

MINUTES
Bayfield County Planning / Zoning Committee Public Hearing / Meeting
January 19, 2006
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, Maki, Rondeau, all present.*

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

4. **PUBLIC HEARING:**

A. SISYPHERN STONE, INC., ASHLAND CONSTRUCTION CO., INC., OWNER, CONDITIONAL USE REQUEST – Open / Operate Gravel Pit on 40-acre parcel (ID# 030-1077-06-000) described as the NW ¼ of the NW ¼, Section 35, Township 45 North, Range 5 West, Town of Lincoln. (Included in this application, but a separate part of this hearing, shall require review of the reclamation plan and requirements that any conditions in the reclamation permit must pertain to the reclamation plan only. All other conditions concerning the operation of the Non-Metallic Mining site have to be in the conditional use permit.)

Speaking in Support:

Agent Bill Kacvinsky (from Ashland Construction) reported he was approached approximately two to three years ago by the owners [at that time] of the above property regarding test holes, borrow source, etc. He stated the property was then sold to an Illinois owner, they worked together, began the permitting process, desiring to have a borrow pit and possibly a crushing plant on the property. He also said they went through the proper NR135 channels; there's "roughly 17 acres of gravel source" which is the area to be disturbed; they would stockpile on site; and there is a proposed reclamation plan, which would be finalized if this request is approved.

Kacvinsky said there is another pit (Sandstrom's) approximately one-quarter mile down the road; they would widen the narrow road into the area making it safer for trucks. He stated he understands there is concern because of the B & B and other neighbors, however, there is a need for gravel as inventories are low in area pits and most of the gravel from this pit would go to Ashland and Bayfield Counties.

Richard Stephanie, owner of said property (Prospect Heights, IL) stated he was originally told this pit was "grandfathered" and it was necessary to prove if it had been used in past years. He added he has spoken to Mr. Kacvinsky re minimizing the impact, truck hauling, and other issues; he hopes to retire on this property, is not just seeking to run a gravel pit there but does want to remove some gravel to help with property costs, and in the future would like to install a pond, use property for hunting and actually live there. Mr. Stephanie said this area has traditionally been forest and gravel pits and area residents have 'helped themselves' to stone from this pit through the years, including the B & B owners.

Supervisor Maki asked if there are records proving this has been a gravel pit. Bill Kacvinsky presented a letter dated June 21, 2004 addressed to him at Ashland Construction from Dean Chambers. Director Kastrovsky read the letter into the record which states in part, "There was an existing gravel pit south of my driveway on Snake Trail Road when I purchased the property. During the years I owned the property gravel and stone were removed from the existing pit every year. Some gravel and stone was purchased by the Town of Lincoln and some by contractors. In addition, over the years many neighbors have been allowed to take gravel for personal use." The letter also reports that he sold the property in 1999 to Arbor Vitae Property, LLC and he continued to live at the residence near the pit.

Kastrovsky said he researched County pit activity and no permits are recorded but that doesn't mean gravel was not taken from the site.

Richard Stephanie said photographs show the difference in appearance between the 1980s and '90s in the borrow pit.

Kastrovsky reminded the Committee and audience that this agenda item is not to question the grandfathered status, but NR135 requirements and opening a gravel pit under today's standards. AZA Mike Furtak asked Stephanie how long he planned to use the gravel pit and the answer was, "I'm thinking not more than five years but the market determines

some of that". He added he's not interested in long-term, but to access some of the stone, reclaim it and let it return to woods.

Maki asked that Furtak review the layout and landscape, State (DNR) requirements, waterways (Morgan & Hawkins Creeks), etc.

Stephanie said there is desirable gravel and stone on the property but as long as he owns it, it would not be [completely] sold, however, that may not be so if doesn't own the property. Kastrosky stated that whatever the Committee grants is what could be mined, not any more than that, "only the allowable acreage under the conditional use permit".

Brad Gustafson, of Ashland Construction, stated he has met with John Spangberg of the DNR re this request, the permitting process, plans for roads, etc. He said they would work with the Township, County, DNR, and landowners regarding their concerns, and that the DNR environmental analysis would take up to six months.

Speaking in Opposition:

Lucinda Laymon reported they own a Bed & Breakfast, directly across the road from the applicant's property and are opposed as a gravel pit is incompatible with their business. Ms. Laymon stated they purchased their property in June of 2000 and prior to closing, were assured by the owners that they would never open a gravel pit, nor sell to anyone who would open a pit. She cited noise as an issue from the Sandstrom pit which is less than a mile away, thus noise directly across the road would have an immense negative affect on their B & B business.

Ms. Laymon said in early fall of 2004 they learned that Brian Wanasuk was "going back on his word" and Ashland Construction was working in the pit. She reported the dangerous situation with trucks hauling at that location because the postal service will not deliver mail on Snake Trail because of safety concerns for their drivers. She also said the Town of Lincoln reported there has never been a pit there and would not approve one and that they (the Laymons) would never have purchased the property if there was a gravel pit in operation, nor if there were any intentions to open one at that location.

Ms. Laymon presented a photograph of the area from John Spangberg and stated that any earlier inference to widening the road would presumably need DNR approval due to the close proximity to both Hawkins and Morgan Creeks. She said she believes property values would decrease and in general have a negative impact; she presented a petition with 146 signatures, however, not all are from the Town of Lincoln but from those opposed to a gravel pit at that location.

Ted Galdi (Lincoln Township) expressed opposition citing effects such as water pollution, erosion, loss of vegetative cover, incompatible use, and future impact on the Town. He said there are several pits in the Town now which produce dust and dirt, becoming permanent eyesores; "this one is badly located with no way to conceal it".

Ellie Williams (Lincoln Township) stated she helped w/ the Town's land use plan which was adopted approximately one year ago and 78% of year 'round Lincoln residents responded to a survey helping to create the plan. She urged the Committee to read their plan and presented photos of Snake Tr. Road, Hawkins & Morgan Creeks.

Steve Sorenson (Lincoln) lives across from applicant's property and reported the above property has never been a commercial pit, the Town is opposed, there is strong opposition in the township ; it does not makes good sense to allow development of gravel pit in that area. He urged the Committee to follow the wishes of person, politics, and public, which have all spoken.

Jack Wichita (Lincoln) expressed concern over water quality and believes it would be threatened by a gravel pit operation (harm from increased silt / sediment). He suggested the track record of Ashland Construction has not been good, mentioning one case with citation in the Town of Ashland, Ashland County and urged rejection of this gravel pit.

Robert Hanna, Wheaton IL, (property owner on Marengo Lake) stated the quality of life, peacefulness, and serenity are reasons his family came here 30 years ago and the reason he continues to come back and is opposed to gravel pit use in the same area as a B & B as well as safety being threatened on the roads now used by hikers and bikers.

Dan Vaillancourt (Town Supervisor / Lincoln resident 50+ yrs.) reported "this was never a gravel pit and what Mr. Chambers said, is incorrect. He said the Town did pay Chambers at one point, not for gravel from the pit, but when they straightened the road only. He also reported problems working with Ashland Construction, "it has been a hassle",

he said.

David Krupid (Attorney for Applicants / Superior, WI): Discussed conditional use compatibility issues, desires of neighbors, and stated the "majority do not feel it [gravel pit] is compatible" (with the Laymon's conditional use permit). In referencing an aerial photo, Mr. Krupid asked the Committee to look at the vegetation and said, "except for an area on Snake Trail Road, it is in a fairly natural state". He also explained which boundaries have been surveyed; stated that the area requested in the application is located "right on the road, there is no buffer zone". Mr. Krupid said if Mr. Stefani had done his research prior to purchasing the land on 12/22/04, he would have known there was a B & B across the street and would have clearly been put on notice that it would require permits, rather than it being "grandfathered".

Director Kastrosky reminded the Committee and audience in regards to a reclamation plan, it must be opened as a separate agenda item, and stated, "for the record, Land Conservation has approved the reclamation plan."

REBUTTAL:

Richard Stephani: Said he could only speak to the information he was 'given' and said he had informed the Laymons of his plans. He stated he was not informed by the Town of their meeting, therefore, wasn't present and his agent was not allowed to speak at the Town meeting. He said the Laymons had opportunity to purchase the land and didn't do it.

Brad Gustafson: Explained that the 4-1 slope is just as a safety factor, not final reclamation plan.

Karl Kastrosky: In response to a comment made earlier in the meeting that the County had not approved Lincoln's land use plan, Kastrosky read a County letter from July 2005, written to the Town. He reported that the County had concerns over Lincoln's use of the word 'prohibit' in their plan, not that they disapproved of "the plan", informing them they cannot prohibit something allowed by county ordinance as there could be legal ramifications with that in the future..

Kastrosky and Furtak reported they had attended the Town of Lincoln meeting to help and provide input, however, they weren't even "acknowledged".

B. CAROLYN WILLOUGHBY, DWIGHT WILLOUGHBY, PAT SHEPARD, TODD WILLOUGHBY, OWNERS, REZONE REQUEST - on 40-acre parcel (ID #024-1052-03-990 & 024-1052-30) located in SW ¼ of the NE ¼ of Section 20, Township 47 North, Range 8 West, Town of Iron River to rezone only that portion of the above property lying west of Gravel Pit Road from Industrial (I) to Residential-1(R-1).

Carolyn Willoughby was present. AZA Casina explained the request, stating it has been used residentially for a number of years, however, the applicant(s) were unaware until they applied for a land use permit and could not to get one because it was zoned Industrial. The request seeks to rezone the portion west of Gravel Pit Road; TBA was received 1/18/06.

No one spoke in approval nor disapproval.

C. PETITION BY KARL KASTROSKY, BAYFIELD COUNTY PLANNING & ZONING DIRECTOR, ON BEHALF OF THE BAYFIELD COUNTY PLANNING & ZONING COMMITTEE, REQUESTING AMENDMENTS TO THE BAYFIELD COUNTY ZONING AND SUBDIVISION CONTROL ORDINANCES, INCLUDING THE FOLLOWING:

1. Revision and/or creation of definitions for "Lot," "Lot Area," "Lot, Average Width," "Lot, Depth," and "Shoreline Frontage," making them consistent in both ordinances.
2. Increases in various fees in the zoning ordinance fee schedule.
3. Clarification of the zoning ordinance provisions pertaining to private road setbacks.
4. Removal of requirement that RV permits be in sticker form.
5. Clarification of the relation between shoreland lot requirements and zoning district dimensional requirements (namely, that the more restrictive apply.)
6. Clarification of what constitutes a new foundation prohibited for nonconforming structures less than 40 feet from the ordinary high water mark.

7. Amendment allowing more than one addition to a nonconforming structure between 20 and 75 feet from the ordinary high water mark so long as the additions cumulatively do not exceed the stated limits.
8. Requirement that an environmental impact analysis be submitted with a conditional use permit application rather than at least 30 days before consideration of the application.
9. Replacement of the minimum frontage requirement for non-shoreland lots with a legal access requirement.
10. Other technical clarifications and corrections.

Director Kastrosky stated these revisions attempt to clear up some "gray areas", add clarity, allow more measurability, as well as increase various fees. He referred to a letter in support of the proposed amendments from the Town of Bayfield.

*Roger Dreher (Drummond) stated he was speaking as a 'citizen', not representing any organization and presented several minor modifications outlined in a January 18, 2006 letter to the Zoning Committee which he believes would make the provisions even more clear. A Jan. 19, 2006 letter from **Carol Lebreck**, Barnes, was also presented by Mr. Dreher for consideration. He also asked the Committee not to take action 'today' but let Karl Kastrosky filter through the recommendations.*

No one else spoke, either in support or opposition.

5. ADJOURNMENT OF PUBLIC HEARING: *Motion by Compton, second by Rondeau to adjourn at 2:50 PM. Motion carried and Jardine called for a five minute break.*

6. CALL TO ORDER OF ZONING COMMITTEE MEETING: *By Jardine at 2:57 PM.*

7. ROLL CALL: *Beeksma, Compton, Jardine, Maki, Rondeau, all present*

8. MINUTES OF PREVIOUS MEETING(S): *Motion by Compton, seconded by Rondeau to **approve** the December 15, 2005 minutes with one correction. Compton noted on page 3, last paragraph a word [consistent] was missing from the sentence and should be corrected to read as follows, "Committee must be consistent in this area and wait for Town plans and input, and in this case, the Town purposely requested it be tabled." Motion with correction carried.*

9. BUSINESS:

A. SISYPHERN STONE, INC., ASHLAND CONSTRUCTION CO., INC., OWNER, CONDITIONAL USE REQUEST – Open / Operate Gravel Pit on 40-acre parcel (ID# 030-1077-06-000) described as the NW ¼ of the NW ¼, Section 35, Township 45 North, Range 5 West, Town of Lincoln. (Included in this application, but a separate part of this hearing, shall require review of the reclamation plan and requirements that any conditions in the reclamation permit must pertain to the reclamation plan only. All other conditions concerning the operation of the Non-Metallic Mining site have to be in the conditional use permit.)

Kastrosky reviewed the legal standards and ordinance procedures and handed out excerpts re decisions and the elements to be reviewed in hearing conditional use requests.

Supervisor Maki asked if the State gives recommendations and the answer was that many times the Committee gives approval contingent upon other input and regulations. Supervisor Compton said a key thing is to be consistent with land use plans and Town Board recommendations. He added that it is a misinterpretation by some that the County disapproved the Town of Lincoln's land use plan. He referred to Kastrosky's earlier comment that the concern was not with Lincoln's entire land use plan, but with their using the word "prohibited" which could possibly cause legal issues in cases which are not prohibited by the County.

*Motion by Compton, second by Beeksma, to **deny** the request on the grounds it is inappropriately located, and is inconsistent with the Town of Lincoln's land use plan; motion unanimously carried.*

B. CAROLYN WILLOUGHBY, DWIGHT WILLOUGHBY, PAT SHEPARD, TODD WILLOUGHBY, OWNERS REZONE REQUEST on their 40-acre parcel (ID #024-1052-03-990 and 024-1052-30) located in SW ¼ of the NE ¼ of

Section 20, Township 47 North, Range 8 West, Town of Iron River to rezone only that portion of the above property lying west of Gravel Pit Road from Industrial (I) to Residential-1(R-1).

*Motion by Maki to **approve** the rezone as stated in the request; second by Rondeau; carried.*

C. PETITION BY KARL KASTROSKY, BAYFIELD COUNTY PLANNING & ZONING DIRECTOR, ON BEHALF OF THE BAYFIELD COUNTY PLANNING & ZONING COMMITTEE, REQUESTING AMENDMENTS TO THE BAYFIELD COUNTY ZONING AND SUBDIVISION CONTROL ORDINANCES, INCLUDING THE FOLLOWING:

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8. Requirement that an environmental impact analysis be submitted with a conditional use permit application rather than at least 30 days before consideration of the application.
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*Motion by Maki, second by Beeksma, to **accept the items as submitted and pass on to the the Full Board, as is.** Discussion: Compton asked about the definition of 'perimeter of a foundation' and how that applies to one on piers and suggested there may need to be something added regarding piers or support foundations in the future. Motion then carried.*

Agenda Review and Alteration

D. RICHARD NORTHROP SPECIAL USE REQUEST– WINERY (tabled 12/15/05) located on a 4.51-acre parcel (#006-1023-03-000) in the S ½ of the S ½, of the E ½ of the SW ¼ of the SW ¼, Section 11, Township 50 N, Range 4 W, Town of Bayfield.

Agent Renate Hauser reviewed the proposal and reported the Town Board approved the request with conditions.

Kastrosky said that when this request was submitted there was no winery category in the classification list, therefore a petition will be forthcoming to add vineyard, processing, sales, etc. to cover this category. Ms. Hauser stated the sale of wine will be 'off sale' only.

*Motion by Maki, second by Beeksma, to **approve** the winery, including allowing off sales in the future, adding that to the permit at this time. Compton asked if the motion was intended to include the Town's recommendations. Motion was amended by Maki and seconded by Beeksma, to also include the Town of Bayfield recommendations / conditions [copy attached to these minutes].*

E. LARRY / JODY MUNSON SPECIAL USE REQUEST - Animal Sanctuary located on a 10-acre parcel (#050-1049-09-990), described as the NE ¼, of the NE ¼ of the NE ¼, Section 29, Township 49 N, Range 5 W, Town of Washburn (tabled 12/15/05)

This agenda item was **withdrawn** by the applicants.

F. TERRY & JACQUELINE RAE-LEDIN SPECIAL USE REQUEST – Bed & Breakfast: located in the S 1/3 of the NW ¼ of the NE ¼, section 21, Township 49 N, Range 4 W, Town of Bayview.

Jacqueline Rae-Ledin addressed the Committee stating Town approval was given Jan. 10, 2006; the location was previously a veterinarian clinic on Hwy 13, has been empty for 4-5 years and the proposal is for two B & B rooms in the home, not the clinic building. She said they are not requesting a building addition at this time.

L.U.S. Tulowitzky reported there is a 1991 sanitary mound system which is designed for three bedrooms, therefore is adequate and he did not see any signs of failure.

Motion by Compton, seconded by Beeksma, to **approve** the two-unit B & B based upon Town Board Approval. Tulowitzky reported that Ms. Ledin has been in contact with the State and County Health Dept. and asked if there possibly might be a condition added that all necessary permits are obtained. Compton then amended his motion adding, **'all other necessary State and Health Dept. permits be obtained'**. Motion carried.

G. KEN & DALE EXCAVATING SPECIAL USE REQUEST - Building Contractor located on a 25-acre parcel (#020-1038-02) in the NE ¼ of the SW ¼, Section 17, Township 47 N, Range 5 W, Town of Eileen.

L.U.S. Tulowitzky reported he informed the applicants that a special use permit is required. He also said the Town tabled this request because the applicant was not present at the meeting and they wanted to discuss road issues as they are concerned about heavy truck traffic; the applicant agreed to attend the Town's Feb. meeting. Motion by Rondeau, second by Compton, to **table**; motion carried.

H. DISCUSSION AND POSSIBLE ACTION ON NR115 RE-WRITE UPDATE: Kastrosky said there was nothing new to report.

I. CITIZENS CONCERNS AND INPUT: N/A

J. OTHER ITEMS THAT MAY COME BEFORE THE COMMITTEE (DISCUSSION ONLY):

- **AZA Furtak reported a warrant was issued to Curtis Poppe; he again has approximately two-to-three thousand tires built up, had been cited in October. Kastrosky said they finally gave up trying to work with him, the Dept. "did everything we could for him" and will let the courts settle it. Furtak said they're seeking the maximum fine.**
- **Kastrosky recommended the Zoning Committee attend a land use planning seminar on Feb. 1st at WITC.**

10. MONTHLY REPORT: None available

11. ADJOURNMENT: Motion by Rondeau, second by Beeksma to adjourn at 3:34 PM. Carried.

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

Prepared by MJJ on 1/26/06
Approved by Karl L. Kastrosky 1/27/06

cc: Administrator; Clerk; Corp.Counsel; DNR; Committee; Supervisors

K/MJJ/ZC/Minutes/2006/Jan