

MINUTES
Bayfield County Zoning Committee Public Hearing / Meeting
July 21, 2005 – 1:00 PM
Board Room, County Courthouse, Washburn, WI 54891

1. **CALL TO ORDER OF PUBLIC HEARING:** *By Chairman Jardine at 1:00 PM.*

2. **ROLL CALL:** *Beeksma, Compton, Jardine, Rondeau, present; Maki absent/excused.*

3. **AFFIDAVIT OF PUBLICATION:** *Read by ZA Kastrosky*

4. **PUBLIC HEARING:**

A. MARK & KATHLEEN RASMUSSEN; LARRY RASMUSSEN – REZONE REQUEST (from Agricultural-1 to Commercial): on .98-acre parcel (ID #012-1129-09-990) located in part of the SE ¼ of the NE ¼ and a 3.49-acre parcel (ID# 012-1128-10-000) located in part of the NE ¼ of the NE 1/4, all in Section 24, Township 43 North, Range 8 West, Town of Cable.

Mark Rasmussen addressed the Committee: he desires to change the zoning in order to construct a Wellcare Facility. Kastrosky gave the file report stating Town Board approval was received 7/14/05, noting "Commercial Zoning is contiguous with the zoning of the adjacent properties and the Board encourages business in the community". No other letters of support / opposition were on file and no one else spoke in support / opposition.

B. SCOTT JOHNSON CONDITIONAL USE PERMIT "EXPANSION" - Salvage Yard on his 4.0-acre parcel (ID# 020-1048-09-990) described as the W 165' of the NE ¼ NW ¼ less V. 622 P. 48 and a .05-acre parcel (ID# 020-1048-10) located in part of the NE ¼ of the NW ¼, all in Section 23, Township 47 N, Range 5 W, Town of Eileen.

Scott Johnson stated he desires to encompass two new buildings in his salvage yard business and presented some history on this request. He said one building from ten years back, turned into a dismantling shop but was never included in the original salvage permit, nor was a pole shed utilized for storage of used motors and transmissions, approximately 50' from the original salvage yard property.

Director Kastrosky referred to the parcel map, discussed the issue of screening that was a preexisting condition on the original conditional use permit and added "is now very close to completion". Johnson said his screening is 10' tall and "you cannot see over it.

No one spoke in support / opposition.

C. VICKI LYNN HANSEN CONDITIONAL USE REQUEST - Create / Operate Campground (29 Sites on a 20.06-acre parcel) (ID# 042-1020-10) described as part of the N ½ of the SW ¼ of the NW ¼, Section 7, Township 49 N, Range 8 West, Town of Port Wing.

Ms. Hansen said plans are that not all 29 sites will be initiated immediately, but in phases. Kastrosky explained that if she wishes to exceed 29 sites, she must come back before the Committee. Ms. Hansen said she had not yet received a permit from County Health because the plumber still needs to contact her for the sanitation/shower house. Kastrosky said approval may be contingent upon an approved / installed sanitation system. Ms. Hansen said she understands that requirement. Kastrosky also reported no Town Board approval has been received, but Chairman Jardine said the Town did approve the request.

*Director Kastrosky reported **opposition and/or concern letters** were on file from Tim McGuire, Steve Marolt, Mark Brandl, and Brad Qualey. No one spoke in support.*

Speaking in Opposition:

- *Nick Thill, Jr., adjoining land owner, presented a fourteen-signature petition to voice concerns related to the above proposed campground. Mr. Thill questioned the property road in relation to a map presented and believes it is actually on his property. Vicki Hansen said no survey has been done. Thill stated he gave the same petition to the Town and asked them to consider it before making a decision but did not stay for their*

meeting, nor did he present any other opposition besides the petition; he said "I believe there is a real issue which needs to be rectified".

- **Tim McGuire** would like the land surveyed; has concerns re traffic, garbage, bears, adverse effects to wildlife, etc. He doubts twenty acres is enough land for a campground and related activities so believes it would affect others' property. McGuire also asked the Committee to take John Stien's letter into account (which Kastrosky said was not on file) and reported that all "adjoiners" are strongly opposed as well as others in the general area.

No one else spoke in support / opposition.

D. SCOTT BERSETH REZONE REQUEST (Residential-2 to Residential-3) for an unlawful lot creation in 1996 on 1.92-acre parcel (ID #004-1125-02-990) described as part of the NW ¼ of the NE ¼ referring to V. 528 P. 126 less V. 682. P. 201, plus an additional .08-acres North of South Shore Road being part of parcel ID (# 004-1125-02), Section 19, Township 44 North, Range 9 West, Town of Barnes.

Mr. Berseth was not present; AZA Mike Furtak addressed the Committee. He said Berseth petitioned to build a garage but after research, noted the property was R-2 which requires 4.5 acres by survey or 5 acres by legal description. Berseth had only 1.92 acres; after more research, this was transferred in the 1990's. Furtak said originally Berseth owned a large tract, sold part, Register of Deeds had recorded the deed without checking, later a zoning permit for a cabin was obtained, and now it was caught when the garage permit was submitted. Furtak said he therefore needs to rezone to R-3 which requires two acres, he will purchase additional land, and rezoning will clean this up.

Furtak also reported no letters of opposition on file, said "this won't change the density at all, the residence already exists, the best move is a rezone". He also said the first 300' back from the lake is R-1, and the rest is R-3, and a small corner R-2

No one spoke in support / opposition.

E. PLUM CREEK TIMBERLANDS, L.P. REZONE REQUEST (Forestry-2 to Residential-3) on 40-acre parcel (ID# 004-1217-10), described as the NW ¼ of the NE ¼, Section 34, Township 45 N, Range 9 West, Town of Barnes.

AZA Furtak presented this request stating Plum Creek is a large land owner in the county, this land is zoned F-2 for industrial forest, and they are now divesting themselves of some forest lands. He added that surrounding property is R-3, Commercial, F-1, and Industrial; they want R-3 zoning to sell the property as no residence is allowed without a variance in R-3. He said the Town denied this request because of "the two acre lot issue", and their land use plan is not yet in place.

No one spoke in support / opposition.

F. TOWN OF RUSSELL ZONING DISTRICT MAP AND TEXT AMENDMENT CHANGE - in the form of adding an overlay district Section 13-1-63 specific to the Town of Russell to allow for more restrictive standards and requirements than those currently utilized under the Bayfield County Zoning Ordinance; specifically to land divisions, density, old growth forest and historic site preservation.

Atty. Jon Carlson reviewed the request before the Committee and recommended if the Committee has any revisions to this request that they go back to the Town for consideration.

Speaking in Support:

- **Dave Good**, resident and Town official, said all items before committee are key items which came out of Russell Township's land use plan. He said there is "an Issue" with this with some residents perceiving it will restrict the home building and number of residents in the Town but he doesn't believe this will happen. Good added that housing is needed but this will prevent "cookie cutter development", they want to preserve the rural character, want to allow building in an intelligent manner while preserving open space and that the Town would like to preserve fields but put homes around the edges of fields instead of in the middle. He then explained areas of historic sites to be preserved and discussed old growth forests, including processes to add / remove land; storm damage, infestation in the timber, etc.

No one else spoke in support.

Speaking in Opposition:

- **David Galazen** questioned if 100-year-old timber is classified as 'old growth'. Carlson answered by referring to "C-2" on the last page of the petition and added the definition came from other towns which have old growth preservation. Dave Good then stated Mr. Galazen's land would not automatically be included.
- **Peter Strzok** advised they "need to get the science right" forming the basis for the decision on this case.

Speaking in Review of the Proposals:

- **Corp. Counsel Bill Bussey** spoke in an effort to put the petition in perspective, giving an overview to the Committee reminding them the first step is the request by Russell, then the County Zoning Ordinance is to be amended, the Town's overlay district would become part of the County Ordinance, thus if there is a violation, the County would enforce or defend it if necessary. Bussey stressed the importance of simplifying and clarifying things. He reviewed his recommendations, stating some are already in the revised draft, and added there should be specific language applying it to the Town of Russell.
- **Bussey** advised the revisions could be made to simplify the proposed charts; revision is needed in numbering/lettering for the County ordinance system. He said the historic site overlay district is new territory and if this is created, it is a type of zoning district and geographic boundaries need to be better defined. Bussey reminded the Committee the final decision is a County Board decision of adding/deleting anything and then recommended this go back to the Town of Russell with recommendations.
- **Bussey** said provision for non-conforming and grandfathering needs to be "crystal clear" and regarding old growth timber, there is a need to designate which lands "it is talking about up front" and they need to "put something in the district now and if they have nothing, it is too early to put the provision in". He then discussed "takings" and legal problems which can be involved.

Dave Good explained the Town's position as well as 'background' on the issues addressed by Bussey. There was further general discussion on this Agenda Item and Director Kastrosky said "the County is willing to take this on but with heavy reliance on the Town".

Kastrosky reported there is an opposition letter on file from David Galazen, and one of support from Kathleen Russell.

G. PLUM CREEK TIMBERLANDS, L.P. REZONE REQUEST (Forestry-2 to Residential-2) on 118.70-acre parcel (ID# 004-1048-01; 004-1047-07; and 004-1047-08), described as the NE ¼ of the NW ¼, the SW ¼ of the NE ¼, and the NW ¼ of the NE ¼, all located in Section 3, Township 44 North, Range 9 W, Town of Barnes.

AZA Mike Furtak addressed the Committee with basic comments as in Agenda Item E. He said the Town approved this, there are no plans to subdivide it at this time, but to potentially make it developable and more marketable.

No one spoke in support / disapproval.

5. ADJOURNMENT OF PUBLIC HEARING: Motion by Beeksma at 2:47 PM, seconded by Rondeau; motion carried. [A break was taken at this time.]

6. CALL TO ORDER OF ZONING COMMITTEE MEETING: By Chairman Jardine at 2:53 PM.

7. ROLL CALL: Beeksma, Compton, Jardine, Rondeau, present; Maki absent/excused.

8. MINUTES OF PREVIOUS MEETING(S): Motion by Compton, second by Beeksma to approve the June 16, 2005 minutes as prepared; carried.

9. BUSINESS:

A. MARK & KATHLEEN RASMUSSEN; LARRY RASMUSSEN – REZONE REQUEST (from Agricultural-1 to Commercial): on .98-acre parcel (ID #012-1129-09-990) located in part of the SE ¼ of the NE ¼ and a 3.49-acre parcel (ID# 012-1128-10-000) located in part of the NE ¼ of the NE 1/4, all in Section 24, Township 43 North, Range 8 West, Town of Cable.

Motion by Rondeau, second by Beeksma to approve; carried.

B. SCOTT JOHNSON CONDITIONAL USE PERMIT "EXPANSION" - Salvage Yard on his 4.0-acre parcel (ID# 020-1048-09-990) described as the W 165' of the NE ¼ NW ¼ less V. 622 P. 48 and a .05-acre parcel (ID# 020-1048-10) located in part of the NE ¼ of the NW ¼, all in Section 23, Township 47 N, Range 5 W, Town of Eileen.

Director Kastrosky reported there was no TBA on file. Johnson agreed to call the Town for a copy. Compton made a motion to approve contingent upon proof of TBA, second by Beeksma. There was then further discussion and Kastrosky recommended review in a year or at least in October, 2005 when the deadline is up. Compton withdrew his motion to approve contingent upon TBA; Beeksma withdrew his second and Compton motioned to **table this item and place it on the agenda next month pending receipt of TBA and any possible conditions**; second by Beeksma, motion carried.

C. VICKI LYNN HANSEN CONDITIONAL USE REQUEST - Create / Operate Campground (29 Sites on a 20.06-acre parcel) (ID# 042-1020-10) described as part of the N ½ of the SW ¼ of the NW ¼, Section 7, Township 49 N, Range 8 West, Town of Port Wing.

Jardine made a motion to approve contingent upon a survey. Director Kastrosky reminded the Committee that before acting on this item, they need to see the property lines and table on grounds of property boundary dispute. AZA Furtak stated there is a need to know where the access is, if anything changes, and then the Town needs to reconsider it. Jardine made a motion to **table until the August meeting**, second by Beeksma; carried.

D. SCOTT BERSETH REZONE REQUEST (Residential-2 to Residential-3) for an unlawful lot creation in 1996 on 1.92-acre parcel (ID #004-1125-02-990) described as part of the NW ¼ of the NE ¼ referring to V. 528 P. 126 less V. 682. P. 201, plus an additional .08-acres North of South Shore Road being part of parcel ID (# 004-1125-02), Section 19, Township 44 North, Range 9 West, Town of Barnes.

Motion by Compton, second by Beeksma to **approve in order to correct the illegally-created lot situation**; carried.

E. Plum Creek Timberlands, L.P. is petitioning for a zoning district map amendment on their 40-acre parcel (ID# 004-1217-10), described as the NW ¼ of the NE ¼, Section 34, Township 45 N, Range 9 West, Town of Barnes, Bayfield County, WI from F-2 to R-3.

Motion by Rondeau to **disapprove**; second by Compton. Motion carried.

F. TOWN OF RUSSELL ZONING DISTRICT MAP AND TEXT AMENDMENT CHANGE - in the form of adding an overlay district Section 13-1-63 specific to the Town of Russell to allow for more restrictive standards and requirements than those currently utilized under the Bayfield County Zoning Ordinance; specifically to land divisions, density, old growth forest and historic site preservation.

Bussey reported that he spoke with Dave Good and Atty. Carlson during the break and cleared up some issues regarding old growth timber / historic sites (designation of lands 'up front') and the reasons the Town listed them as they did which they believe will assure land owners have input in the process.

Compton expressed concern that any changes ought to be taken back to the Town of Russell, otherwise the County would be approving upon Bussey's input but the Town wouldn't. **Motion by Compton to send this item back to the Town for further technical clarification and review, to notice for the Zoning Committee and County Board meetings in August**; seconded by Beeksma and carried.

G. PLUM CREEK TIMBERLANDS, L.P. REZONE REQUEST (Forestry-2 to Residential-2) on 118.70-acre parcel (ID# 004-1048-01; 004-1047-07; and 004-1047-08), described as the NE ¼ of the NW ¼, the SW ¼ of the NE ¼, and the NW ¼ of the NE ¼, all located in Section 3, Township 44 North, Range 9 W, Town of Barnes.

Motion by Rondeau, second by Beeksma to **approve**; carried.

Agenda Review and Alteration

H. DISCUSSION AND POSSIBLE ACTION REGARDING EIA (BARNES) – FINAL REVIEW FOR HAROLD ECTON.

Director Kastrosky reported this was addressed last month and several items were lacking in the EIA, however the soils map is not available, we have been told not to use it; we have the wetland delineation and vegetative cover so we have a complete EIA. This will come as a public hearing item in August, and the requirement is to have an approved

EIA 30 days prior to that, which was approved pending the items provided. AZA Furtak further explained the soils maps should not be used as they are inaccurate.

Director Kastrosky presented his recommendation to proceed, stating "this is one of the most thorough EIAs and best I have seen". Motion by **Rondeau to approve the EIA** as adequate based upon prior concerns; second by Beeksma; motion carried.

I. DAN DUVAL SPECIAL USE REQUEST - HOME-BASED BUSINESS (Contractor/Excavator) (Tabled 6/16/05) on 20-acre parcel (#004-1199-08) in part of the NE ¼ of the SE ¼, Section 28, Township 45 N, Range 9 W, Town of Barnes.

Motion by Rondeau, second by Beeksma to **approve**; carried.

J. SHANE & MICHAEL UPTHEGROVE SPECIAL USE REQUEST – Residence in Commercial Zone: on 2-acre parcel (#042-1075-03) in the E 180' of the N 379' of the NE ¼ of the NE ¼, Section 22, Township 50 N, Range 8, Town of Port Wing.

Michael Upthegrove stated he wants to create / convert a home within a commercial zone. Kastrosky reported no TBA on file yet. Motion by Beeksma to **approve contingent upon documentation being provided of Town Board Approval**; second by Compton; motion carried.

K. DISCUSSION / POSSIBLE ACTION REGARDING EIA FOR FLYING EAGLE RESORT (DELTA)

Kastrosky reported there was an existing permit on file for a campground in 1986 with twelve sites; the property was purchased after this with some expansion done in excess of the threshold; they are trying to bring it into compliance and allow expansion if the Zoning Committee feels it is agreeable/acceptable. He added that the plan is to expand to 15 sites, that they meet all setback requirements, except possibly one tent site and one mobile home site. Kastrosky stated the environmental concerns are addressed in the EIA; AZA Casina was in agreement. Motion by Compton, second by Beeksma to **approve** the EIA; carried.

L. DISCUSSION AND POSSIBLE ACTION REGARDING DAMAGE TO PROPERTY OF PETER STRZOK (Town of Russell):

Peter Strzok stated this is a continuation of his complaint from the June meeting regarding the Town's sand pit with asphalt mix, salt, and liquid wastes. He said the DNR noted this is in violation and suggested they have aquifers tested. Strzok provided photos taken of conditions on 06/21/05 and said the concern is how this is degrading his property which he and his wife purchased in 1977. He explained the process he has taken and the history of meetings w/ the Town of Russell and others.

Town Supervisor Dave Good said the site in question was originally the Town dump.

Bussey was asked for input but had to excuse himself because of past representation of Mr. Strzok. Director Kastrosky recommended the Town/County seek alternative legal counsel and that he would counsel with Atty. Nordling on the matter.

M. DISCUSSION / POSSIBLE ACTION REGARDING RAY LANGHAMMER – GRANDFATHERED STATUS (BAYFIELD):

Kastrosky said the Town is pushing to see what legal action we may have in this salvage/auto sales business and that Bill Bussey was asked by the [Zoning] Dept. to look at this situation, to what extent Bayfield Motors would be a non-conforming use depending upon when the ordinance was adopted.

Bussey said if the use was prior to the County Zoning Ordinance, then it would be considered "non-conforming use" and could be continued. If it was legal prior to zoning, then it continues to be a permissible use and if expanded since it retains non-conforming status, however, if the nature of use changed somehow and the new use was not in place originally, that may eliminate the non-conforming use. If this is a non-conforming use, in his opinion, he would still need to comply with screening requirements, salvage must not be piled higher than fence/screening, and there would be a fire protection requirement.

Ray Langhammer spoke. He said he was in business since 1960, as a junior in high school, as the same operation. He presented photos of how he disposes of salvage cars, stated he has the same stall he began with, plans to work as long as able, however is now on a limited basis. He said he has satisfied customers who don't want him to quit. Mr. Langhammer also reported in the past he was not allowed to put up fencing, was asked to plant evergreen trees instead (by the Town). Kastrovsky added that now the ordinance calls for fencing or live screening. Supervisor Compton said the perception seems to be "wanting to get rid of the salvage yard but that is not the question or problem, the issue is more keep piling up, the ordinance says it is a junk yard, it must be screened, and there are also road setbacks". He said this was necessary to bring to the Zoning Committee to decide how we are going to address the concerns of the ordinance. Compton also said it is time for the Committee to ask Mr. Langhammer to comply with the ordinance and submit a plan. Kastrovsky stated this must be resolved collectively with the Town and the County and "we know what's required, but there is some flexibility".

Motion by Compton to require Ray Langhammer to **have contact with the Town Board, to come up with an acceptable screening proposal, and to present it to the Zoning Committee for review in 90 days.** Motion seconded by Beeksma.

AZA Furtak asked Langhammer if he has a State license and his reply was "no", and that he "crushes for transport, does not have the oil issue". Kastrovsky said "this was prior to zoning" and Bussey stated that screening and a fire permit are required. Motion then carried.

N. DISCUSSION / POSSIBLE ACTION REGARDING REVIEW OF CONDITIONAL USE PERMIT- PIKE'S BAY SANITARY (BAYFIELD):

Kastrovsky reported we have received a comprehensive report from Strand & Assoc., of how the facilities were designed, surveyed, and approved by conditional use permit by this Board. He said Neil Schultz feels the 500' setback (listed under 'isolation definitions') was violated. Kastrovsky added that he attended a meeting recently to apprise them [Strand] of potential conflict.

Jardine said he hasn't had adequate time to review as the information just came in. Schultz also said he would like to review the document. Motion by Beeksma to **table and place on the August agenda;** second by Compton and carried. Compton also added this may need to go into executive session at that meeting.

O. CITIZENS CONCERNS / INPUT:

- Neil Schultz – asked if Zoning received the Bayfield TBA and requested he be placed on the Sept. agenda.

P. DISCUSSION / POSSIBLE ACTION REGARDING DRIVEWAY ORDINANCE (COUNTY):

Motion by Beeksma, second by Rondeau to **table until next month.**

Q. DISCUSSION / POSSIBLE ACTION ON NR115 RE-WRITE UPDATE:

Kastrovsky reported on two recent public hearings, that there was "more support than opposition" and he presented the recent resolution prepared for the County Board.

R. OTHER ITEMS THAT MAY COME BEFORE THE COMMITTEE (DISCUSSION ONLY) N / A

10. MONTHLY REPORT: Motion by Rondeau, second by Beeksma to **approve;** carried.

11. ADJOURNMENT: Motion by Rondeau, second by Compton to adjourn at 4:09 PM; carried.

**Karl L. Kastrovsky, Zoning Administrator
Bayfield County Zoning Dept.**

Prepared by MJJ on 8/16/05
Approved by KKK on 8/16/05

cc: Administrator; Clerk; Corp.Counsel; DNR; Committee; Supervisors
K/MJ/DraftMinutes/2005/July