

MINUTES
Bayfield County Planning / Zoning Committee Public Hearing / Meeting
September 17, 2009 – 4:00 PM
Board Room, County Courthouse, Washburn WI 54891

1. **CALL TO ORDER OF PUBLIC HEARING:** *By Chairman Jim Beeksma at 4:06 PM.*
 2. **ROLL CALL:** *ROLL CALL: Beeksma, Jardine, Miller-- all present; Rondeau- absent / excused; Maki- absent.*
 3. **AFFIDAVIT OF PUBLICATION:** *Read by Director Karl Kastrosky.*
 4. **REVIEW OF MEETING FORMAT:** *By Chairman Beeksma.*
 5. **PUBLIC HEARING:**
 - A. **ROBERT A. RUCKER, OWNER, (TOM LAMMERT, AL AMUNDSON and JIM WARGIN, AGENTS) CONDITIONAL USE REQUEST: Exceed 35' height restriction limitation for structures placed in a shoreland zone** (structure will be increased from 35' to 38'). The property is a 2.07-acre parcel (ID# 04-004-2-44-09-08-3-05-006-09000), located in Gov't Lot 6, Section 8, Township 44 North, Range 9 West, Town of Barnes.

Agent, Jim Wargin addressed the Committee. Director Kastrosky explained the request noting this exceeds the restriction therefore must be a conditional use permit and stated the chimney does not count in the measurement. Wargin said the height is about 37.50 ft to the top of the roof. AZA Mike Furtak noted height of 37.50 ft. is the plan but they listed 38 ft. allowing for slight variation; there is new septic as well as mitigation plan.

File Report: Kastrosky said the Town tabled this item for the land use commission's further consideration; he reminded the Committee to reflect on conditions at this time if desired. It was noted there is a berm on the property which is covered with grass and some small planted trees which will add screening in the future. Wargin stated that Mr. Rucker said he would also plant more screening if that is requested. Furtak noted two berms on the property-- one at the structure location, one at the lake.
- Opposition / Support :** *None*
6. **ADJOURNMENT OF PUBLIC HEARING:** *Motion by Jardine / Miller to adjourn at 4:18 PM.*
 7. **CALL TO ORDER OF ZONING COMMITTEE MEETING:** *By Beeksma at 4:18 PM.*
 8. **ROLL CALL:** *Beeksma, Jardine, Miller-- all present; Rondeau- absent / excused; Maki- absent.*
 9. **Minutes of Previous Meeting(s):** June 18, 2009 – motion by Jardine / Miller to **approve as prepared**; carried 3 yes / 0 no. [Note: July 16, 2009 minutes previously approved.] August 20, 2009 – Motion by **Jardine / Miller approve as prepared**; carried 3 yes / 0 no.
 10. **Business:**
 - A. **ROBERT A. RUCKER, OWNER; (TOM LAMMERT, AL AMUNDSON and JIM WARGIN, AGENTS) CONDITIONAL USE REQUEST: Exceed 35' height restriction limitation for structures placed in a shoreland zone** (structure will be increased from 35' to 38'). The property is a 2.07-acre parcel (ID# 04-004-2-44-09-08-3-05-006-09000), located in Gov't Lot 6, Section 8, Township 44 North, Range 9 West, Town of Barnes.

Kastrosky said applicant can meet standards of the zoning ordinance from what he knows of the site. Furtak said it absolutely can and would be a big improvement from what was there before. Kastrosky stated that the

Town chose to table this; the Committee could also table it, however, Mr. Wargin was present at the Town's meeting-- they could have questioned him then.

Motion by Miller / Jardine to **approve with conditions that the berms be kept in place and that it meets zoning standards, setbacks, buffer zone**; carried 3 yes / 0 no.

Agenda Review and Alteration

- B. PETER MATTISON / JOAN SUTLIFF SPECIAL USE REQUEST: Residence in Commercial Zone** located on a 4.48-acre parcel (#04-004-2-45-09-34-1-03-000-60000) Lot 1, CSM 1431 in the SW ¼ of the NE ¼, Section 34, Township 45 North, Range 9 West, Town of Barnes.

Joan Sutliff reported there are no buildings on the property now. AZA Furtak noted two recreational vehicles (RVs) present at this time, location is along County N, it is wild land, close to the recycling center; the Town sees this in the future as a commercial corridor so they do not want to rezone. File Report: Kastroosky noted the Town said it meets their regulations; Town approval is on file; they do not approve RVs for more than two years at a time.

*Motion by Jardine / Miller to **approve**. Discussion: Kastroosky said the structure is 280' back from County N, so it is a decent plan and Furtak noted it is a modest cabin. Ms. Sutliff stated they would also like to move a storage structure so both items are included on the application. Jardine **amended his motion** to approve both items. Miller seconded the amended motion. Motion carried- 3 yes / 0 no..*

- C. PAUL NORRIS & SUSAN RADTKE SPECIAL USE REQUEST: Home-Based Business (Open Maintenance & Caretaking)** located on a 2.67-acre parcel (#04-008-2-49-04-16-4-05-004-09500) in Govt. Lot 4, Lot 1 CSM 1136, Section 16, Township 49 North, Range 9 West, Town of Bayview.

Susan Radtke presented a business brochure; she stated there would be no signage and this is conversion of a garage into administrative office space. They will contract w/ people who will actually do the work off-site; there will be no trucks or customers on the property.

*Motion by Miller / Jardine to **approve** this home-based business. File Report: Kastroosky said Bayview approved this request with no conditions, stating compatibility w/ their land use plan. AZA Furtak asked if the applicant is considering being an agent for short-term rentals of properties and the answer from Ms. Radtke was "no". Motion carried, 3 yes / 0 no.*

- D. CYNTHIA L. BRUNOLA-CONSELA [CORRECTION: CYNTHIA L. BRUNOLD-CONESA] SPECIAL USE REQUEST: Private School** (small school - up to 12 students) located on a 18.17-acre parcel (#04-020-2-47-05-29-4-04-000-20000) in the SE ¼ of the SE ¼, Section 29, Township 47 North, Range 5 West, Town of Eileen.

Cynthia Brunold-Conesa spoke on behalf of this request, correcting her name from what was listed by the Zoning Dept. (Cynthia, not, Cynthia; last name is Brunold-Conesa, not Brunola-Consela. She wants to convert a building into a classroom for a maximum of twelve (12) students, with part of the building to be a school office; she said she has State approval.

File Report: Kastroosky said the Town approved this as it is compatible w/ their land use plan and is good for Town progress. It was noted that Ms. Brunold-Conesa has Wisconsin teacher's certification for grades K-6. Kastroosky reminded the applicant that if the school should exceed twelve students she would be required to open up the permit again for further approval.

*LUS Travis Tulowitzky reported that the sanitary system is a mound about five or six years old; he noted he spoke w/ someone at the State regarding the formula they use to approve the size of a system, the number of students and number of hours present, etc. Motion by Miller / Jardine to **approve**; carried 3 yes / 0 no.*

- E. BRUCE / PATRICIA LINDGREN SPECIAL USE REQUEST: Residence in Commercial Zone** located on combined parcels (#04-01402-50-07-09-200-152-2000 & -3000) in the Govt. Lot 2, Lot 3 of Clover's First Addition to Herbster, in the NW ¼ of the NW ¼, Section 9, Township 50 North, Range 7 West, Town of Clover.

Bruce Lindgren stated they purchased said property for commercial development, (landscape business, Raindrop Garden Gallery and operated it until approximately two years ago. They now have a consulting business, maintaining office space there; a greenhouse is on the property; municipal sewer, and a small storage building. They are refocusing two businesses, and implementation would be facilitated if they could establish a residence there. He noted they are not asking for a rezone.

Chairman Beeksma asked if they want to build another structure and **Lindgren** answered, "eventually, but now would be doing some conversion of the present building"; plans would also be to add buildings to the property which consists of two lots combined into one property; they want to continue to develop the two-lot parcel. **Lindgren** noted their main consideration now is if they can place a dwelling on the commercial site.

AZA Doug Casina said the Town has is concerned that they plan to live on the property. **Kastrosky** noted the Town comments that they approve but only for the present applicants and any future new owners can reapply if desired. **Casina** said the Planning Commission wants to make sure the property is sold 'commercially' not just as a residence in the future.

Lindgren said that having everything [business / living quarters] in one location would be advantageous to them and needs to take the Town's condition into consideration in order to move forward with their plans. He added that the Town's interest might be "better served" if the condition would be to stipulate that the property be maintained / continued as commercial activity. **AZA Casina** reported that he stands by the wording of the Town Board approval but noted he was speaking for himself, and could not speak for the Town Board [regarding change of wording].

Jardine made a motion to **approve with the condition that they maintain commercial activity as allowed by Bayfield County Zoning Ordinance, and that approval will be for one ownership; new owners would have to reapply.** **Second by Miller.**

Discussion: **Lindgren** stated that adjoining land owners have been contacted and have not expressed opposition. **Kastrosky** again read the Town's language: "We approve but only want this to apply to present applicant. New owners can re-apply if they want to." **Lindgren** said the challenge is to have some certainty of terms/conditions before moving forward and this leaves uncertainty.

It was asked that Jardine's motion be read; **Miller then confirmed his second of the motion as stated.** **Kastrosky** noted that a commercial building could be built without coming back to the Zoning Committee but would be required if they build a residence. **Casina** said the Town is concerned about protecting the small amount of commercial property in Clover. **Lindgren** stated the Town was very clear in not wanting this to turn into residential property and said he believes his suggested conditional language would cover that so a commercial venture must always remain on the property. **Motion then carried as presented;** 3 yes / 0 no.

- F. RONALD LEE NELSON – ALTERNATIVE DEVELOPMENT:** located in the NE ¼ of the NE ¼, Section 22, Township 51 North, Range 4 West, Town of Russell.

Director Kastrosky explained this 40 acre-situation, the Dept. took the application in; they have an overlay; thought they had 'a glitch' in the language and drafted language to amend. Cannot deal w/ this issue, it doesn't conform to the ordinance; the Committee will see an amendment on a future agenda. Jardine / Miller made a motion to **postpone this item;** carried 3 yes / 0 no.

- G. NEIL SCHULTZ REQUEST TO ADDRESS THE COMMITTEE: RE Terrance Brandenburg property** (located in the SW ¼ of the SW ¼, Section 27, Township 45 North, Range 6 West, Town of Grand View).

KASTROSKY reported that Neil Schultz asked to be on the agenda, however, Mr. Brandenburg asked that it be removed as he wants to work directly w/ the Zoning Dept. to resolve the current situation. **Kastrosky** also reported that copies of factual information was sent to appropriate parties prior to removal from the agenda.

- H. DISCUSSION / POSSIBLE ACTION RE WOODCARVING IN AG DISTRICT:**

AZA FURTAK noted this Item relates to a parcel in Cable on County M, owned by the Town Chair, is zoned Ag-1

owner is a logger and conducts firewood sales there. There now is a chainsaw carver creating items to sell at that location; complaints have come in from retailers who believe he must obtain a permit, however, there is nothing in the Zoning ordinance to cover this but he believes because of the area and type of work, it would be a special use permit.

The question to the Committee was what type of permit would be recommended. It does not qualify as a home business (owner does not live on the property), it would have to be a craft-shop-type application for firewood production and sales. It was noted that complaints were only in regards to this business having a permit like others must have.

Kastrosky stated it is a requirement to ask the Committee's opinion for this commercial activity in an Ag zone. Agreement was sought to use the right process (special use or conditional use)? **Beeksma** suggested to make this a special use permit and the Committee agreed.

I. DISCUSSION / POSSIBLE ACTION RE COMPUTER ISSUES:

Kastrosky reported the difficulty the Dept. has encountered dealing w/ living within our budget when productivity is decreased by computers not working, or not working properly. He noted that Mike's laptop went down last October and it took until two months ago, however, then it came in they had forgotten to order the docking equipment. There continues to be a problem with lack of, or slow response; Doug hasn't had email for weeks. This has been brought to the attention of Administration numerous times, however, problems continue. **Kastrosky** also noted that at a past Dept. Heads' meeting this same issue was listed as the 'top problem'. **Kastrosky** asked that the Committee keep alert of this situation as it is difficult to get things fixed. **Miller** said he would see that this problem is placed on the Full Board's agenda; **Jardine** and **Beeksma** agreed.

J. DISCUSSION / POSSIBLE ACTION RE SHORELAND VIOLATIONS (Enforcement):

Director Kastrosky noted that this discussion will continue on into Item K as well, and said when conditions are agreed to by land owners, they have entered into a contract, an affidavit is prepared and recorded with their deed stating that they will comply, however, some are just ignored. He would like to have Land Use Specialist Travis Tulowitzky be more active w/ mitigation plans & enforcement and believes Zoning can probably take mitigations back [from Land Conservation] and complete them quicker. He said Land Conservation would still be our guide but they don't have enforcement authority as Zoning does.

Kastrosky reported there is a penalty in place but we aren't 'hitting enforcement as hard as we should'. **AZA Furtak** noted that now all the citation money goes to the Clerk of Courts, yet Zoning does the work and it is the same w/ sanitary enforcements; some counties set up a short form summons / complaint which goes back to the proper department helping them to actually do the enforcement; another option is a law suit, however, that becomes very expensive / time consuming. **Kastrosky** said this isn't referring to when / if a violation is found it's in regards to those who agree to comply but don't.

K. DISCUSSION / POSSIBLE ACTION RE POWTS (Private Onsite Waste Treatment System) Increase of Forfeiture:

Kastrosky (continuation of above discussion) RE those who aren't complying with pumping; we send courtesy reminder post cards, plead with, some don't comply, don't pay their tickets, and in the end still didn't pump. He noted we aren't taking action and understand there is 'political will' to be considered. He said Corp Counsel Bill Bussey suggested we could make the forfeiture higher, Clerk of Courts would get their fees but we would retain a portion because the Zoning Dept. does all the enforcement work.

Land Conservationist Butch Lobermeier referred to the extra expense to taxpayers when things have to be revisited that people agreed to do in the first place; a lot of time is taken up w/ these types of issues and if we can't get resolution it only promotes 'more bad apples'.

Supervisor Miller asked how we can expect to collect \$200 if we can't collect \$400? **Kastrosky** said we will have to have political will or we won't be able to do this but would like a way to capture revenue for all of our work for agreements that have been entered into but not complied with. He also noted he has tried to get reimbursed by Clerk of Courts but has been told that's not possible. **Miller** said this sounds like budget issue

and correction is needed for funds to go to the right department; he said he will put this on the next County Board meeting agenda.

L. CITIZENS' CONCERNS / INPUT:

AZA FURTAK: Reported the **DNR wants a storage building** in Barnes on F-2 property; garages are not allowed, only fire towers or gravel pits (w/ permits). He met w/ the DNR today and fees would be \$1400 (= \$250 meeting charge + building cost). DNR (Madison) said they would not pay it as they are exempt. **Furtak** noted it is not even allowed in F-2 and asked if he should tell them they can't build it, or 'cave' and take the application without the money. **Committee consensus** was 'tell them it is not allowed'.

M. DISCUSSION / POSSIBLE ACTION: COMPREHENSIVE PLANNING

- **Kastrosky** reported meetings on Sept. 28, 29, 30, and Oct. 1st. (28th for all towns at the Ag station; 29th is County Board; 30th meeting is at the Visitor Center for the north and on the 1st at Grand View for the south townships.

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

11. **MONTHLY REPORT:** Jardine / Miller moved to **approve as prepared**. **Discussion:** **Kastrosky** noted because of the sanitary maintenance / tracking program, 60% of the systems going in are because of failing tanks or no tanks, etc. which raised \$24,000 and that 8000 systems are now in the database out of approx 10,000.; should be complete within a year or so. It was noted that permits have been applied for as a result of the tracking program plus some obtained through the pictometry system and tax records. The '911 database' was questioned as a source, however, it was noted it is not up-to-date. Motion to approve then carried, 3 yes / 0 no.
12. **BUDGET and REVENUE:** **Kastrosky** stated that the Administrator approved our budget; it was trimmed down; there are revenue challenges for 2010. Grants are actively being written; now subsidizing budget w/ grants to survive but some discussion continued RE being successful in obtaining grants and they are used to benefit the County but when the grant runs out it is held against the dept.
13. **ADJOURNMENT:** Motion by Miller / Jardine – adjourned at 5:41 PM; carried.

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

Prepared 09/28/2009 by mij
Approved by KLK on 9/28/2009

K/ZC/Minutes/2009:Sept.

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