

MINUTES
Bayfield County Planning / Zoning Committee Public Hearing / Meeting
March 15, 2007
Board Room, County Courthouse, Washburn, WI 54891

1. **CALL TO ORDER OF PUBLIC HEARING:** *By Chairman Beeksma at 1:02 PM.*

2. **ROLL CALL:** *Beeksma, Jardine, Miller, Rondeau, all present; Maki, absent.*

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

4. **REVIEW OF MEETING FORMAT:** *By Chairman Beeksma.*

5. PUBLIC HEARING:

A. WILLIAM & BETTY FRANZEL CONDITIONAL USE REQUEST - Re-open / Operate a sand pit (w/ possible screening) on 40-acre parcel (ID# 0261035-04-000) described as SE ¼, SW ¼, Section 18, Township 46 North, Range 5 West, Town of Kelly.

Agent Brad Gustafson (Ashland Construction) reported that crushing is a possibility in the future and they have Town approval. Jardine asked why they requested 'possible' screening instead of just screening & crushing in the request. Kastrovsky explained the revised non-metallic mining ordinance now automatically includes crushing, screening, and/or mixing without making specific request to that effect but this application came in prior to the change. He said it was noticed with only screening but doesn't believe that is a problem; the Town recommended approval is for 'screening of sand and possibly crushing'.

Agent Gustafson said the Town stated this request fits their land use plan and noted the Applicant does want to screen and crush; they are looking at six acres of sand but more mining will possibly be done within the 40 acres in the future. Kastrovsky said that was not referenced in the public hearing notice but if they want it, it should be expressly stated "today" and also noted no time limit request was made, however, the Committee may set a limitation or leave open-ended.

Kastrovsky reported the Rec. Plan has been received but must be considered separately by discussion and motion; no support / opposing correspondence on file; TBA is on file; that the pit was open prior to non-metallic mining and did not have to be reclaimed.

Speaking in Support / Opposition: *None*

(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 rec. 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. All other conditions concerning the operation of the non-metallic mining site have to be in the conditional use permit.)

Rec. Plan: *no concerns, support, nor opposition came forward in relation to the Plan.*

B. PETITION TO AMEND ORDINANCE (Section 13 & 14)

An amended petition by Karl Kastrovsky, Bayfield County Planning and Zoning Director, on behalf of the Bayfield County Planning and Zoning Committee, requesting amendments to the Bayfield County Zoning and Subdivision Control Ordinances, including the following:

1. Amendment of Sec. 13-1-4(a) to revise definitions of Accessory Structure, Condominium, Duplex, Hotel/Motel, Multiple Unit Dwelling, and Shoreland Buffer Zone; create definitions of Conservation Subdivision, Developable Lot, Open Space Lot, Multiple Unit Development, Short-term Rental, and Short-term Rental Accommodation; and repeal the definitions of Planned Unit Development and Resort.
2. Repeal of Sec. 13-1-29, pertaining to Planned Unit Developments, Condominiums, Resorts, and Multiple Unit Dwellings, and re-creation thereof, pertaining to Multiple Unit Developments.
3. Creation of Sec. 13-1-29A, pertaining to Conservation Subdivisions.
4. Amendment of Sec. 13-1-31, pertaining to back lot access to navigable waters, to provide back lot access for Conservation Subdivision lots.
5. Amendment of Sec. 13-1-32 to establish dimensional and other requirements for Duplexes, Multiple Unit Developments, and Conservation Subdivisions providing shoreline access.
6. Amendments to Sec. 13-1-60 pertaining to dimensional requirements applicable to Duplexes and Conservation Subdivisions.
7. Amendment of Classification Table in Sec. 13-1-62 (a) to delete the term "Condominium" from the Multiple Unit Dwelling entry; delete the entry for Resort; add an entry for "Shoreland Grading"; and revise the entry for "Dwelling, Single-Family, Duplex."
8. Creation of Sec. 13-1-62 (b) providing that a lot created by a subdivision of a parcel in an F-1 Zoning District into three (3) parcels of less than 10 acres each within a five (5) year period may be improved with a single family dwelling or duplex only if the subdivision has been approved as a Conservation Subdivision, and prohibiting such improvement of a lot if it was created by the subdivision of a parcel in an F-1 Zoning District into four (4) or more parcels of less than 10 acres each within a five (5) year period.
9. Amendment of Sec. 14-1-80 (a) to provide that Multiple Unit Developments and Conservation Subdivisions shall comply with the applicable requirements of Sec. 13-1-29 and Sec. 13-1-29A rather than the area and width dimensional requirements otherwise applicable to lots.
10. Repeal of Sec. 14-1-86 pertaining to Planned Unit Developments.

Director Kastrosky presented this request, noting some areas of the ordinance have been in conflict, is weak in other areas, etc. Kastrosky presented a just-completed-draft; he said some items were deleted [from the draft] at this point because they could not possibly come to a conclusion at this meeting. Jardine's opinion was to pass the amendments now and 'tweak' if necessary in future.

Speaking in Support:

- **Roger Dreher** (Drummond, Bayfield County Lakes Forum): *they worked over the last nine months to come to an agreement (copied to the Dept. and Committee) the last step being the Feb. 19th version; he said he had not yet seen the latest document. (Kastrosky said he had just completed it prior to the meeting). Dreher offered to go through the 2/19/07 version item-by-item w/ recommended changes/additions.*

Beeksma asked the Committee which version to work off (Dreher wanted to work off the 2/19 version as he had not seen the new draft; Kastrosky had a new version). Kastrosky said if the Committee was willing, Dreher could go through each item on his version and he would comment and note recommendations and changes from the latest draft. The Committee agreed; Dreher and Kastrosky presented their versions and recommendations.

Support, cont'd.:

- **Dick Carver**, representing Bayfield Township, said the plan won't work for every Township; supports moving forward on it.
- **Jim Brakken**, (Cable, B.C. Lakes Forum): supports erring on the side of the resource, strong wording and relaxing it somewhat later if necessary. Concerns: bunk houses, allowing bunk houses on MUDs / PUDs putting more pressure on resources; docking—specific language re docking / mooring site numbers and limiting use.

Opposition:

- **Carol LeBreck**, (Barnes): opposed to accessory structure language now; it's common in other counties to have language stating accessory buildings cannot be used for human habitation, no matter if private, or MUDs / PUDs. Opposed because accessory buildings are turning into large residences in the County; bunkhouses are not addressed anywhere in the zoning ordinance; when researching found no place where human habitation is allowed in accessories; bunkhouses are a 'real abuse' in Bayfield County. Concerns also regarding density and impact on lakes.

6. ADJOURNMENT OF PUBLIC HEARING: Chairman Beeksma called for a break at 2:50 PM, (prior to adjourning public hearing). Following the break, at 2:58 PM, motion by Rondeau, second by Miller, to adjourn the public hearing; carried - 4 yes / 0 no.

7. CALL TO ORDER OF ZONING COMMITTEE MEETING: By Chairman Beeksma at 2:58 PM.

8. ROLL CALL: Beeksma, Jardine, Miller, Rondeau, present; Maki absent.

9. MINUTES OF PREVIOUS MEETING(S): Kastrosky noted page 4 of the Feb. 15th minutes and suggested a possible word change which had been approved as part of the ordinance amendments on 2/15/07. He referenced the paragraph re 'adjacent wetlands' which was changed to 'connecting wetlands'. Kastrosky said the word 'connected' [wetlands] is preferable but either word is acceptable. Motion by Rondeau, second by Jardine, to amend the 2/15/07 minutes to change the word 'connecting', to 'connected' wetlands on page 4 and approve otherwise as prepared. Motion carried-- 4 yes / 0 no.

10. BUSINESS:

A. WILLIAM & BETTY FRANZEL CONDITIONAL USE REQUEST - Re-open / Operate a Sand Pit (w/ possible screening) on 40-acre parcel (ID# 0261035-04-000) described as SE ¼, SW ¼, Section 18, Township 46 North, Range 5 West, Town of Kelly.

(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 rec. 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. All other conditions concerning the operation of the non-metallic mining site have to be in the conditional use permit.)

Motion by Jardine, seconded by Miller, to approve the conditional use permit to reopen and operate the sand pit with screening and crushing, with no time limit or duration, with hours of operation of 7:00 AM to 7:00 PM, and no Sunday operation.

After further discussion about time limits, Miller withdrew his second to the motion (opposed to having no time limit). After discussion, Jardine amended his motion to add "to allow the sand pit for 15 years"; Miller seconded the motion to **approve the conditional use permit to reopen and operate the sand pit with screening and crushing, with a time limit of 15 years, and hours of operation of 7:00 AM to 7:00 PM, and no Sunday operation.** L.U.S. Tulowitzky said this would affect the Rec. plan and noted it will be revisited after the initial six acres are mined. Motion carried-- 4 yes / 0 no.

Reclamation Plan: Motion by Rondeau, second by Jardine to **approve.** Discussion followed and motion

carried-- 4 yes / 0 no.

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12. Repeal of Sec. 13-1-29, pertaining to Planned Unit Developments, Condominiums, Resorts, and Multiple Unit Dwellings, and re-creation thereof, pertaining to Multiple Unit Developments.
13. Creation of Sec. 13-1-29A, pertaining to Conservation Subdivisions.
14. Amendment of Sec. 13-1-31, pertaining to back lot access to navigable waters, to provide back lot access for Conservation Subdivision lots.
15. Amendment of Sec. 13-1-32 to establish dimensional and other requirements for Duplexes, Multiple Unit Developments, and Conservation Subdivisions providing shoreline access.
16. Amendments to Sec. 13-1-60 pertaining to dimensional requirements applicable to Duplexes and Conservation Subdivisions.
17. Amendment of Classification Table in Sec. 13-1-62 (a) to delete the term "Condominium" from the Multiple Unit Dwelling entry; delete the entry for Resort; add an entry for "Shoreland Grading"; and revise the entry for "Dwelling, Single-Family, Duplex."
18. Creation of Sec. 13-1-62 (b) providing that a lot created by a subdivision of a parcel in an F-1 Zoning District into three (3) parcels of less than 10 acres each within a five (5) year period may be improved with a single family dwelling or duplex only if the subdivision has been approved as a Conservation Subdivision, and prohibiting such improvement of a lot if it was created by the subdivision of a parcel in an F-1 Zoning District into four (4) or more parcels of less than 10 acres each within a five (5) year period.
19. Amendment of Sec. 14-1-80 (a) to provide that Multiple Unit Developments and Conservation Subdivisions shall comply with the applicable requirements of Sec. 13-1-29 and Sec. 13-1-29A rather than the area and width dimensional requirements otherwise applicable to lots.
20. Repeal of Sec. 14-1-86 pertaining to Planned Unit Developments.

DISCUSSION:

Re Page 3 of 03/15/07 Draft, (b) Requirements, (3) c. (*"For purposes of this provision, every two units of a hotel/motel with less than 400 square feet in area each may be counted as only one unit."*)

- *Kastrosky called attention to this item; is considering striking "two units" and replacing with "one unit"; said he is looking for direction-- has mixed feelings; believes it may be addressed with the density issue.*
- *Chairman Beeksma suggested they take it out if there is uncertainty and re-address later if necessary.* **Page 3, Item (b) Requirements, (3) c. was deleted.**

Re Page 8 Table of 03/15/07 Draft, last item (Viewing Corridors Width):

- Suggestion by Kastrovsky to add wording of "40 feet of separation". Miller suggested it not be changed; Rondeau agreed.

Re Page 10 Table of 03/15/07 Draft, last item (Viewing Corridors Width):

- This is to be unchanged as is the Page 8 Table under 'Viewing Corridors Width (noted above).

Re Page 9 of 03/15/07 Draft, Item (5), the sentence stating, "The combined widths of viewing corridors through a shoreland vegetation protection area shall not exceed the percentage of total frontage of the development indicated in the "Viewing Corridors" row in paragraph (1), ~~and no single view corridor shall exceed 10% of the total frontage~~ [add] "(see Table of Requirements)".

- Kastrovsky noted the above ~~statement~~ conflicts; needs to be removed; 'see Table of Requirements' is to be added.

Re Page 11 of 03/15/07 Draft, Item (4), the sentence stating, "The combined widths of viewing corridors through a shoreland vegetation protection area shall not exceed the percentage of total frontage of the division indicated in the "Viewing Corridors" row in paragraph (1), ~~and no single view corridor shall exceed 10% of the total frontage.~~ [add] "(see Table of Requirements)".

- Kastrovsky noted the above ~~statement~~ conflicts; needs to be removed; 'see Table of Requirements' is to be added.

Re Accessory Buildings:

- Tulowitzky stated that the Dept. is in agreement w/ Carol Labreck's comments re accessory building definition; changes were attempted, however, Corp. Counsel Bussey recommended it be brought back with a definition "across the board", not just for MUDs; a proposal will be forthcoming.

Re 'Density Issue' Discussion / Suggestions [from B.C. Lakes Forum]:

- Kastrovsky said we now have discretion in this area, depending on topographical issues, are able to survive and then upgrade in the future.

Motion by Rondeau, second by Jardine, to **accept the amendments with corrections.**

Discussion: Request was made by Roger Dreher to have the [above] motion read as presented; request then made to clarify which draft document was being used / corrected.

Motion was restated by Rondeau, **to accept the amendments as presented in the March 15, 2007 document with revisions to the 02/19/07 draft document.** Motion carried- 4 yes / 0 no.

[Kastrovsky presented, for the record, an 'official copy' which notes the presented and approved amendments with revisions. Note: Official copy to be filed with these minutes in the Planning / Zoning office.]

Agenda Review and Alteration

C. SIDNEY TRIBE & SUSAN REYNOLDS SPECIAL USE REQUEST – Second Residence on Parcel (#012-1171-01) .53-acres, Lot 10, Block 12, Assessor's Plat Village of Cable, Section 18, Township 43 N, Range 7 W, Town of Cable.

Director Kastrovsky reported the applicant requested this item be **tabled** (Town Board meeting is scheduled for this evening). Discussion was allowed due to concerned citizens in the audience.

AZA Furtak presented the case history:

- Originally was Charlotte Reynolds' property across from Brickhouse Café; consisted of residence and guest house; residence burned down; application received to rebuild; lot is too small for two residences. Options were: obtain temporary permit while rebuilding, then remove kitchen and keep second residence as bunkhouse; totally remove second house; or apply for special use permit. Decision: obtain temporary, then convert the smaller building to a bunkhouse.
- House was built, Ms. Reynolds passed away, now in probate; siblings filed lawsuit for inheritance; daughter Heather Ludzak opened the Brickhouse Café; an employee was allowed to move into the house; in violation—didn't remove kitchen; went to court; judge ordered Sheriff's sale; parties in disagreement; no lawsuit filed—ownership not settled.
- Attorney discovered garage on property did not meet setback from lot line; Michael Reynolds applied for variance; BOA granted special exception for reduced setback; garage remained. House was to be removed within 60 days of Sheriff's sale; one of the siblings bought the property; special exception did not apply; purchased additional small parcel, joined the property but did not have to remove the house because now it was in compliance.

The Committee allowed audience input:

- Steve Dixon, adjacent property owner (**in opposition**) said the second residence is a mobile home with entry and porch, 40+ years old; 9 feet from his property line; is having survey done shortly.
- Furtak: structure was there prior to zoning.
- Jeannie Dixon: stated a condition placed by the County on 06/07/02 was to convert to a bunkhouse and that was never carried out or enforced by the County; it was rented out also in violation of conditions; it adversely affects their property; an appraiser told them the mobile home has no value as real estate and probably detracts from the value; **strongly opposed** to this request.
- Question [Dixon's]: If building is allowed to remain, is rental allowed? Kastrovsky said it would not be allowed for short term rentals (less than 30 days) or if the Committee placed a condition prohibiting rental.
- Tom Frels, Town of Cable Chair: said deadline to convert to bunkhouse was June, 2003—questioned why it wasn't handled; there was disrespect / disregard for the Zoning Dept., Committee and BOA decisions; expressed dissatisfaction that Town / property owners were not notified (of case progress); renters will be out 04/01/07.
- Kastrovsky said this property is now fused, therefore a new issue; applicant is not here because the Town still has not heard the case; a rule in the Dept. is to get people into compliance or deny.

Motion by Jardine, second by Rondeau, to **table for Town input**; carried- 4 yes / 0 no.

D. JOHN & JANE KOVACIK SPECIAL USE REQUEST– Bed & Breakfast (2 rooms) 27.4-acre parcel (#028-1003-07) located in the SE ¼ of the NE ¼, Section 20, Township 47 N, Range 6 W, Town of Keystone.

Jane Kovacik stated they want to rent two of three bedrooms; she missed the Town meeting due to their change of meeting date. Kastrovsky reported the Town tabled the request for more information. Kovacik said she called two Town Board members however they did not know what the questions were.

Tulowitzky said the septic was issued in 2003, accommodates a three-bedroom residence; there is no proposed addition; is adequate; signs will require permits; Ms. Kovacik is working w/ the Health Dept.; noted letter of support from Barbara Brandis.

Motion by Jardine, seconded by Rondeau, to **approve** contingent on TBA.

Discussion:

Opposition: Kelly Kovach, adjacent property owner, is opposed because of Ag zoning; afraid that will be ruined w/ development; has working farm-- concerned B & B guests will complain about farm odors, etc. and she will be asked to change things. Tulowitzky said criteria in Ag-1 for a B & B is to obtain a Special Class B, which is being done. Kastrovsky said if the Committee is reluctant, they can place conditions such as no further expansion, no complaints about farm odors or related farming issues. Kastrovsky reminded the

applicant that they, or adjoining property owners, may sell their places in the future and things could change; a condition could be placed to issue this permit to the current owners only.

Jardine amended his motion **to approve only for the Applicants, for as long as they own the property, the special use permit does not go with the property; [approve] with knowledge of the farm next door; no expansion; contingent upon Town Board Approval.** The amended motion carried, 4 yes / 0 no.

E. CITIZENS CONCERNS / INPUT: None

F. DISCUSSION AND POSSIBLE ACTION ON NR115 RE-WRITE UPDATE: None

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

- Kastrosky reported on situation of 'exotic dancers' in Drummond; he checked w/ Bussey on the situation and response was there is probably nothing that can be done about it.

11. MONTHLY REPORT: Motion by Jardine, second by Rondeau, to **approve** the 01/2007 report. Motion carried 4 yes / 0 no. [Note: 02/2007 report not available at time of meeting.]

12. ADJOURNMENT: Adjourned with motion by Jardine at 4:10 PM, second by Rondeau; carried.

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

Prepared by MJJ on 03/21/07
Approved by KLK 3/27/07

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

K/ZC/Minutes/2007/March