

MINUTES
Bayfield County Planning & Zoning Committee Meeting
October 20, 2005
County Courthouse, Washburn, WI 54891

1. **CALL TO ORDER OF PUBLIC HEARING:** *N/A – No public hearing held.*
2. **ROLL CALL:** *See below*
3. **AFFIDAVIT OF PUBLICATION:** *None (not a public hearing)*
4. **PUBLIC HEARING:** *No public hearing items*
5. **ADJOURNMENT OF PUBLIC HEARING:** *N/A*
6. **CALL TO ORDER OF ZONING COMMITTEE MEETING:** *By Chairman Jardine at 1:01 PM.*
7. **ROLL CALL:** *Beeksma, Compton, Jardine, Rondeau, present; Maki absent/excused.*
8. **MINUTES OF PREVIOUS MEETING(S):** *Motion by Rondeau, second by Beeksma to table until the November meeting. Motion carried.*
9. **BUSINESS:**

Agenda Review and Alteration

A. ERIC MORRIS SPECIAL USE REQUEST – Home-Based Business (management of dog food): located on a 39-acre parcel (#036-1097-01) in the NW ¼ of the NW ¼, section 35, Township 49 N, Range 9 W, Town of Orienta.

Eric Morris addressed the Committee; he has a current business, manufacturing / warehousing, etc. of dog food which is all done outside of the County. He said no retail traffic is involved as he only “manages the business” from this location.

AZA Casina reported the Town approved this request; he has inspected the site which is fairly remote and three property owners (Bill Maki, Lawrence Henke and Kenny Hyde) were not listed on the application, thus not notified. There was some confusion of who to list due to Morris having an older application [which has since been updated]. Morris said he believes all property owners have been spoken to or are aware of his business, however. One of those adjoining property owners was present in the audience and was not opposed to this request. Motion by Rondeau, second by Beeksma to approve. Motion carried.

B. ERIC MORRIS SPECIAL USE REQUEST – Dog Kennel (<40 dogs): located on a 39-acre parcel (#036-1097-01) in the NW NW, Section 35, Township 49 N, Range 9 W, Town of Orienta.

Morris reported that no income is derived from this currently existing sled dog kennel; it is for personal use only; he originally had a permit approximately 8 years ago, as well as a temporary permit for three years. Compton asked if this is an after-the-fact permit. Morris answered that he wanted to renew his permit in the past, however, there was confusion at that time as the dog ordinance was being structured [he was actually involved in the ordinance process] and that he wants to fully comply. Morris reported that he will have between 30 and 40 dogs on a routine basis, most of the puppies will be kept and trained and then given away to new mushers.

Jardine reported he had one phone call in opposition, concerned with noise issues. Morris said his dogs are trained to be quiet, there is noise three times a day at feeding times, morning and evening and while doing chores in the evening. He also said he has positioned the dog yard in a valley surrounded by trees to minimize noise to neighbors and he asks them regularly if the noise bothers them. He said his neighbors have been very understanding. Jardine asked if the neighbors have been concerned about anything else and Morris said some have expressed concern about dogs possibly running deer.

AZA Casina referred to the additional adjoining property owners (Bill Maki, Lawrence Henke and Kenny Hyde) who, in error, were not notified. Morris stated he has spoken to each of them, they are aware. Hyde was in the audience; he stated he is not opposed and has "no problem with the noise at all".

There was further discussion regarding differing statements on special use applications with one application stating all property owners within 300 ft. are to be notified and another using the word "abutting" properties, which would include even property corners.

AZA Casina said he has not received any complaints on Morris' kennel. Compton was concerned that three adjoining property owners were not notified and stated "we need to comply with ordinance requirements".

Motion by Compton, second by Beeksma, **to table, in order to notify the additional property owners and bring back to the November meeting.** Discussion: AZA Casina read an opposition letter dated 10/10/05 from Mark & Karen Geier into the record at this point. Regarding comment of "continuous barking" Mr. Morris wondered if there was some confusion with a neighbor's bear dogs "which do bark continuously". Morris added that he has tape recorded for a 24-hour period and there is less than 45 minutes of barking within that period. Jardine testified to the fact that he only hears Morris' dogs for a short time morning and evening. Motion then carried.

C. DAN CAMPBELL SPECIAL USE REQUEST – Dog Kennel – (30-35 dogs): located in the NW NW, (Parcel ID# 048-1047-01), Section 32, Township 48 N, Range 8 W, Town of Tripp.

Aaron Harwood represented Mr. Campbell and stated the sale of this property is contingent upon approval of this special use permit; he said the dogs are outside, and are quiet; he has 31 dogs in Rochester MN now w/ no issues. Harwood said he occasionally sells dogs, with profits "probably less than \$1000 per year"; he will live on location.

Supervisor Beeksma was concerned about no screening and no woods there. Harwood stated he could plant trees, it is open Ag land, but that the noise is actually less in open areas as it doesn't resonate because of trees. Harwood reported the plan is to build a house on kennel site "B" [on plot plan] and has spoken to adjoining 'home' owners in the area and none of those had opposition.

AZA Casina said the Town approved without conditions. AZA Furtgak suggested the Committee may want to consider applying approval to these owners only. Motion by Rondeau, second by Compton to **approve with the condition this special use permit would not automatically transfer to any future owners, it is for Aaron and Natalie Harwood only.** Motion carried.

D. TODD LECHNER REZONE REQUEST - F-2 to F-1 (tabled 9/15/05): in NW SW, NE SW, NE SE (Parcel #s 004-1221-03 & -04 and 004-1219-04) of Section 35, Township 45 N, Range 9 W, Town of Barnes.

AZA Furtak said this item had been tabled due to last month's calendar (the Town had not met prior to the Zoning Committee's meeting). He stated the applicant had purchased property (three 40's) with the understanding it all was R-3, however due to a mapping error, two were zoned F-2. The mapping error has been corrected and the request is to rezone from F-2 to F-1 as no residences are allowed in F-2.

Motion by Rondeau, seconded by Beeksma to **approve**; carried.

E. RON ROY SPECIAL USE REQUEST - Second Residence on a Parcel (tabled 6/16/05): located on a 40-acre parcel (#032-1021-01) in the SW NE of Section, Township 46 N, Range 6 W, Town of Mason. Mr. Roy was not present. AZA Furtak reported the Town approved this; the mobile home is housing for employees for a large farm operation; there are no letters of opposition. Motion by Beeksma, second by Rondeau to **approve**; carried.

F. DUANE KICK PRELIMINARY PLAT (6 lots): located on a 12.77-acre parcel (#024-1089-07-000) in the NW NE, Section 33, Township 47 N, Range 8 W, Town of Iron River.

*Tim Oksuita from Nelson Surveying presented the preliminary plat. He said there are currently three lots through CSM and they want to divide into six more lots, three as lakefront. AZA Casina said thus far this meets all requirements and Iron River approved it by written letter from the Town Clerk. Motion by Rondeau to **approve**; seconded by Beeksma. Carried.*

G. DISCUSSION / POSSIBLE ACTION ON RAY LANGHAMMER:

Ray Langhammer reported that he had 90 days to contact the Town Board on this matter regarding screening. He said he was on the agenda at the Town meeting and was to be notified when he was on the planning commission's agenda, however, "that was 30 days ago and I still have not been notified... and that's the current status".

Compton said he believes the past motion regarded the definition of a "salvage yard" and whether it meets the criteria [of a salvage yard]. Langhammer was then to come back in 90 days with a plan how to meet salvage yard requirements and then was to go to the Town to ask for plan and what they wanted. Compton added, "the ordinance says three or more unlicensed / inoperable vehicles, therefore, this is a salvage yard, and in violation".

AZA Casina added the minutes state there was an issue whether he had State permits to operate, and a letter from the State DOT reports he does not. He added there is a copy of a letter from Mr. Langhammer to the State that he would not sell nor 'part out' from his property.

Supervisor Compton said, "in defense of Mr. Langhammer, the Town Board agreed to wanting [Ray] to talk to the land use planning committee". Chairman Jardine, questioned if this is a legitimate salvage yard and added that Langhammer stated he wants to know from the Town if they actually want to have a salvage yard there, if they say no, he has no problem stopping the business.

John Braff, who owns property west of the repair shop, said he viewed the property in 2000 prior to purchasing his parcel and there was no evidence of 'salvage cars', only vehicles around the repair shop and he added there were no indicators that there were salvage cars at that time. Mr. Braff said he & his wife built their residence in 2001, lived there when able from '02-'04, and by January 2005 there were 30+ cars behind the shop and the property had become a junk yard. He then presented copies of zoning / state statutes and said a State license has been required since the 1940's and since 1986, when computer use began, no permit has been issued, therefore, it has been a salvage yard for over 20 yrs without permit. Mr. Braff also said there is no evidence that any requirements were ever met with permits and they would like the Committee to seriously consider this as they have "30 cars out of our picture window which weren't there when we purchased the property".

Neil Schultz addressed the Committee stating "Ray has been doing this for the last 40 years with many cars around there ever since high school".

Jardine stated legal counsel is being sought with Corp. Counsel Bussey, and commented on the signed form which states he won't sell, part out, etc. AZA Casina said at the July meeting Bussey gave an opinion regarding "pre-existing", whether this business was legal prior to zoning, etc.

Supervisor Compton stated all these issues need to be considered including that the State considers this is illegal because it doesn't have a license. He added that if this existed prior to County zoning, then it still has to meet State requirements.

Compton made a motion to **table for further information** (and requested copies of recent letters so he can review them). Furtak suggested helping set up a meeting with the land use committee and Langhammer.

Langhammer stated re additional cars, he has let the trees grow, you can't see the 90 cars there right now and that once a year his cars are sent out but he must have one hundred cars and they are removed for off-site crushing. Regarding different appearances in aerial photos [which was brought up earlier] it does show cars but then a change after they're shipped.

Compton proposed that the Committee instruct Ray to meet with the planning committee of the Town of Bayfield to come to an agreement. Compton restated his motion to table with additional information to be presented to the Committee for review; second by Beeksma; motion carried.

H. DISCUSSION / POSSIBLE ACTION ON GREATER BAYFIELD WASTEWATER TREATMENT FACILITY (Neil Schultz):

Jardine asked "why are we involved"? Schultz said "we're here because they are in violation of the terms of their conditional use permit".

Land Use Specialist Travis Tulowitzky reported a conditional use permit was issued on 12/18/03 for use of Wastewater treatment plant with the condition they would comply with DNR conditions.

Eric Fredenberg (Chairman / Greater Bayfield Wastewater Treatment Plant) referred to a letter dated 10/17/05, addressed to Karl Kastrosky / Bayfield County Planning & Zoning Dept., from Stephen J. Smith, P.E., Wastewater Plan Reviewer of the State of Wisconsin/ DNR.

Following is the portion of the letter referred to on page 2: "Based on review of the facilities plan and general knowledge of the site and adjacent properties by WDNR field staff, the Department believes that no buildings intended for commercial / residential use were in place within the required 500-foot separation / setback distance of the treatment facility prior to issuance of our formal facilities plan approval for the project (dated June 26, 2003). Also, no comments regarding the site setback issue were received by the Department during the public hearing and two-week public notice / comment period for the proposal during the facilities plan review. In addition, based on discussion with Strand Associates and available information during the facilities plan review, we concluded that none of the private properties adjacent to the treatment plan site (including the Schultz property) were being "actively developed" for commercial / residential use within the meaning of NR 110.15(3)(d). **Therefore, our overall conclusion was that the project complies with the minimum required 500-foot horizontal separation / setback provision of NR 110.15(3)(d), Wisc. Admin.Code.** As a result, no further attempt to identify / notify the adjacent property owners or purchase additional land or enact a special zoning ordinance was required by the Department for consideration of a possible variance waiver to address the conditions summarized above. Please also refer to the letter addressed to you dated July 14, 2005 from Strand Associates stating that a search of available public records / files was conducted during the facilities plan review period to verify that none of the adjacent properties (including the Schultz property) was being "actively developed" for commercial / residential use prior to issuance of our approval for the facilities plan.

L.U. Specialist Tulowitzky reported that Margaret Guell from Strand contacted the Planning / Zoning Dept. on May 22, 2003 requesting any active building permits in the area. They were contacted five days later with active permits. Neil Schultz was not on that list because his permit was issued 12/15/03.

Supervisor Compton again asked why this is before the Zoning Committee if the contention is violation of 500' a setback; they can build 100' from a treatment plant, but if possible, treatment plants should seek 500' setbacks. Compton stated he believes they are in compliance with the requirement.

Supervisor Rondeau stated the Committee has been on this for two to three months and he doesn't understand what "we're trying to accomplish here". He added that he doesn't believe this belongs in the Zoning Dept. as procedure was followed, and he doesn't believe things were intentionally done wrong by Strand and the DNR.

Schultz said he doesn't have copy of Oct. 17th letter "just referred to" but would like to review it. He added he doesn't believe the issue is what has been portrayed, "but the issue is exactly what the County gave a permit for". He stated, "at the public hearing, John Maloney from Pike's Bay, and the Mayor of Bayfield discussed them staying away [500' setback] and the minutes said [there was] no problem staying back the required distance, that's why it was put as a condition of the conditional use permit".

Compton read from the Sanitary District's recorded affidavit for their conditional use permit (#04-0048, dated 03/10/04) quoting from the terms and conditions which state, "DNR 500 foot setback for above facility must be applied to all existing residences."

Neil Schultz claims that the two parts of a building now on his property are a residence. Shultz was asked if his building has been worked on since the issuance date of 12-15-03. He stated he has worked on it, including re-roofing, yet the Committee felt the photographs on file did not portray that.

It was further discussed that Strand & Assoc. requested all building permits in May 2003, to see if any there were any active building permits in that area and there were none for Schultz because his permit was issued six months after that.

Jardine and Beeksma stated they don't believe Schultz has a case. Schultz said he had permits from "Lad" and "Morgan" in the past for a residence plus storage building. Travis said the permit on 12/15/03 was for a one-bedroom 400 sq. ft. res. Schultz said he placed it on the property the same day it was issued, and he replaced the floor, and worked on the roof. Travis advised the permit must be worked on each year in order to remain active. When questioned again about the roof, Schultz said he put "patching" on it.

Scultz requested a place on the agenda next month for just "two minutes". Rondeau stated this is wrong to keep bringing before this Committee, if he comes back it will be for no more than two minutes but he needs to go somewhere else with this. Compton added this is the time to give the indication if we consider the saitary district in violation or not and he is satisfied that they are not in violation. Rondeau, Jardine and Beeksma all agreed.

Chuck Olson (WI DNR) stated they do not believe that the sanitary district is in violation.

Rondeau made a motion to write a letter to Greater Bayfield Sanitary District, that they are not in violation of their permit; second by Beeksma; carried.

I. DISCUSSION / POSSIBLE ACTION REGARDING RV EXTENSIONS (CLASS A):

Discussion was held about the current ordinance allowing an RV up to 21 days but over 21 days the property owner needs a permit plus provisions for a privy or other sanitary system and if there is a garage the RV can be kept there 'forever' but must have sanitation and in all cases must meet setbacks.

The Committee felt the Zoning Dept. should come up with the requirements as they are personally involved and know the situations happening in the field. Supervisor Rondeau said he believes there would be better control with current problems if this would be made "class B special use permits". Beeksma agreed and felt it would give the Dept. more guidelines.

It was decided if an RV is placed for longer than a year the owner would be required to obtain a Special Use Class B and this will necessitate a public hearing for ordinance change.

J. DISCUSSION / POSSIBLE ACTION REGARDING FEE INCREASE (BOA and Site Inspections):

It was suggested by the Dept. that Board of Adjustment appeals should be increased from \$500 to \$1000 as the costs to the County include two attorneys each month in addition to a court reporter and other expenses, however, special exceptions could be \$500, and variance request and interpretations \$750.

Supervisor Compton said, “everyone has the right to appeal, but far too often appeals are happening, things are second-guessed, and it is only reasonable to try to recover the costs”. AZA Casina stated that other fees also, such as lot divisions are \$50 per lot and they could possibly go to \$100. Jardine asked the Dept. to make a list of suggested increases and bring it before the Committee.

Compton said he believes we should have different fees for shoreland districts than non-shoreland in order to recover what it costs the County to approve the permits in shoreland areas. AZA Casina said mitigation costs and site consultations also need to be considered and that they will talk to Director Kastrosky and report back.

K. THOMAS JENSEN (HUGHES) – CHANGE IN CONDITION OF SPECIAL USE PERMIT (Hobby Farm-approved April 2005) located in part of the SE ¼ of the SE ¼, Section 36, Township 47 N, Range 9 W, Town of Hughes.

Thomas Jensen addressed the Committee. His hobby farm special use permit granted in April 2005 was restricted to the present owner only, however, David Grote is also an owner and that was inadvertently overlooked when application was made. Jensen is now requesting this be amended. Motion by Rondeau, second by Beeksma, to amend Thomas Jensen’s special use permit to also include David Grote’s name. Carried.

L. DISCUSSION / POSSIBLE ACTION CONCERNING SIGN ORDINANCE ISSUES & COMPLIANCE:

AZA Furtak reported a situation in Cable regarding gas station signs (there is a problem with changing signs). He questioned the possibility of changing the ordinance to allow building-signs in business areas, and village overlay districts.

Furtak said it is currently a “nightmare to administer and is unfair to everyone” and felt we could keep the off-premise signs “as is”, but be more lenient with on-premise. He added that now we have a 10’ limit, the signs can be as high as the building or canopy on-premise, allowing only two signs and that we don’t allow ‘shingles’ hanging from face of building.

Motion by Rondeau, second by Compton to allow the Zoning Dept. to work up a plan and bring it to the Committee. Compton reminded the Dept. to abide by the ordinance until it is changed. Motion carried.

M. CITIZENS CONCERNS AND INPUT: N/A

N. DISCUSSION AND POSSIBLE ACTION ON NR115 RE-WRITE UPDATE: N/A

O. OTHER ITEMS THAT MAY COME BEFORE THE COMMITTEE (Discussion Only): N/A

10. MONTHLY REPORT: *Motion by Rondeau, second by Beeksma to approve; carried.*

11. ADJOURNMENT: *Motion by Rondeau, second by Beeksma to adjourn at 3:25 PM; carried.*

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

Prepared by MJJ on 11/9/05
Approved 11/21/05 by T.T.

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

K/ZC/Minutes/2005/Oct