

**MINUTES  
BAYFIELD COUNTY PLANNING AND ZONING COMMITTEE  
PUBLIC HEARING AND PUBLIC MEETING  
NOVEMBER 17, 2011**

1. **Call to Order of Public Hearing:** Chairman **Rondeau** called the public hearing to order at 1:00 pm.
2. **Roll Call:** **Jardine, Miller, Rantala, and Rondeau** – all present. **Maki** - absent

Others present were: Director-Karl **Kastrosky**, Deb **Kmetz** – Office Manager, and Krystal **Hagstrom** - Clerk.

3. **Affidavit of Publication:** **Kastrosky** showed the audience the October 27th and November 3rd affidavit of publication and the certified mailing receipts.
4. **Review of Meeting Format** – Chairman **Rondeau** explained the procedure of the meeting. He asked everyone who wished to speak to fill out a form; and stated they will be asked to come forward and speak into the microphone.
5. **Public Hearing:**

**A. A petition by Karl Kastrosky, Director of Planning and Zoning, to Amend Title 13**  
(13-1-40 Non-Conforming)

**Section 1.** Paragraph (c) [Nonconforming Buildings and Structures.] of Section 13-1-40 [Nonconforming Uses and Structures.] of Article C [Nonconforming Uses; Conditional Uses; Environmental Impact Analysis] of Chapter 1 [Zoning Code] of Title 13 [Zoning] of the Code of Ordinances, Bayfield County, Wisconsin is hereby amended to read as follows, with additions highlighted by the double underline feature (additions) and deletions highlighted by the strike out feature (~~deletions~~):

**Sec. 13-1-40 Nonconforming Uses and Structures.**

(c) **Nonconforming Buildings and Structures.**

- (2) ***Nonconforming Accessory Buildings and Structures and Nonconforming Principal Buildings and Structures of Less than 600 Square Feet.*** Except as provided in paragraph (6) below regarding reconstruction of damaged or destroyed structures ~~in the shoreland~~, nonconforming accessory buildings and structures and nonconforming principal buildings and structures of less than six hundred (600) square feet of enclosed dwelling space are limited to ordinary maintenance and repair and shall not be improved or expanded. However, such accessory buildings and structures may be externally improved by a land use permit.
- (3) ***Nonconforming Principal Buildings and Structures of 600 Square Feet or Larger.*** Except as further restricted by the provisions of paragraphs (4) and (6) below, nonconforming principal buildings and structures of 600 square feet or larger may be improved internally, externally, or expanded provided that:

- (4) **Additional Requirements for Nonconforming Buildings and Structures on Shoreland Lots.** Except as otherwise provided in paragraphs (4a), ~~and (4b)~~, and (6), nonconforming buildings and structures on ~~inland lake shoreland~~ lots shall be subject to paragraphs (c)(2) and (3) of this Section, and in addition thereto, principal buildings and structures on such lots of six hundred (600) square feet of enclosed dwelling space or larger shall be subject to the following provisions of this paragraph:
- (6) **Damaged or Destroyed Nonconforming Structures.** Except as provided in paragraph (7) of this subsection, nonconforming buildings and structures ~~nonconforming as to shoreland zoning provisions and which~~ that are damaged or destroyed by a natural event, including, but not limited to, violent wind, vandalism, fire, flood, ice, snow, mold, or infestation may be reconstructed provided that:
- a. Damage which is due to an intentional act of the owner or his or her agent may only be repaired in conformity with this Chapter;
  - ~~eb.~~ Repair and reconstruction shall be limited to that part of a structure and its specific improvements which are actually damaged or destroyed by a natural event and similar building materials shall be utilized;
  - ~~bc.~~ The owner ~~must~~ has the burden to establish that the specific extent of damage or destruction to a nonconforming structure or part thereof was actually caused by a natural event to a structure and its improvements and to establish the specific extent to which said damage or destruction occurred;
  - ~~d.~~ The structure or part thereof that has actually been damaged or destroyed shall be restored or reconstructed to the size, including the footprint and total square footage, location, and use that it had immediately before the damage or destruction occurred;
  - ~~e.~~ The owner shall bear the burden of proof as to the size, location, and use of a damaged or destroyed nonconforming structure or part thereof immediately before the damage or destruction occurred;
  - ~~f.~~ The size of the nonconforming structure can be larger than the size it was immediately before the damage or destruction only if it is necessary to comply with applicable local, state, or federal requirements;
  - ~~dg.~~ Repair and reconstruction shall be in compliance with all other provisions of applicable ordinances; and
  - ~~eh.~~ The mitigation requirements of paragraph (5) above shall apply to nonconforming structures located within shorelands.

**Kastrosky** explained that all the information, on the changes to non-conforming structures, is in the Committee packets. The reason this is before the Committee is because Act 112 was passed recently and it deals with mold, mildew, and infestation. If a building becomes dilapidated due to those factors and other factors such as ice, wind, or fire, it can be rebuilt. The amendment is to integrate that language into the ordinance. It is written, in the amendment, as to how this is going to be demonstrated by the owner so there can be a permit issued to rebuild. Owners can rebuild the same size and shape as the building was before it was damaged. There is no opposition or support from anyone, not even **Bill Bussey**. Corp counsel has drafted part of this.

No one spoke in support or opposition. **File Report:** **Kastrosky** stated no letters in the file.

Discussion ended.

- B. Daren and Lonnie Zifko (Eileen) - Bulk storage facility** [2-acre parcel (part of ID #04-020-2-47-05-33-4-03-000-10000), described as the 660' West of the SE corner of the SW ¼ of the SE ¼ to point of beginning thence North 360' from centerline of Hwy 118, thence West 250', thence South 360' to centerline of Hwy 118, thence East to the point of beginning (approximately 90,000 sq ft), Section 33, Township 47 North, Range 5 West, Town of Eileen, Bayfield County, WI]

**Darren Zifko** spoke in support and stated he would like to put in a bulk storage facility, a propane tank, and he may put in gas and diesel tanks for storage. **Rondeau** asked if there were seven tanks total and **Zifko** replied with if they get to that point, yes, 7 is what they were advised to do in case they wanted to add on in the future. **Kastrosky** clarified that if the board approves application, it would be for up to 7 tanks, above or below ground, if need be. Once the 7 tanks are added and there was a need for more, he would have to come back before the Committee to ask for that request. **Zifko** stated he does not believe in underground tanks, they would all be above ground tanks. **Kastrosky** asked if there might be a facility building associated with the land use permit and **Zifko** answered there is one facility building that would be 16' by 24'. **Miller** asked if this is owned by Zifko and the reply was yes, this propane buyers group has been in operation for 20 years, and because of the new state laws they were not legal to pump off of a 10,000 gallon transport. Now a facility needs to be in operation. **Rondeau** asked if the operation will be fenced in and **Zifko** stated yes, to start with he will fence in what he has to then eventually the entire thing will be fenced in. **Rantala** asked about the group he delivers too and **Zifko** stated it is not for everyone since he financially backs the whole operation. **Zifko** covers all the way from Iron River, to Bayfield, to Saxon. **Miller** asked if the **Zifko's** have their own truck and the reply was no, but eventually since this business has turned from a one time a year deal to a year round one.

**Tony Johanik** from Town of Eileen spoke in favor of the proposal. It was passed by the Town and no negative letters are in the file and it is in compliance with the Town's comprehensive plan. **File Report:** **Kastrosky** stated there is Town Board approval and does meet the comprehensive plan. The area was rezoned and all proper procedures were followed. No letters of support or opposition. On the land use application there is a 384 square foot office building and **Kastrosky** wants the Committee to be aware of this and make sure it is taken into consideration with their decision. **Rondeau** asked **Zifko** if the building would be located next to one of the tanks and showed him a map, **Zifko** replied yes.

Discussion ended.

**6. Adjournment of Public Hearing:**

*Jardine made a motion to adjourn, Miller seconded. Motion carried. Adjourned at 1:16 pm.*

**7. Call to Order of Planning and Zoning Committee Meeting:** Rondeau called the meeting to order at 1:16 pm.

**8. Roll Call:** Jardine, Miller, Rantala, and Rondeau –all present. Maki - Absent

Others present were: Director-Karl **Kastrosky**, Deb **Kmetz** – Office Manager, and Krystal **Hagstrom** - Clerk.

**9. Minutes of Previous Meeting(s):** *Rondeau* stated the minutes are from the October 20, 2011 meeting.

*Rantala motioned to approve, Miller seconded. No further discussion. Motion carried.*

**10. New Business:**

**A. A petition by Karl Kastrosky, Director of Planning and Zoning, to Amend Title 13 (13-1-40 Non-Conforming)**

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  - ~~f.~~ The size of the nonconforming structure can be larger than the size it was immediately before the damage or destruction only if it is necessary to comply with applicable local, state, or federal requirements;
  - ~~dg.~~ Repair and reconstruction shall be in compliance with all other provisions of applicable ordinances; and
  - ~~eh.~~ The mitigation requirements of paragraph (5) above shall apply to nonconforming structures located within shorelands.

*Jardine* motioned to approve the petition to amend title 13. **Rantala** seconded. **Kastrofsky** stated it will go to full board December 13, 2011. No further discussion. **Motion carried.**

- B. Daren & Lonnie Zifko (Eileen) – Bulk storage facility** [2-acre parcel (part of ID #04-020-2-47-05-33-4-03-000-10000), described as the 660' West of the SE corner of the SW ¼ of the SE ¼ to point of beginning thence North 360' from centerline of Hwy 118, thence West 250', thence South 360' to centerline of Hwy 118, thence East to the point of beginning (approximately 90,000 sq ft), Section 33, Township 47 North, Range 5 West, Town of Eileen, Bayfield County, WI]

*Miller* motioned to approve the bulk storage facility (up to seven tanks total) and that it be in compliance with the Town and the Town's comprehensive plan. **Rondeau** asked **Miller** if he wanted to include in his motion the 384 square foot building, **Miller** agree, and restated his motion, that he approves the bulk storage facility as it complies with the comprehensive planning and the town, a 384 square foot office building, any town conditions, and the entire facility be fenced (and follows the state and federal regulations) by 2013. **Rantala** seconded. No further discussion. **Motion carried. (Note: There were no Town conditions)**

#### 11. Previous Business:

- C. Merlyn & Anne Marie Coy (Tripp) – Dog kennel (up to 35 dog)** (tabled 10/20/11) [10-acre parcel (ID# 04-048-2-48-08-11-2-04-000-10000) described as the SW of the SE ¼ of the NW 1/4 , Section 11, Township 48 North, Range 8 West, Town of Tripp, Bayfield County, WI].

**Jardine** noted that the town gave a limit of 25 dogs. **Kastrofsky** stated the applicant is here and asked the committee if she could speak.

**Ann Marie Coy** came forward and stated that her and her husband worked very diligently to move the kennel away from the road and place it back behind their pole shed to minimize the noise. They work hard to keep dogs quiet and they only bark in the morning and evening, during feeding times. **Rondeau** pointed out the recommendations from the Town Board. **Jardine** asked if **Coy** was ok with only 25 dogs and she replied yes. (At this point in the meeting **Kastrofsky** read through the recommendations from the Town Board). He also stated it is compatible with Town plan. There is one letter in support from the **McFarland's** and two letters in opposition from the **St. Aubin's**. **Kastrofsky** stated he talked with **Mrs. St. Aubin** on November 16, 2011 and she still asks that the Committee deny the permit.

*Miller* motioned to approve with all town conditions (i.e. Proper fencing to detain dogs, and for noise control the Town suggests sound barriers such as a privacy fence or trees, enclosed housing, and if needed some type of electronic barking device. This permit is for current property and property owners only. This permit shall be reviewed on an annual basis.) and up to 25 dogs. **Jardine** seconded. No further discussion. **Motion carried.**

#### 12. Other Business:

- D. Discussion and Possible Action regarding NR 115**

**Kastrosky** stated he is waiting for the DNR to come up with new language and deadline date to adopt has been moved out 2 years.

#### **E. Discussion and Possible Action on Comprehensive Planning**

**Kastrosky** stated there is a meeting scheduled on December 20, 2011 with the Town of Pilsen and they still have to adopt the county plan. There are two towns left to adopt plan, Bell and Pilsen. There is an extension to May of 2012 and he wants to wrap up by the end of the year. There is \$100,000 on the table and the County will not get any of it until the state gets all the participating Townships to adopt the plan.

#### **13. Monthly Report**

*Miller* motioned to receive and place on file, **Rantala** seconded. No further discussion. **Motion carried.**

#### **14. Budget and Revenue**

**Kastrosky** commented not sure how it is going to play out.

#### **15. Adjournment**

**Rondeau** called adjournment at 1:35 pm.

*Prepared by kmh on 11/18/11*

*Approved by KLK on 12/2/11*

*Final Approval on 12/15/2011*

*cc: (after final approval)- (8) Supervisors, Cty Admin./Clerk, DNR, Web*

*k/zc/minutes/2011/#11 November*