

**MINUTES**  
**Bayfield County Planning / Zoning Committee Public Hearing / Meeting**  
**October 16, 2008 – 1:00 PM**  
**Board Room, County Courthouse, Washburn, WI 54891**

1. **CALL TO ORDER OF PUBLIC HEARING:** *By Chairman Beeksma at 1:02 PM.*
2. **ROLL CALL:** *Beeksma, Jardine, Miller, Rondeau, all present; Maki absent/excused.*
3. **AFFIDAVIT OF PUBLICATION:** *Read by ZA Kastroosky*
4. **REVIEW OF MEETING FORMAT:** *By the Chairman.*
5. **PUBLIC HEARING:**

**A. Petition by Karl Kastroosky, Bayfield County Planning & Zoning Director, on behalf of the Bayfield County Planning & Zoning Committee, requesting amendments to the Bayfield County Zoning Ordinance, including the following:**

1. Creation of Sec. 13-1-34 adopting a Bayfield County Lake Superior Shoreline Segment Map and establishing setback and other development requirements for lots having frontage on Lake Superior. The map displays the division of the Bayfield County Lake Superior shoreline into 154 numbered segments, based on shoreline composition, bluff height, and slope angle. Setback requirements have been calculated for each segment shown on the map based on such factors and historical recession rates, and vary from segment to segment, as set forth in a table included in the section. The section includes provisions for exceptions to the setbacks stated in the table. The section also includes provisions requiring site plans for new development on lots with frontage on Lake Superior.
2. Technical amendments to existing ordinance provisions pertaining to Lake Superior setback requirements to reflect the adoption of Sec. 13-1-34.

*Karl Kastroosky presented this petition noting he is looking for public input; there has been an antiquated map since the 1970's, there has been no science, therefore, the Dept. has been left with 'some subjectivity' in the past; the past few years there has been more technology of mapping, etc. In the past the setback was arbitrarily set at 75' anywhere on Lake Superior. Now there are 154 different segments, every parcel on the coastal shoreline is identified.*

*He noted the next step will be implementation therefore public hearings / input is important; a public meeting was held at Great Lakes Visitor Center; two presentations were made to the Zoning Committee by David Mickelson (Coastal Expert from Madison). Karl said buildable cores, subdivisions, county land use plan, public safety, and land use regulations, are some things which must be incorporated.*

*Gary Van Dyke (property owner- Bayview) stated that his property was a field when his in-laws purchased it and now there are 18" diameter trees on the edge of the bluff which would not have gotten that size if it was eroding. Van Dyke expressed concerns: how the recession rate is set, bluff lines measured, new plan may go overboard. He said he's had plans to build but with new standards will be set back looking at neighbors' homes on either side, instead of the lake.*

*Karl said the intent is not to ask the Committee to pass this on to the Full Board today, that there are some concerns raised; need to integrate LIDAR technology and are approximately a month from getting the information back. He quoted from a portion of the proposed amendment to Sec. 13-1-34, "If the Department determines by on-site inspection of a lot that the applicable setback listed in subsection (a) is consistent with the pertinent characteristics of the lot's shoreline, the Department shall calculate the setback for the lot based on the observed characteristics, using the same formula and criteria used to calculate setback distances for the Lake Superior shoreline setback Table."*

*Regarding the Dept. calculating setbacks, Kastroosky said there is a relief mechanism built in but some details need to be worked out yet and noted there will probably be another public hearing as more details are finalized and also said Doug Casina and Travis Tulowitzky have been implementing this and it has been working. Doug said the new provisions do make things easier.*

6. **ADJOURNMENT OF PUBLIC HEARING:** *Motion by Rondeau / Jardine at 1:19 PM.*

7. **CALL TO ORDER OF ZONING COMMITTEE MEETING:** *By Chairman Beeksma at 1:19 PM.*

8. **ROLL CALL:** *Beeksma, Jardine, Miller, Rondeau, all present; Maki was absent/excused.*

9. **MINUTES OF PREVIOUS MEETING(S):** *Motion by Jardine / Rondeau to approve the September 18, 2008 minutes—no corrections / additions; carried 4 yes / 0 no.*

**10. BUSINESS:**

**A. Petition by Karl Kastrosky, Bayfield County Planning & Zoning Director, on behalf of the Bayfield County Planning & Zoning Committee, requesting amendments to the Bayfield County Zoning Ordinance, including the following:**

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2. Technical amendments to existing ordinance provisions pertaining to Lake Superior setback requirements to reflect the adoption of Sec. 13-1-34.

*Jardine made a motion to receive and place 'Item A' on file but **then rescinded his motion.** After discussion **Rondeau made a motion to postpone further action at this time until the Zoning Dept. has had time to adjust and fine tune it, at which time it is to be brought back in the form of a public hearing.** Jardine seconded the motion; carried- 4 yes / 0 no.*

**B. CHAD BARRY SPECIAL USE REQUEST – Home-Based Business** (refinishing / restoration) located on a 38-acre parcel (#016-1052-05) in the SW ¼ of the NW ¼, Section 26, Township 46 N, Range 7 W, Town of Delta.

*Chad Barry said his business is mainly bathtub and countertop refinishing primarily conducted in customer's homes with occasional refinishing at his home; traffic would be occasional delivery trucks.*

*Town Board recommended approval was not received by the Dept. due to conflicting meeting dates this month. Motion by Miller / Rondeau to approve this home-based business contingent upon Town Board approval; motion carried- 4 yes / 0 no.*

**C. TIM / ROXANNE TRUEN SPECIAL USE REQUEST – Short-Term Rental (denied by Town Board)** located on a 1.10-acre parcel (#010-1051-02) in Govt. Lot 1, Section 23, Township 51 N, Range 6 W, Town of Bell.

*Roxanne Truen addressed the Committee noting they vacationed in Bayfield County since the 1990's. She presented a **letter of support from Sharon Locey** of Thimbleberry Inn who was their realtor and helped them with rental rules / regulations for their property. She said about a year ago Ms. Locey called the Zoning Dept. to inquire about this property, asking if any permits were required for short-term rental and were told that no permit was required.*

*Mrs. Truen said the cabin required much repair, therefore they decided after thorough research, to rent it to help cover expenses. She said they worked all winter/spring both inside/outside; they have set strict guidelines prior to accepting reservations or money for rent. She reported they were then notified in June that they had an unauthorized rental.*

*Tim Truen attended a Town Board meeting after that and was completely surprised by the contention over their rental. Mrs. Truen said they tried to talk to neighbors but that did not go well. She attended the July Town meeting; the Town admitted they didn't have a process in place for making a decision. A petition signed by people in the area was not correct as it stated they were opposed to a 'change in zoning' or 'spot zoning' and that was not what this request was. She reported the Town meeting was "angry and contentious" with concerns about noise, fear of no one to call if*

problems arose. She said the Town Board had a lot of pressure placed upon them [by citizens] and the chairman said he believed there was not enough information to make a decision, yet they all voted 'no'.

Mrs. Truen said they researched 1-1/2 years' worth of County Zoning minutes to find out if their request was reasonable; they also read Town minutes. She noted their property is densely wooded; the house was vacant for a long time prior to their ownership; she presented photographs noting it is difficult to see neighbors from their property.

**Support:**

- **Cheryl O'Bryon**, owner of the Village Inn (Cornucopia) spoke. She believed the Town of Bell was unfair in dealing with the Truens; she voiced her opinions about the area businesses, including hers, dying out without support of the local townspeople. She concurred that the Town admitted not having enough information to make a decision, yet decided. Ms. O'Bryon also stated one Board member wanted to change her vote, however, Jim Roman did not call for a vote. Ms. O'Bryon said there are other rentals in Cornucopia without permits. She stated Mr. Roman told Doug Casina not to attend the Town meeting; said the Truens acted responsibly but were not treated respectfully in the proceedings. Ms. O'Bryon said in the busy season, there are not enough places to rent in the area; this rental would be a service to the community.

**Karl Kastrosky** explained this application is before the Committee due to the Town's denial and noted the property is R-1.

**Supervisor Jardine** said Jim Roman called him this morning and he wished he would have had "all this information" prior to that conversation; he then asked if they [the Town] would give it a year's trial. Ms. Truen said it didn't even give it that far in the proceedings. Jardine said he doesn't like the procedure that happened at the Town. **AZA Doug Casina** said he attended the Town meetings, tried to remain neutral, but is well aware of how things were handled.

**Opposition:** **Margaret Doettkott** (neighbor) said this is 'spot zoning' and that the Town Board agrees; the area is not conducive to more traffic; sounds/noise come from the property; fire pit will draw animals; they moved here to retire in a quiet place. She said property values will decrease; when they sell they will have to disclose the short-term rental next door; has concerns if it becomes necessary to call the police.

- **Kastrosky** asked why the term 'spot zoning' was used as this is not a rezone. **Town Supervisor Bill Sloan** reported they are using 'spot zoning' as a non-legal term. Mr. Sloan agreed that Mrs. Truen was not well treated at the meetings; they had never done short-term accommodations in R-1 zoning; is concerned what might happen when the owners are not there; believes it makes neighbors responsible for the business in the neighborhood.

**Jerry Doettkott** (neighbor) said driveways are about 30' apart; permit is not a bad idea; understands the need for business in the area but not in a residential zone.

- **Kastrosky** asked for clarification of the situation regarding the Truen's deck & cutting of trees. **Casina** reported there was no formal fine issued for an illegal deck as they only had to remove a portion to meet the setback, which they did; some underbrush had been removed, they were then educated on the 'view corridor' regulations; they have permitted structures on the property, as well as a code-compliant sanitary system.

**Jim O'Leary** (Spirit Point) expressed opposition to this business in R-1 and asked if the Applicant's were informed this was R-1 when they purchased the property. **Kastrosky** said they had contacted the Zoning Dept.; there were no restrictions at the time of purchase—they have been imposed since that time; it is allowed in most districts w/ a special use permit; there is no 'grandfathering'.

**Barb Edwards** (Spirit Point) said a conditional use was approved in the past, neighbors were promised 'quiet' but that has not happened; vacationers make noise late at night—some neighbors get up early for work. **Doug Casina** said Ms. Edwards is adjacent to Tam O'Shanter Retreat, there have been complaints by Ms. Edwards but nothing in approximately the past six months or year. He also noted belief that ordinance language was in place when the Truens purchased and the Realtor possibly received misinformation when she called the Dept.

**Bill Sloan** stated that realtor Sharon Locey asked the question the week the ordinance passed. Sloan said he answered questions about a B & B, not short-term rental. **AZA Mike Furtak** noted the time difference that takes place in an ordinance change: once the Zoning Committee approves it, the request goes before the Full County Board and the change happens if they approve it.

**Karl** reiterated that the term 'spot zoning' was not used correctly in this case. **Mrs. Truen** added that the petition was not correct in terminology either and was signed that way; she clarified the times they were at the property this summer, the difficult time Doug Casina had in determining the water mark on their property and how that affected the deck they built; she described their fire pit, offered phone numbers; said they have their Health Dept. license which is awaiting Zoning Committee approval in order to send it in. Mrs. Truen noted they have complied w/ everything that has been asked of them.

**Director Kastrosky** suggested the Committee may want to postpone a decision and hear the other short-term rental on the agenda before making their decision unless they were comfortable with doing so at that time. **Rondeau and Jardine** wanted to keep the two issues separate, **Miller** wanted to hear them both first. **Jardine** noted they follow the Town's wishes as a rule but are able to overrule; suggested possibility of a year 'test run'. **Miller** preferred to hear what Atty. Jack Carlson had to say on the next short-term rental issue.

**Jardine** said a short-term rental is permissible in R-1 zoning with a special use permit but then **made a motion to deny this special use request**; seconded by **Rondeau**. Discussion: it was noted by Kastrosky that with four Committee members present, if the vote is tied, it becomes a 'no vote'. **Chairman Beeksma** reminded the Committee that a 'yes vote' is agreement with the motion to deny this permit. Motion carried 3 yes (Jardine, Rondeau, Beeksma); one 'no vote;' Miller was opposed to denial of this request.

**D. DEBRA L. CARLSON-MCROBERTS SPECIAL USE REQUEST – Home-Based Business** (life coaching) located on a 6-acre parcel (#006-1006-07) in the N ½ of the NW 1/4 , Section 2, Township 50 N, Range 4 W, Town of Bayfield.

**Debra Carlson-McRoberts** addressed the committee noting her property is zoned Ag and neighbors are not opposed; the Town has yet to meet.

Motion by **Rondeau / Jardine** to approve this home-based business pending Town Board Approval; carried- 4 yes / 0 no.

**A break was called for at 2:42 PM. Meeting reconvened at 2:55 PM.**

**E. DISCUSSION / POSSIBLE ACTION RE: BAXTER EQUITY LLC – Short-Term Rental on a Trial Basis** (Town of Namakagon) - **approved May 18, 2008.**

**Director Kastrosky** reviewed the reason this has reappeared on the agenda— the result from last month was that not all parties were able to be present.

(Adjoining Property Owner) **Jim Anderson** said this permit was subject to one year, or sooner if there is a problem; he pointed out the parcel in question, the main house, cabin, septic locations. He noted letters in the file from: Paul Didzerekis and Kathy / Dick Kuchler.

**Clyde Wishart** said six people from the neighborhood met over Labor Day and the others were represented by way of letters at that meeting. He said they are opposed to noise with 'resort atmosphere' when renters are present; narrowness of the lane; parking situations, the number of people able to be on the property. He noted the Town Board did not approve this; he & Mr. Kuchler previously agreed to a trial period but no longer consent.

**Atty. Jack Carlson** spoke on behalf of the Baxter's stating that land use issues are controversial thus the reason for a zoning ordinance—it cannot be decided by agreement of land owners; the procedure has been set by Bayfield County ordinance. He said the Zoning Committee approved this in May; the emotion / controversy has to be taken out of it because there is ordinance criterion and the decision needs to be based upon it and that was done in May with the record showing a vote of three to one to grant this on a one-year basis. Carlson read from the May minutes and recorded affidavit.

**Kastrosky** presented a Sept 2, 2008 letter which was the reason for reconsideration of this issue; he said no appeal was filed with the B.O.A.; it is not appropriate for the Zoning Committee to reconsider it unless there is valid reason or legal basis to withdraw the conditional use permit. Karl also asked what conditions have been violated noting that all proper steps were taken in issuance of the conditional use. He said the Baxters have been responsive to the concerns of the Zoning Dept. and the neighbors; there is a rental agent available 24 hours a day to respond to complaints in the Baxter situation. **AZA Mike Furtak** said no letters of complaint were received until the Sept. 2008 letter mentioned and no other complaints were received by Mike Best either.

**Mike Best**, property manager, said Brian Baxter's mother's property is available for parking trailers and other equipment when necessary. The property is advertised as in a quiet neighborhood and they seek that type of clientele. He noted that Mr. Baxter, as well as his mother, checked on the property each week this summer when renters were present; he said the two units were rented both at the same time on only two occasions this summer. Regarding the access issue, he presented a property map showing easements for ingress / egress and stated they have as much right to use the road as the other property owners. It was also noted that Mr. Anderson has a home business and has equipment which uses the same road.

**Atty. Carlson** presented this definition of Residential-Recreational Business zoning, which subject property is. He noted the past history of this property used as short term rental; improvements have been made, the ordinance was followed; there must be legal justification to terminate this permit, which he does not believe is present.

**Mike Best** stated in response to a comment that this property is becoming like a resort, that the most this property would likely be rented is 18 weeks out of 52 each year and that the average owner of short-term rentals gets eight weeks rent out of 52. He noted he or another staff member has the pager on 24/7; he talks with every guest at the property; they hand-pick renters; has records of all the rentals from Jan. 1 to current and only two weeks of that time had both rentals occupied concurrently.

**Kastrosky**: said this is a Committee call as they chose to bring it back. **Atty. Carlson** said they can consider allowing this for one year, from this point, seeing it had been heard again. **Bill King** (King Realty, Cable) noted he sold the property in Oct. 2007, with the offer being contingent upon the Baxter's being able to rent it and the property has rental history; Baxter's have improved the property.

**Mr. Kuchlar** said the Baxters never talked to the neighbors about renting when they purchased the property and noted the prior owner did rent it, but lived on site. **Jim Anderson** noted the Baxter's were at the property part of the summer, otherwise stayed at his parents'. He said he personally has some heavy equipment on his property but it is for his personal use, not his caretaking business.

**Supervisor Jardine**: said the conditional use gave them until May 15, 2009 and no reports have come in of blatant use of the property; he noted he is in favor to leave it in affect until that date but is open to changing it to October 15, 2009 also.

**Mrs. Anderson** said they have tried to find someone to call several times without success and noted the women in the neighborhood are afraid of having people they don't know around.

**Kastrosky** noted opposition letters from Paul Didzerekis, Kathy & Dick Kuchler (undated but received in the office 10/06/08); a letter dated 10/10/2008 was also on file from Brian Baxter.

**Supervisor Miller** said it is inappropriate to extend the condition of the permit at this time—this reappeared before the Committee to consider opposition / complaints. **Kastrosky** stated there is an appeal process in place (B.O.A.) and if we deviate we may set ourselves up for problems; he noted the safest position is to continue the permit under the conditions as issued. **Rondeau** agreed with Miller/Kastrosky and did not want the condition extended.

Motion by **Rondeau / Jardine** to maintain the original agreement of the conditional use with the May 15, 2009 deadline originally set, and no action to be taken until the May meeting. Carried 4 yes / 0 no.

#### **F. CITIZENS' CONCERNS / INPUT:**

- **RE: Short-Term Rentals: Bill Sloan** said it is apparent from the situation today, this is just a tip of the iceberg; criteria must be developed to assess these cases as there is not a lot of law going on, but there is a lot of emotion. **Mike Furtak** stated there is protocol used such as compliance with septic/zoning regulations, and other things, but the problem comes with lack of the decision-making criteria on the part of town boards thus the 'emotional part' becomes an issue-- for example the term 'spot zoning' was totally incorrectly used in the [above] case in the Town of Bell. **Kastrosky** said there is a need to 'shore up' the short-term rental criteria and one option might be not to allow them in residential zones. **Furtak** noted that problems have come about because we are dealing with established short-term rentals (after-the-fact) but going forward should be easier from here.

**G. DISCUSSION / POSSIBLE ACTION – COMP PLAN UPDATE:** **Karl** reported they are working on a survey which is not yet complete; further meetings are upcoming.

**H. DISCUSSION / POSSIBLE ACTION – NR115 RE-WRITE UPDATE:** *Karl said there is nothing new to report.*

**I. OTHER ITEMS THAT MAY COME BEFORE THE COMMITTEE (Discussion Only):** *Karl stated that he will put the 'shoreland issue' on the agenda next month.*

**11. MONTHLY REPORT:** *Motion by Jardine / Miller to **approve** as prepared; carried 4 yes / 0 no.*

**12. ADJOURNMENT:** *Motion by Jardine / Rondeau- adjourned at 4:04 PM, carried.*

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

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

Prepared by MJJ on 10/30/2008  
Approved by KLK 11/04/2008

*KZC/Minutes/2008/October*