

MINUTES
Bayfield County Zoning Committee Public Hearing / Special Meeting
June 27, 2005
Board Room, County Courthouse, Washburn, WI 54891

1. **CALL TO ORDER OF PUBLIC HEARING:** *By Chairman Jardine at 6:01 PM.*

2. **ROLL CALL:** *Beeksma, Compton, Jardine, Rondeau, present; Maki, absent/excused.*

3. **AFFIDAVIT OF PUBLICATION:** *Read by ZA Kastrosky*

4. **PUBLIC HEARING:**

A. DONALD LULICH CONDITIONAL USE REQUEST: to construct 60' x 60' commercial garage for sales, maintenance, repair and restoration of tractors/machinery on 9-acre parcel (ID# 020-1018-10-990) located in part of the NW ¼ of the SE ¼, Section 9, Township 47N, Range 5 West, Town of Eileen.

Don Lulich addressed the Committee reporting that his proposed business is to repair and restore farm equipment, as well as for sales. Director Kastrosky stated there isn't much in the classification list for this type business. Kastrosky asked Mr. Lulich if he plans to keep the buildings a uniform color; he answered 'yes'. Kastrosky said there were no letters of support nor opposition on file, and no Town input was received yet even though the Town met on June 19th. Supervisor Compton asked if there was a plan for signage. Mr. Lulich said he has no plans at this time but is aware he needs a permit.

No one else spoke in support nor opposition.

5. **ADJOURNMENT OF PUBLIC HEARING:** *Motion by Rondeau, seconded by Beeksma to adjourn the public hearing at 6:09 PM; motion carried.*

6. **CALL TO ORDER OF ZONING COMMITTEE MEETING:** *By Chairman Jardine at 6:09 PM.*

7. **ROLL CALL:** *Beeksma, Compton, Jardine, Rondeau, present; Maki, absent.*

8. **MINUTES OF PREVIOUS MEETING(S):** *Motion by Compton, second by Beeksma, to receive the minutes for the regular June meeting at the July meeting; carried.*

9. **BUSINESS:**

A. DONALD LULICH CONDITIONAL USE REQUEST: to construct 60' x 60' commercial garage for the sales, maintenance, repair and restoration of tractors and machinery on 9-acre parcel (ID# 020-1018-10-990) located in part of the NW ¼ of the SE ¼, Section 9, Township 47N, Range 5 West, Town of Eileen.

Rondeau reported that Lulich's current business is immaculate, neat, orderly, and in a good location. Rondeau motioned to approve pending Town Board approval, second by Beeksma; carried.

Agenda Review and Alteration

B. DISCUSSION / POSSIBLE ACTION REGARDING EIA HAROLD ECTON PLANNED UNIT DEVELOPMENT (Barnes):

David Swan, of Legacy Land Group in Shell Lake, WI, reported there are three "very poor structures" and one garage close to the water, at least two septic, and at least one well on site which will all be removed. He pointed out building locations per the map/plot plans before the Committee. He said landscaping is

within the land use plan, will have rain gardens, and a stormwater management plan. He addressed sewage disposal; said no lawn fertilization will be allowed; covenants will be in place; the average home value expected at approximately \$250,000. Mr. Swan added that he does not expect full time residences; their plan will attract "very unique buyers" who respect the environment; building sites are on a hill in the woods. He said they may have 13 buildings legally but feels ten is a more reasonable number. Mr. Swan then pointed out which buildings will be torn down and answered other questions regarding the plot plan, explaining plans include two five-unit storage-garages.

AZA Mike Furtak reported being on site three times and walked the property. He believes there are no wetlands over two acres on property, half of the property "is in a natural state with a lot of grass with few trees which is proposed to be restored". He also said there are no streams and "this was a resort at one time". Compton questioned the proposed walkways through the fringed wetlands. Swan said they will have a cedar path, but would place a wooden walkway over a few soft areas. Jardine asked Furtak if he would recommend approving the EIA. Furtak said he didn't know of anything in it that "jumped out at him" indicating any huge, negative, environmental impact. He added that with the 200' setback, rain gardens, and other parts of the plan impact is minimized.

Tom Fait of Soil & Water-Environmental Consulting in Duluth spoke in opposition reporting that he completed a visual site inspection with documentation and believes there are inconsistencies, omissions, inaccurate information, and no report of wetland delineation in the EIA. He said the wetland delineation is a "regulatory part" which needs to be done. Mr. Fait elaborated on his report, including the possibility of Indian burial sites on, or near the location and recommended, "for the sake of 'Save our Lakes', the Town of Barnes, and concerned citizens, there is a need to have everything in place".

Director Kastrosky said he does not foresee any buildings being placed in any undetermined wetland areas, however, added that he did not walk the area

Atty. Jack Carlson spoke on behalf of concerned citizens of Save Our Lakes. He believed the document presented (by Mr. Fait) is "very important, though technical to keep in mind" and it covers the "letter of the law". He discussed the requirements of an EIA and asked the Committee to evaluate the proposed actions very carefully. Carlson said, "technical deficiencies must be addressed before the Zoning Committee can make an informed decision and I believe it appropriate to table the EIA until the Developer has fully complied with noted deficiencies".

David Swan stated it was his understanding that he did not need to do wetland delineation but he actually did have a preliminary report from Northern Environmental, which he presented to the Committee, adding the formal delineation was not yet finalized and the majority of floodplain is now a grassy area "mowed like a park" which will be restored to its native state.

In reference to a stormwater runoff plan, **Larry Nelson** (Nelson Surveying) said he has done some preliminary work, however, added "permits are required and when further along, more comes into play, we can't do an adequate stormwater runoff plan until we know exactly where buildings, etc. will go". He added that he doesn't believe the stormwater runoff plan is needed in the EIA.

Director Kastrosky said he met with the applicant on site, discussed options, and looked at wetland fringe areas. He believed there is no impact because of building locations, and explained NR216 Stormwater Management Plan "is not required at this stage of the game". Regarding the Indian burial site stated to be in Section 8, he said he wants to know "exactly where that is".

Compton expressed concerns about ten units and the lake. AZA Furtak stated he believes there is potential for five lake lots or possibly more, and with open space they could do five duplexes (ten units) and could be at 75' setback, then added, "without a PUD they still could do this".

Supervisor Rondeau questioned the required delineation. Kastrosky said he doesn't believe it is required in

the ordinance. Rondeau said if “areas are lacking, we should have them correct them now, table the EIA, and come back with issues settled”. Kastrosky said if they table the EIA, it will be heard again at the July meeting and he is willing to support that but doesn’t believe the deficiencies presented are actual deficiencies. Supervisor Compton questioned the issue regarding a soils evaluation report and Mr. Swan pointed out locations of soil borings.

David Swan took issue with the fact that he used the Bayfield County EIA form and answered the questions on that form and now there are other things being addressed as requirements which are not stipulated on the form. He also said he will address some things at a later stage (rain gardens, etc.) when they see the final layout, size of homes, etc. as some of those things could only be estimates now.

Rondeau said there are valid questions re the EIA and he doesn’t consider it “pushing the project back, but getting things cleaned up to have additional reports and attachments provided”.

Kastrosky addressed the fact that the soils maps which Mr. Fait said were to be attached (to the EIA) are obsolete and we have been advised not to use them.

Rondeau made a motion to **table this item until the July meeting**, second by Compton. There was then **discussion** concerning docks and piers, which was clarified by Mr. Swan who said “regarding the docks, the calculations were not correct, they have approx 960 ft. so if subdivided there could be 36 boat slips by DNR regs”. Beeksma asked what they should provide that they don’t already have. Rondeau replied, “they should have soil maps, clarification on Section 8 (Indian burial site) and whatever else was mentioned”.

Dixie Chermak, Town of Barnes Supervisor asked to speak. She questioned possible conflict with dates, or necessity of a special meeting to deal with this item prior to the regular July Zoning Committee meeting when this would be heard again. Chairman Jardine encouraged Kastrosky and Furtak to attend the Town meeting. Kastrosky stated he needs to know how this item should be listed on the July agenda (as a conditional use or just as the EIA again).

Jardine then asked for Director Kastrosky’s recommendation. Kastrosky suggested approval contingent upon “filling in the blanks and addressing issues brought up tonight: soil map, wetland delineation”.

Mike Furtak said he has been involved with 500 permits in Barnes and has seen no indication of Indian burial mounds and that nothing on [this] site appears to be such. He added that there is a DNR wetland map in the file and after many site visits with the DNR (John Spangberg), “who will say if they need a delineator to come in and never raised one single issue because the building sites are way back”.

Beeksma then made a motion to approve the EIA contingent upon filling in provisions of a soils map, including delineation with the EIA, that the burial site study is satisfied, and vegetation map provided. Motion seconded by Rondeau and carried

C. DISCUSSION / POSSIBLE ACTION: TOWN OF RUSSELL OVERLAY DISTRICT

Atty. John Carlson, Chairman Rocky Tribovich (Town of Russell) and Larry Meierotto (Russell) spoke. They presented the history of this issue, Town survey results, possible options, as well as a new petition to the County, and explained a table in their handout which they stated “originated with the EPA”.

Kastrosky said this item will go to public hearing in July and that this would become a separate addition to the County ordinance specifically addressing the Town of Russell. Chairman Jardine expressed a desire to keep this a separate issue rather than incorporating it into the County ordinance. Kastrosky’s recommendation is to incorporate it, thereby having “some commonality”. He said, “let it go to public hearing and see what happens”.

Compton stated the County has encouraged land use plans, yet we tend to pick them apart and tell them we don't like their plan. Tribovich said this overlay district is just for Russell and explained some of the unique qualities of the township.

Director Kastrosky recommended using Section 13-13-1-61 in the ordinance for this, and said this needs to be noticed for public hearing. AZA Furtak asked if all land owners would have to be noticed and the answer was "no, just posted in three places, two newspapers, and a county public hearing". Motion by Compton, seconded by Rondeau to accept Kastrosky's recommendation to **bring to public hearing**; motion carried.

D. DISCUSSION / POSSIBLE ACTION / UPDATE: NEIL SCHULTZ REGARDING PIKE'S BAY SANITARY DISTRICT FACILITY

Neil Schultz had several handouts for the Committee of the Greater Bayfield Sanitary Facility. He reviewed the history and minutes; presented a letter from the Zoning Dept., said he explained to Strand Engineering where his house was located prior to the permits being issued with "plenty of notice". Schultz explained which structures he believes are in violation. He said he thinks the sanitary district should come in and explain the situation to the Committee. It was reported that Director Kastrosky and Mr. Schultz were on site "today". **Kastrosky recommended this be referred back to legal counsel, that they require Strand to appear, review the DNR "condition" and place back on the agenda.**

Motion by Beeksma, second by Compton, to **proceed with Kastrosky's recommendation [refer back to legal counsel, require Strand to appear, review DNR 'condition' and replace on agenda]**. Motion carried.

E. REVIEW LANGUAGE REGARDING BACK LOT ACCESS TO WATERS SEC. 13-1-31: Kastrosky updated the Committee and stated the County's position on litigating requests for back lot access.

F. UPDATE ON LAND CONSERVATION DEPARTMENT SHORELAND TECHNICIAN POSITION: Karl said this is proposed and will be staffed out of Ashland.

G. UPDATE REGARDING PLUM CREEK'S INTENT TO SELL MUCH OF ITS 37,120 ACRES: Kastrosky informed the Committee of this item and expectation of many rezones in the future.

H. UPDATE REGARDING ON-GOING ENFORCEMENT: Kastrosky reported the Dept. will be "stepping it up [enforcement]" and next month they can expect the Ray Langhammer issue on the agenda.

I. DISCUSSION AND POSSIBLE ACTION REGARDING CLASS A 'RV EXTENSION' STANDARDS: Karl said this Class A Special Use will be 'worked on in the future', and that the Towns are looking for input and guidance.

J. UPDATE REGARDING THE STAFFING IN PLANNING AND ZONING DEPARTMENT: Kastrosky reported on the current staffing situation.

K. DISCUSSION AND POSSIBLE ACTION ON NR115 RE-WRITE UPDATE: Director Kastrosky read his draft resolution which basically covers the fact that Bayfield County has its own more restrictive shoreland zoning ordinance due to the fact the existing NR115 was lacking in that area and wants to reserve the right for final reviews.

L. CITIZENS CONCERNS AND INPUT – N/A

M. OTHER ITEMS THAT MAY COME BEFORE THE COMMITTEE (Discussion Only):

- **RE Daytime Zoning Committee Meeting(s):** Jardine reported that the Dept. had contacted all other counties in the District to survey meeting times and all counties have daytime meetings except

Bayfield County and one other county which has evening meetings during summer months (due to a committee member's job situation). After discussion, the Committee was in agreement to meet at 1:00 PM in July and August on a trial basis.

Agenda Review and Alteration

10. MONTHLY REPORT: *N/A*

11. ADJOURNMENT: *Motion by Beeksma, second by Rondeau to adjourn at 9:05 PM; carried.*

**Karl L. Kastrosky, Planning & Zoning Director
Bayfield County Planning & Zoning Dept.**

Prepared by MJJ on 8/3/05
Approved by KLK on 8/16/05

cc: Administrator; Clerk; Corp.Counsel; DNR; Committee; Supervisors

K/ZC/Minutes/2005/Spcl-June