

MINUTES
Bayfield County Planning / Zoning Committee Public Hearing / Meeting
October 15, 2009 - 1:00 PM
Board Room, County Courthouse, Washburn WI 54891

1. **CALL TO ORDER OF PUBLIC HEARING:** *By Chairman Jim Beeksma at 1:05 PM.*
2. **ROLL CALL:** *Beeksma, Jardine, Maki, Rondeau – all present; Miller, absent.*
3. **AFFIDAVIT OF PUBLICATION:** *Read by AZA Douglas Casina in Director Karl L. Kastrosky's absence.*
4. **REVIEW OF MEETING FORMAT:** *By Chairman Beeksma.*
5. **PUBLIC HEARING:**

- A. **MCKINNEY REVOCABLE TRUST REZONE REQUEST (Industrial to Commercial)** on 0.321-acre parcel (ID #04-012-2-43-07-18-2-00-116-10900) located in Assessor's Plat #2, Lot 5, Block 15, in V. 941 P. 842, Section 18, Township 43 North, Range 7 West, Town of Cable.

*Mike Furtak reported that a portion was rezoned earlier from Industrial to Commercial. The Town placed a condition that the remainder (a triangle piece-- 0.321 of an acre) also be changed to commercial. **File Report:** AZA Casina noted there was no TBA because, they just met last night however this rezone fulfills the Town's condition; no letters for/against on file; no one spoke in support / opposition.*

- B. **BAYFIELD ELECTRIC COOP, OWNER, & AGENT HARLAND HANNINEN REZONE REQUEST (Industrial to Residential-1)** on a 3.47-acre parcel (ID #04-024-2-47-08-08-3-00-192-46000) described as Block 31 of Hessey's Addition, Section 8, Township 47 North, Range 8 West, Town of Iron River.

Trevor Provost (C & S Design) representing Harland Hanninen (formerly Agent, now Owner) addressed the Committee: When Bayfield Electric rezoned their property, the intent was not to rezone this portion-- just the lots in the industrial park itself; this portion on the fringe should not have been included; it's residential, adjacent to County A on District St.

***File Report:** Doug Casina reported this is on the south side of the park; they want to put it back to original zoning district; surrounding property is actually R-1 and not spot zoning. File includes Town approval with no conditions / comments; no letters of opposition / support. No one spoke in support / opposition.*

- C. **JAMES AKINS REZONE REQUEST (R-1 / R-3 to R-1)** on his 7.148-acre parcel (ID #04-004-2-44-09-03-3-05-004-09100) described as Lots 1 & 2 CSM #547 in V. 634 P. 135 and a parcel in V. 704 P. 281 & a parcel in Gov't Lot 4, Sec 9, Township 44, Range 9 West in V. 745 P. 138 less V. 817 P. 572, in Section 3, Township 44 North, Range 9 West, Town of Barnes.

*AZA Casina reported they seek uniform zoning to simplify for future development. AZA Mike Furtak said this is an area where they did multiple zoning districts in 1977; since that time, there's been an increase in development and a problem is created when property is sold / subdivided; R-3 is more stringent than R-1. He said they want to subdivide into a couple of lots; it is good for development; it would be beneficial for irregularly shaped lots. No one spoke in support / opposition. **File Report:** No Town form on file; no correspondence.*

- D. **PAUL (Rocky) TRIBOVICH (Town of Russell Chairman) PETITION FOR TEXT AMENDMENT CHANGE:** In form of an amendment to the Overlay District -Section 13-1-63(3)(a). This is specific to Town of Russell Alternative Development Ownership Minimal Open Space, to allow different ownership criteria than those currently utilized under Bayfield County Zoning Ordinance.

Dave Good (speaking as Town Clerk) reviewed the history / adoption of the overlay district by the Town several years ago. He explained open space requirements and that people wanted different configurations; clarification / better understanding is needed with the current 'open space' wording. A Class B permit was suggested for this procedure; they've kept the original language, clarified it, added to it in this petition. Mr.

Good noted the Town held a special meeting for this text amendment in order to apply in time for today's meeting; they also discussed / explained it at their last 'regular' Town meeting. **Dave Good** also spoke in favor as a Town resident.

AZA Mike Furtak said that he, AZA Doug Casina, and LUS Travis Tulowitzky met with Director Kastrosky Monday [Oct. 12, 2009] to review this petition. Furtak noted in section 'A' the words 'prohibiting construction' should say instead 'prohibiting structures'; and to avoid problems, wording in 'B' should also be changed to 'structures'. Discussion covered how 'construction' of things such as ponds or trails is allowed but 'construction' of 'structures' is not.

Good said they need to identify exactly where open space is and record restrictions. **Supervisor Maki** would like to see CSMs (Certified Survey Maps) on open space, rather than meets/bounds.

Leon Basina, Sr. (Russell Supervisor) spoke in support. He said they primarily want to know who owns open space, with development at a rapid rate, they are trying to have control.

Rocky Tribovich: RE the word 'construction' said consultation with attorneys, nothing will happen in open areas; agreed 'structure' might be important to put in place; it would be more definable to a lay person and give the Town protection. Referring to Maki's comment on CSMs, he noted the County already has boundaries in place and if a CSM is required on this the ordinance would have to change. In answer to a question about separate owners of open space, Tribovich said anyone can own it as long as the area is kept 'open'.

Wayne Nelson spoke in support—"this would enforce good development; it has advantages of different people purchasing open space / allowing neighbors to increase their parcel size. He would like expansion of Ag use; asked for consideration of small Ag structures on open space.

Opposition:

Kathy Wendling (Town of Russell resident) asked for denial and to "reword current overlay section". She spoke RE 'conservation subdivision' regulations; presented handout entitled "A Model Ordinance for a Conservation Subdivision"; noted Town needs to get better wording for their entire document; stated they rushed this through. **AZA Furtak** explained the County has an ordinance for conservation subdivisions and the overlay is different.

Sam Atkins (of Russell) said there is confusion in terms; wants this denied; was proposed quickly/ rushed through; was at Town's meeting but not allowed to speak.

Tom Galazen: (Town of Bayfield resident) Urged denial; wants it left as is; noted Russell impacts him in number of ways; this sets up user conflicts; disregards very purpose of open space.

Dave Martinson: (Russell resident) said there are 'glaring problems', there were special meetings notices posted on Saturday at 3:00 PM for Tuesday meeting. Martinson reported this began w/ Karl Kastrosky bringing Wayne Nelson's concerns to Rocky [Tribovich]; no discussion was in minutes; is concerned about possible open meeting violations. He spoke w/ Corp Counsel Bussey who said he did not know about this yet at a meeting it was stated that Bussey, Atty. Carlson, and Griff Nordling (Wayne Nelson's attorney) had participated together in discussion. Martinson also said there is improper language, two points A. & B. negate each other and did not believe it was drafted by an attorney.

AZA Furtak said when the Department or Town brings proposals forward he believes Kastrosky would contact Corp Counsel and would imagine the same would happen on on this to see if there are legal implications. He noted if other attorneys wrote the proposal it would be by request of the Town board. **Supervisor Maki** questioned if Bussey actually saw this and AZA Casina, Furtak and LUS Tulowitzly did not know stating that Director Kastrosky did not inform them of that at his recent meeting on this subject.

Tom Frizell (Valley Road, Bayfield) said he is "not opposed per se" but was concerned about impact on adjoining townships. **Casina** noted that this is only applies to Town of Russell.

File Report: **Doug Casina** noted there was no correspondence on file to report.

Rebuttal:

Rocky Tribovich said the process happened by Karl Kastrosky contacting Dave Good; Dave then called him and he called Kastrosky to let him know he had a problem with this [proposal]. He said he told Kastrosky he felt what they had was fine-- they had spent \$8000 on it. He also told him to be in contact with [Atty.] John Carlson as he is their attorney. He said they publish their notices as required by law, posting in three places, publishing in the paper, and their website is constantly updated; board members are not informed ahead of time in a special way. Tribovich stated that Karl Kastrosky and John Carlson worked on this and Kastrosky told him he 'ran it by Bill Bussey'. He added they haven't changed the overlay, just put more 'meat into it'. He also reminded the audience that this is not a conservation subdivision. RE #3, he felt there was no confusion.

Leon Basina Sr.: Reported the town has changed their meetings allowing for public input before and prior to adjournment; he reminded the Committee they were there to look at one thing regarding the Town of Russell. **Supervisor Jardine** agreed and noted they were getting away from the objective of this amendment.

Dave Martinson: reiterated the points that A. & B. cannot be justified as they are contradictory of each other. He noted wording 'shall' own some portion of open space (which is absolute, clear). 'B.' is that an entity or individual 'may' own the entire open space. **Kathy Wendling** rebuttal was a repeat of her earlier testimony.

Dave Good: the Town petitioned the Zoning Committee to change the ordinance; this amendment is specific to one portion; discussion has gotten off track, they are not here to argue other aspects of the overlay. He reported they used the Town attorney, language was recommended and Kastrosky approved it as written. **LUS Tulowitzky** asked if the Town could see the contradictory elements of A. & B. **Good** said 'no, only if you pull part of it out.' **Supervisor Jardine** asked if the first statement should say 'may' instead of 'shall' and **Good** replied he is 'OK with it if that's what the Zoning Committee wants'.

Supervisor Maki asked if there was anything from Bussey. **AZA Casina** said not as far as the Dept. knew and they did not know if Karl had met w/ Bussey. **Maki:** said if that's the procedure we should have something an opinion on file from Bussey. **Beeksma** agreed.

6. **ADJOURNMENT OF PUBLIC HEARING:** Motion by Rondeau / Harold at 3:22 PM; carried. Beeksma called for a break at this time.
7. **CALL TO ORDER OF ZONING COMMITTEE MEETING:** At 3:32 by Chairman Beeksma.
8. **ROLL CALL:** Beeksma, Jardine, Maki, Rondeau – present; Miller – absent.
9. **MINUTES OF PREVIOUS MEETING(S):** Motion by Jardine / Rondeau to approve the September 17, 2009 minutes as prepared; carried 4 yes / 0 no.
10. **BUSINESS:**

A. MCKINNEY REVOCABLE TRUST REZONE REQUEST (Industrial to Commercial) on 0.321-acre parcel (ID #04-012-2-43-07-18-2-00-116-10900) located in Assessor's Plat #2, Lot 5, Block 15, in V. 941 P. 842, Section 18, Township 43 North, Range 7 West, Town of Cable.

Motion by **Maki** to approve rezoning from Industrial to Commercial. **Discussion:** Casina reported Town Board approval was received. Motion seconded by Rondeau; carried - 4 yes / 0 no.

B. BAYFIELD ELECTRIC COOP, OWNER, & AGENT HARLAND HANNINEN REZONE REQUEST (Industrial to Residential-1) on a 3.47-acre parcel (ID #04-024-2-47-08-08-3-00-192-46000) described as Block 31 of Hessey's Addition, Section 8, Township 47 North, Range 8 West, Town of Iron River.

Motion by **Rondeau / Jardine** to approve rezoning from Industrial to Residential-1; carried 4 yes / 0 no.

- C. JAMES AKINS REZONE REQUEST (R-1 / R-3 to R-1)** on his 7.148-acre parcel (ID #04-004-2-44-09-03-3-05-004-09100) described as Lots 1 & 2 CSM #547 in V. 634 P. 135 and a parcel in V. 704 P. 281 & a parcel in Gov't Lot 4, Sec 9, Township 44, Range 9 West in V. 745 P. 138 less V. 817 P. 572, in Section 3, Township 44 North, Range 9 West, Town of Barnes.

Motion by **Jardine / Maki** to approve rezone from Residential-1/Residential-3 to Residential-1. Motion carried 4 yes / 0 no.

- D. PAUL (Rocky) TRIBOVICH (Town of Russell Chairman) PETITION FOR TEXT AMENDMENT CHANGE:** In form of an amendment to the Overlay District -Section 13-1-63(3)(a). This is specific to Town of Russell Alternative Development Ownership Minimal Open Space, to allow different ownership criteria than those currently utilized under Bayfield County Zoning Ordinance.

Jardine said it remained a fact that there is no confirmation from Corp Counsel Bussey; the Dept. tried to contact him [during break] but Bussey is out of the office. Without that confirmation, **Jardine** made a motion to table until the next meeting but then changed that motion to pass the text amendment on the condition that we get confirmation from Karl Kastrovsky and Bill Bussey that it has gone through Corp Counsel and approved for wording. **Rondeau** seconded the motion. Motion then was amended by Jardine to include the following in his motion: "substitute the word 'may' for 'shall', and the word 'structure' instead of 'construction'." **Rondeau** approved of that motion and seconded it; carried 4 yes / 0 no.

AGENDA REVIEW / ALTERATION:

E. DISCUSSION / POSSIBLE ACTION: Herding Dogs in Oulu Township

Doug Casina said he had been contacted because of complaints of barking dogs (**Mead** residence). This discussion involved whether this should be considered 'Ag use' or a home-based business. The dogs are used for herding on their property and some are sold. Since the time of the complaint, the owners have reduced the number of dogs therefore are under the number which would be considered a kennel, however, clarification of the above is still needed. Casina said he informed the adjacent property owner to contact the Sheriff's Dept. regarding noise issues.

Owner **Kate Mead** explained their Ag business. They have a variety of animals, dogs are used for the ranch's herding, they sell some, train some, and keep some. She noted the dogs are put in at 9:00 PM; they have never had a visit from the Sheriff's Dept. regarding noise. **Casina** asked the Committee if they consider this consistent w/ Ag use or if a permit is required. **Rondeau** stated that in raising hunting dogs not all are good for hunting and people sell some, this should be no different. **Maki** said they should leave this alone-- it is part of their farm and **made a motion to consider it Ag business**. **Jardine** seconded the motion. **Discussion:** **Beeksma** said that Duane Lahti walks his dogs past this property and the dogs bark. **Mead** noted that his dog barks as well and has been on their property unattended. She said they spoke with their other neighbors; they said the dogs did not annoy them. **Maki said their position is this is an Ag business.** Motion carried 4 yes / 0 no.

F. CITIZENS' CONCERNS / INPUT:

- **Maki:** Receives calls about length of time to get permits, some feel the time is 'excessive'. He asked if the Dept. goes out looking for problems, septic, and others. He said some are upset about septic pumping and upset how it is handled. **AZA Furtak** reported that if the monthly report is looked at, the Department is very busy with permits and noted they don't have time to go out looking for problems.
- **Maki** referred to the above issue [Item E] asking why we are dealing with things like that. **AZA Casina** reminded him the Dept. has to respond to complaints when they come in and that's how that issue came about. He said the issue was they had fifteen dogs and were selling on the internet. **LUS Tulowitzky** noted that this August and September was busier than last year and also stated he has never driven around the county looking for things; if he drives by on an inspection, and sees problems he will check into it. Permit applicants are told it is usually a 2-21/2 week minimum to get a permit. **Maki** said some say it has taken a month or more. The Dept. pointed out to the

Committee that there are many factors involved, including waiting for Town approval, complete paperwork to be submitted, etc.

- **Jardine** said he gets complaints regarding sanitary pumping from people who say they have never pumped, or haven't in 10 years, now the State requires three years.
- **Maki**: expressed concerns over the Town of Russell amendment [Item D.] and that the Doug and the Dept. should have been brought into the loop, but it was just Karl. **Casina** said after checking with Deb in the office, Bussey would have been noticed as always regarding the meeting / text amendment and there was no response from him. **Maki** said he will instruct Kastrosky to **get Bussey's legal opinion and bring it to next month's meeting.** He also said he **wants to be informed of the decision prior to it going 'out'.**

G. DISCUSSION / POSSIBLE ACTION: Comprehensive Planning

- **LUS Tulowitzky** said the draft plans have been in the hands of towns since Sept. The next meeting is to make minor changes to plans based on the individual plans commissions came up with. **Jardine** suggested all supervisors all attend the meeting.

H. OTHER ITEMS THAT MAY COME BEFORE THE COMMITTEE (discussion only):

- It was reported that a letter Re UDC (Uniform Dwelling Code) was sent to town clerks that the State may be taking over some of the townships versus private inspectors.

11. MONTHLY REPORT: ***Jardine** made a motion to approve and place the report on file; seconded by **Maki**; carried 4 yes / 0 no.*

12. BUDGET & REVIEW: **Jardine** noted the executive committee budget is proposed.

13. ADJOURNMENT: ***Motion by Jardine / Maki** to adjourn at 4:14 PM; carried.*

**KARL L. KASTROSKY, DIRECTOR
BAYFIELD COUNTY PLANNING / ZONING DEPT.**

Prepared 10/28/09 by mjj
Approved by DC on 11/6/09

K/ZC/Minutes/2009:#10Oct

cc: Administrator; Clerk; Corp.Counsel; DNR; Committee; Supervisors; Sheree Bye 62245 Delta Lake Rd, Iron River WI 54847