the end of the 10 months, the Village is required to issue the demolition permit and is in favor of upholding the decision by the HPC. MSP can reapply in the future. Trustee Heinritz indicated that the Village has control over Historic Sites and Historic Districts. The HPC operates under Chapter 42 and does have jurisdiction.

Trustee Holyoke believes agreeing to the 10-month period with the hopes that some agreement is reached.

President Mobley shared that he has had conversations with Milo Pinkerton and feels that Mr. Pinkerton will cooperate with the Village and feels that this building has some issues and would like to enter into the 10-month period to see if an agreement can be reached.

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Attorney Schoonenberg clarified that during this 10-month period the applicant and the Historic Preservation Commission shall cooperate in attempting to avoid demolition of the property. If the decision this evening is to modify, this would be the next step. There are conditions of demolition that are required.

Trustee Beck inquired if the Board could issue a demolition permit, overriding the Historic Preservation Commission, with the condition of some type of plan for redevelopment. Attorney Schoonenberg does not feel that this was an option.

Trustee Heinritz favors upholding the decision of the Historic Preservation Commission and have informal discussions with MSP.

MOTION by Trustee Prenzlou, **SECONDED** by Trustee Beck that the Village Board Modify the Decision by the Historic Preservation Commission to Require the 10-Month Period of Negotiation and Consultation for the Purposes of Complying with Chapter 42 Between the Historic Preservation Commission Chairman with the Assistance of the Village President, Village Administrator and Village Attorney and MSP Real Estate.

Ayes: President Mobley, Trustees Beck, Holyoke, Kucharski, Lange and Prenzlou

Naes: Trustee Heinritz

MOTION CARRIED.

V. ADJOURNMENT

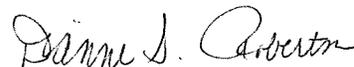
MOTION by Trustee Prenzlou, **SECONDED** by Trustee Holyoke to adjourn the meeting at 7:50 PM. **MOTION CARRIED UNANIMOUSLY.**

Submitted by,



Amy L. Langlois
Village Clerk

Approved by,



Dianne S. Robertson
Administrator