

MINUTES (Revised 7/21/2011)
BAYFIELD COUNTY PLANNING / ZONING COMMITTEE
Board Room, County Courthouse – Washburn, WI
Public Hearing / Meeting – 1:00 PM - January 20, 2011

1. **CALL TO ORDER OF PUBLIC HEARING:** *By Chairman Rondeau at 1:04 PM.*
2. **ROLL CALL:** *Jardine, Maki, Miller, Rondeau, all present; Rantala, absent.*
3. **AFFIDAVIT OF PUBLICATION:** *Presented by Director Karl Kastrosky.*
4. **REVIEW OF MEETING FORMAT:** *By Chairman Rondeau.*
5. **PUBLIC HEARING:**
 - A. **PETITION TO AMEND TITLE 13 – Petition by Karl Kastrosky, Director of Planning & Zoning, on behalf of the Bayfield County Planning & Zoning Committee, requesting amendments to the Bayfield County Zoning Ordinance, including the following:**
 1. Amendment removing the requirement that a Conservation Subdivision in an A-1 or F-1 zoning district have no more than three (3) units.
 2. Amendment removing reference to the requirement that a Conservation Subdivision in an A-1 or F-1 zoning district have no more than three (3) units.

Director Karl Kastrosky stated that the goal was to seek clarity by eliminating three units. After he & Supervisor Bill Bussey discussed this, and after listening to some public input, he asked for Committee-consensus to re-hear this after further consideration/work.

Support:

Wayne Nelson, Town of Bayfield, spoke in favor; said it addresses conflicting issues.

Opposition:

Bill Bussey, Town of Bayfield, expressed concerns w/ eliminating the provision; discussed current F-1 designation / requirements & items that need to be considered / worked out yet. Suggested this be reconsidered after more review w/ B.C. Corp Counsel / Zoning Dept.

Mark Wendling (Russell) expressed concerns that conservation subdivision 'seems to be residential'; asked that this would be proceeded upon carefully / cautiously.

Kathy Wendling (Russell) presented concerns including 'understanding' of it; asked for this to be tabled & looked at more carefully.

Kastrosky asked that this be tabled for more time to work on this amendment.

- B. **PETITION TO AMEND TITLE 13 - Petition by Karl Kastrosky, Director of Planning & Zoning, on behalf of the Bayfield County Planning & Zoning Committee, requesting amendments to the Bayfield County Zoning Ordinance, to create a municipal and institutional zoning district.**

Kastrosky said many towns have municipal designations in their plans for schools, libraries, town halls, etc., however, the county does not have municipal as a zoning district. He reminded the Committee of a town having to come before the Committee in the past for approval of a 'salt shed'. This amendment would eliminate that step with the Dept. being able to approve the permit with a 'municipal designation'.

Support: *Wayne Nelson in support but asked that they consider what would happen to municipal buildings if they are sold / no longer used as such.*

Opposition: *None*

- C. **PATRICIA HOOD (Owner) / BRIAN MATTHYS (Agent) CONDITIONAL USE REQUEST – Construct / operate 30,000 gallon propane storage / distribution facility:** located on part of Owner's 35-acre parcel (part ID# 04-022-2-47-09-12-1-04-00-10000), S ½ of SE ¼, SE ¼, NE ¼, Section 12, Township 47 N, Range 9 W, Town of Hughes.

Agent Brian Matthys said this property is a 4.5-acre parcel with purchase agreement on hold awaiting Committee approval / disapproval. Only a tank will be on the property, nothing else to be stored there.

Kastrosky noted the adjoining property owners: Russ Swartz; Eileen Hood; State of WI DOT; Plum Creek Timberlands. TBA form was checked by the Town of Hughes as approved, however, did not check the box as being compatible w/ their land use plan. As a Town Supervisor, Mike Furtak stated it is compatible / meets future land use plan and is in a good location; he initialed the form as 'approved'.

Supervisor Miller asked about the Tri-County Corridor location. Matthys said the tank will be placed on the south side of the property, trees will screen it and will be seen from the corridor 'through the trees'.

Support / Opposition: None

Kastrosky reported no input / correspondence on file, and being less than five acres a CSM (certified survey map) will be required

- D. **CHARLES / CONNIE ROE AFTER-THE-FACT CONDITIONAL USE REQUEST – Continue to operate Edgewater East & West duplex (2-unit) as short-term rental:** on 2.31-acre parcel (#04-034-2-43-06-21-1-05-001-06000), Town of Namakagon.

AZA Mike Furtak reported this property is managed by Lakewoods but privately owned for many years; consists of two units to be brought into compliance (as some others heard at past meetings in this situation & were missed).

Support / Opposition: None

File Report: *Kastrosky said the Town approved, noting compatibility w/ their plan. They placed a condition: "No other structures or vehicles, permanent or temporary, can be placed on the property for human habitation or business, until this short-term vacation rental is terminated."*

6. **ADJOURNMENT OF PUBLIC HEARING:** Motion by **Jardine / Miller** at 1:33 PM.
7. **CALL TO ORDER OF PLANNING / ZONING COMMITTEE MEETING:** By **Chairman Rondeau**, 1:33 PM.
8. **ROLL CALL:** *Jardine, Maki, Miller, Rondeau, all present; Rantala, absent.*
9. **MINUTES OF PREVIOUS MEETING(S):** Motion by **Maki / Miller** to **approve** the Dec. 16, 2010 minutes as prepared, no additions / corrections; carried 4 yes / 0 no.
10. **NEW BUSINESS:**

- A. **PETITION TO AMEND TITLE 13 – Petition by Karl Kastrosky, Director of Planning & Zoning, on behalf of the Bayfield County Planning & Zoning Committee, requesting amendments to the Bayfield County Zoning Ordinance, including the following:**

1. Amendment removing the requirement that a Conservation Subdivision in an A-1 or F-1 zoning district have no more than three (3) units.
2. Amendment removing reference to the requirement that a Conservation Subdivision in an A-1 or F-1 zoning district have no more than three (3) units.

*Motion by Miller / Jardine to **table**. Kastrosky said he missed noting a file item from Bayfield Twshp. stating they oppose Item A. (1. and 2.). Carried 4 yes / 0 no.*

- B. PETITION TO AMEND TITLE 13 - Petition by Karl Kastrosky, Director of Planning & Zoning, on behalf of the Bayfield County Planning & Zoning Committee, requesting amendments to the Bayfield County Zoning Ordinance, to create a municipal and institutional zoning district.

Motion by **Miller / Maki** to table Item B for further consideration / work. Carried 4 yes / 0 no.

- C. PATRICIA HOOD (Owner) / BRIAN MATTHYS (Agent) CONDITIONAL USE REQUEST – Construct / operate 30,000 gallon propane storage / distribution facility: located on part of Owner’s 35-acre parcel (part ID# 04-022-2-47-09-12-1-04-00-10000), S ½ of SE ¼, SE ¼, NE ¼, Section 12, Township 47 N, Range 9 W, Town of Hughes.

Motion by **Jardine / Maki** to approve. Discussion: **Kastrosky** asked if they chose to amend / include in their motion that a CSM is required. Motion amended by **Jardine / Maki** to: approve with the condition a certified survey map is required. Carried 4 yes / 0 no.

- D. CHARLES / CONNIE ROE AFTER-THE-FACT CONDITIONAL USE REQUEST – Continue to operate Edgewater East & West duplex (2-unit) as short-term rental: on 2.31-acre parcel (#04-034-2-43-06-21-1-05-001-06000), Town of Namakagon.

Maki / Miller motioned to approve. Discussion: **Kastrosky** suggested it might be desirable to add the Town’s conditions to the motion. **Furtak** stated he has talked with some Town officials regarding the condition they place on short-term rentals. The condition is in regards to placing other structures on the property (i.e. RVs / buildings) for human habitation for rental purposes. Motion amended by **Maki / Miller** to approve with the following condition: “No other structures or vehicles, permanent or temporary, can be placed on the property for human habitation or business, until this short-term vacation rental is terminated.” Motion carried 4 yes / 0 no.

AGENDA REVIEW / ALTERATION:

- E. TIMOTHY CARLSON SPECIAL USE REQUEST – Home-Based Business (mail order sporting goods): located on 26.8 +/- acre parcel (#04-014-2-50-07-33-1 03-000-20000) in SW ¼ of NE ¼, Section 33, Township 50 N, Range 7 W, Town of Clover.

Kastrosky noted the Town approved the request but did not check if it was compatible w/ their town plan, however, the attached minutes clarified this issue and states it is compatible. **Miller / Maki** made a motion to approve.

Discussion: **Mr. Carlson** stated he will not allow public shooting on site; he estimated there is a possibility there could be a small number of sales on site (he approximated a maximum of two dozen). Sales will be internet-based, however, if a local customer makes a purchase they may want to save shipping and pick up their order on site. He also noted he has approval w/ F.F.L. for sporting sales. Motion then carried 4 yes / 0 no. to approve.

- F. WAYNE NELSON UPDATE & REQUEST - Expansion of existing special use permit for contractor & outside storage (postponed on 11/18/10): 4.13-acre parcel (#04-006-2-50-04-02-4 04-000-21000 and ...24000) described as Lot 1 & located in both the NE SE of the SE, and Lot 4 in the SE of the SE, all part of CSM #1665, Section 2, Township 50 N, Range 4 W, Town of Bayfield.

Wayne Nelson presented overhead maps / history; said his residential property was never ‘in the Association’; pointed out residence / storage areas. Nelson showed the area permitted and stated it wasn’t discovered that it was the wrong description. He said he is not asking to expand his business or the footprint, but to change the area where the storage was permitted to where it is actually located; it is farther back from the road there and he has created berms there and believes that is the proper area for storage. Nelson said there was some confusion w/ this request as some thought he is seeking to expand; that is not the case. He said the original permit description would allow storage to be in view of neighbors; the current site is much more hidden.

Nelson said his permit was issued in 1991; originally there were no other neighbors. He received a complaint in 2005 & then made additional berms. He believes the “intent of the permit” is in compliance,

but is not as far as legal description. He stated he wants to comply / maintain screening; also noted he has never put that property into Eagle Bluff.

Supervisor Maki believed Nelson was aware and “just went ahead and did what he wanted to do”.

Nelson said he has been running his business the property and noted there was no other available property for him to locate on at the time; and also said “it is not a junk yard”.

Supervisor Miller asked if any items there are ‘junk or inoperable’ pieces of equipment. **Nelson** said he has had some and has taken several loads to Chicago Iron, now there is construction equipment, items used in his business such as cones etc. He said as soon as he gets a pile of scrap metal delivers to Chicago Iron. **Nelson** talked about the former application/permit which lists items on property for business noting some equipment has been replaced and upgraded through the years.

Director Kastrosky reported the Town denied this request; he read documentation attached to the TBA form. He noted the Town Plan Commission said the property is zoned Ag-1 but is depicted on the future land use map (of Comp. Plan) as ‘Residential’. **Kastrosky** said this is an interesting comment because the business was in place before the Comp. Plan came about and is possibly considered ‘grandfathered’. He also noted that no one in the Planning / Zoning Dept. was here in 1991; the issue to be considered is was it excessive at that time.

AZA Casina confirmed that present materials are similar to 1991, with some newer equipment. Some items may be questionable such as tires, mowers, boats, and personal property. He noted it is fairly well screened from the road; Nelson has made attempts to screen it. Casina said there is also a personal 10’x10’ shed for storage of lawn mowers etc. on the parcel.

After opposition expressed by **Maki**, **Nelson** asked if Maki would abstain due to conflict of interest / land ownership issues in the area. **Rondeau** stated that would be covered later in the meeting.

Supervisor Bill Bussey noted he was speaking as attorney on behalf of five individual owners of lots near Nelson’s property (Gary Madson, Stewart Gregg, John Lindell, Cia Ayen, Jan Menich). Bussey reviewed initial permit storage area, maps/photo, equipment list, designated areas/distances; 1991 Town Board recommendation w/ no further expansion, 2010 letter from Zoning noting public complaint / possible violation of storage not being in authorized location.

Bussey said on behalf of his clients, property was purchased jointly (Nelson/Bob Davidson) for a residential subdivision; was limited to ½ acre, now is 2-1/2 acres and request is 4-1/2. Property owners relied on lots ½-acre lot limitation and now the area is larger, in the wrong spot. He questioned why Nelson never came back [to Zoning] until the violation letter was received. Bussey added the ordinance states if there is not compliance, the permit shall be terminated and noted materials were never placed where authorized; he believes there is a legal argument and the permit term is one year after issuance.

Jardine said moving away from the original permitted area appears to be better. **Bussey** said a permit doesn’t exist for the current area. **Miller** and **Rondeau** agreed with Jardine that the current location is a better choice.

Rondeau questioned if this [decision] is actually up to the Zoning Committee. **Kastrosky** said he would be ‘hard pressed’ in this setting to recommend changing the permit; the only way he could see is a Class B Special Use application which would go to the Town and Plan Commission to go through the process... it can’t ‘just be changed’. **Rondeau** asked if the ‘Association’ might be willing to work on this.

John Lindell (of Eagle Bluff Assoc. / neighbor to the south) expressed concern as adjoining property owner; he noted a letter sent [to Zoning] by Brad / Glenna Anderson of Roscoe IL concerned about expansion of Nelson’s commercial operation; about purchase of their property w/ understanding of association covenants, conditions, restrictions, protections etc.; concerned about property values and consideration for those seeking to purchase residential property in the future.

Jardine asked Kastrosky for clarification regarding an earlier comment he made about being ‘politically correct’ and asked if he meant that or meant ‘legally right’. **Kastrosky** answered, ‘both’. He also said enforcement action could have been taken but there is the question of was it ‘known’ or perhaps ‘negligence’.

Miller asked if **Nelson** could / would sit down for discussion with the Association Council and neighbors, then come back with an application. **AZA Casina** said he worked with **Nelson** on the [current] application believing he was asking for a new area (4.13 acres) and the application before Committee is on that portion. The application asks for 'updating and expanding existing special use permit without restrictions; [for] contractor and outside storage'. **Casina** said the new application defines the correct area.

Miller again asked for consideration of the parties sitting down for discussion.

Lindell agreed with **Kastrosky** that due process needs to happen. He said in 2005 he was aware of the operation [Nelson's] and purchased property based on regulations there and built a residence in 2006. **Lindell** was agreeable to discussion with Zoning and Nelson to see what can be resolved; he is not seeking to shut down Nelson's business but seeking compliance and laying out that future permit would not be 'over-regulated but carefully crafted', and possibly another place to operate his business from as that is a residential area. He was concerned how compatible Nelson's business is with residential and if sold, would the business go with the land.

Jardine said he would like Nelson to remain farther away from what the original permit allowed. **Rondeau** then questioned if they should move to deny today then go back to seek settlement. **Miller** wanted to see this worked out between the parties if possible. **Kastrosky** asked about enforcing the zoning code... how long to wait... is this a violation? **Miller** said if the rules define a violation, then 'let's apply it'. **Rondeau** said it is a violation. **Jardine** said it has been a violation for 20 years and he doesn't agree in 'lowering the boom' now but to fix it. **Miller** suggested a timeline of 30 to 60 days to work things out and if they can't then enforce and reapply. **Rondeau** suggested 60 – 90 day timeline. **Maki** disagreed with giving more time. **Kastrosky** said a decision needs to be made regarding the violation, proposed corrective action, the interim period, moving of equipment, etc. **Bussey** said the Town recommended expansion be denied.

Miller made a motion to deny this request. Jardine said he'll seconded motion but would like to see instructions placed on it as to what to do. Kastrosky stated he would again 'push for a decision on the violation and what should he do to take corrective action'. **Miller stated along with denying that permit he wants a clause be added to amended-his motion to grant a 90 day window to work something out with the other Group (Eagle Bluff Association) and come back with a new application and if it that 'doesn't pan out' then to reconsider it he'll have to move it off there. Jardine seconded the clause added to the motion.**

Discussion: Nelson referred to the letter from AZA Casina (2010) re complaints and the Zoning Committee voted it was compliant at that time and 'no one here knew that it was not in compliance'.

Maki stated as a property owner [in that area] he would abstain from voting. **Motion to deny was then carried as made and amended; carried 3 yes / 1 abstained (Maki).**

Rondeau called for a break at 2:59 PM; called back to order at 3:05 PM.

11. OTHER BUSINESS:

- G. RESOLUTION RE AMENDMENT – of County Comprehensive Plan:** **Kastrosky** said there were several changes; the composite land use map is done and was presented. He said the towns don't have to amend now but when/if they have changes. The resolution asks for towns to hold public hearings on their own; they won't come to Committee. Motion by **Miller / Jardine** to **approve** & sign the resolution. Carried 4 yes / 0 no.
- H. DISCUSSION / POSSIBLE ACTION – Comprehensive Planning:** **Kastrosky** reported 'default of contract' until he suggested the County could file legal action and it finally moved forward and the map 'got done'.

- I. **DISCUSSION / POSSIBLE ACTION – NR-115:** *Kastrosky* said there is progress on a development guidebook for 72 counties but noted there is a difference between the modified ordinance and the ‘real world’; they have about a year to complete it.
- J. **DISCUSSION / POSSIBLE ACTION – Proposed solution from 7/15/2010 joint meeting:** *Kastrosky* reported on new software to create a database for landowners who agreed to mitigate in order to receive a permit and those in violation. The July 2010 meeting [Land Conservation, BOA, Zoning Dept. & Committee] brought up concerns regarding violations not followed up on.
12. **MONTHLY REPORT(S):** Motion by *Jardine / Miller* to approve Nov. & Dec. 2010 reports as prepared. Carried 4 yes / 0 no.
13. **BUDGET & REVENUE:** *Kastrosky* noted the final budget was approved, after originally being adjusted downward, but then approved without further changes by the County Board.
14. **ADJOURNMENT:** At 3:20 PM.

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

Attachment(s): Title 13 Petition to Amend Documents (Items A & B)
Cc: ZC; County Supervisors, Admin. & Clerk; DNR; Web

Prepared by mjj 2/1/2011
Approved by KLK on 2/10/11
ZC Approved with correction (7/21/11)

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