

Lincoln County Planning and Zoning Committee
Thursday, December 11, 2008 at 8:30 a.m.
Lincoln County Service Center, Meeting Room 107

1. Call Meeting to Order - Meeting was called to order by Chairman Saal at 8:30 a.m. in meeting room 107 in the Lincoln County Service Center. Members present: Saal, Meyer, Mittelsteadt, Eisenman and Rusch along with Dan Miller, Zoning Administrator, Dan Bowers; Zoning Specialist and June Winters; Program Assistant.
2. Tour site that will be the subject of the public hearing that will be held at 10:30 a.m. – Committee Members, Bowers & Miller left to tour the site listed on the public hearing notice.
3. 10:00 p.m. Public Hearings – Hearings were held on the items listed in the notice. Hearing called to order at 10:30 a.m. by Chairman Saal. Saal, Meyer, Mittelsteadt, Eisenman and Rusch along with Dan Miller; Zoning Administrator, Dan Bowers; Zoning Specialist, June Winters; Program Assistant, Mary Heederik; Court Reporter and 6 other persons were present.
4. Discussion by the Planning and Zoning Committee and Decision on the Petition for Modification of the Subdivision Ordinance requests which were the subject of the Public Hearing.

PETITION FOR MODIFICATION OF THE SUBDIVISION ORDINANCE

1. A request by Jerry Muzynoski to create a lot which does not have 30 feet of frontage on a public road but is accessed by a private road. The property is located in Section 15, T34N–R8E, in the Town of Harrison, and has an address of N8585 Witte Drive. The request is being heard under section 18.3.03(3) of Lincoln County Ordinances.

Attorney Anthony Schmoldt was present in support of the request and to represent the McCrackens who are adjoining land owners to Jerry Muzynoski and have an interest in Muzynoski's request. He explained his clients' interest for the Committee. There is an existing property line dispute that they are trying to rectify. He explained how the lots under the request are laid out. They currently have an informal "road maintenance" agreement already in place with some of the 35 landowners on the road and he doesn't feel that a new agreement with only the 3 names involved in this request would be practical. Meyer asked Schmoldt to clarify exactly where the private road travels and he did. He explained where a driveway would be located and explained where they are proposing stairs. He stated that his clients wish to have the least amount of soil disturbance and the area left as natural as possible. Miller asked Schmoldt to clarify the fact that his clients did not want to try to bind all 35 users of the road to sign an agreement or even bind 3 people to maintain the entire road as it was seen as creating more problems than a formal road agreement would solve. Schmoldt concurred that was their feelings. Meyer asked Schmoldt how many year round residents are on the road. Schmoldt answered that he believed there were 4 that were year round residences.

Charlie Phelps was present. He is an adjoining property owner. He is in favor of the request to settle the property dispute but not in favor of requiring the road maintenance agreement. He feels that there are fewer problems with the road maintenance as is than if they were required to file a formal road maintenance agreement binding either the 3 or 35 land owners. Mittelsteadt asked Phelps some details of their current road maintenance. Phelps explained and stated that it is working out just fine and they have had very little problems. Bowers asked if he would be willing to sign an agreement with all 35 property owners and Phelps stated "yeah, but good luck with that one". He said that they don't have the support of all of the land owners now and to get them to sign an agreement would be quite an accomplishment.

Attorney Randy Frokjer was present to represent Jerry Muzynoski. He also owns property in this area but not on the same road. He said that both roads have active "clubs" with informal agreements in their respective areas to

maintain their roads. He explained that it seems to be working relatively well and feels that there may be more problems if we were to require a formal agreement. He said that they usually have carryovers for the funds donated and have funds to work with. Miller asked if both Muzynoski and McCracken have legal easement to use this road. Frokjer stated that they both do.

Saal read into record that the Town of Harrison submitted a recommendation form dated 12/8/08. The form was signed by the town chairman and 2 supervisors waiving its right to make a formal recommendation. Saal closed the hearing for the request. Mittelsteadt commented for the record that the applicant's name was not on the recommendation form that was signed by the town which may have just been an over site.

Motion by Meyer, seconded by Mittelsteadt to APPROVE the request. Meyer noted that staff recommended the road maintenance agreement but at this time the informal road maintenance of the "clubs" seems to be working alright. Mittelsteadt commented that it may become an issue in the future and at that point it may be left up to attorneys. Miller stated that is part of the reason that we don't view developments that use private roads favorably in most cases. Saal stated that it usually is important to have a formal agreement but in this case because of the long history of success and cooperation of the informal road maintenance, it doesn't make sense to condition approval of this request upon that.

Motion carried all ayes.

2. A request by Edward Livingston to create a lot which does not have 30 feet of frontage on a public road but is accessed by a private road and which does not have the required 200 feet of lot width. The property is located in Section 11, T31N-R7E, in the Town of Pine River, and has an address of N1806 Hill View Road. The request is being heard under section 18.3.03(3) of Lincoln County Ordinances.

Bill Zeitz, Chairman of Pine River and Chairman of the Town of Pine River Planning Commission, was present and stated that both bodies approved the request at the township level. He questioned the reasoning that this request had to be approved by the county but Miller had previously explained to him that it fell under "Shoreland" rules because of the body of water on the property. Saal asked Zeitz if he was aware of any road maintenance agreement. Zeitz was not. Miller explained the request and stated that it appeared that Mr. Livingston was binding himself to maintain the road by a statement on his application. Meyer questioned if the property changed hands would the responsibility transfer with the property. Mittelsteadt suggested that there be something on the Certified Survey Map and/or deed stating such to avoid problems and future interests.

Saal closed the public hearing for the Livingston request.

Motion by Mittelsteadt, seconded by Rusch to APPROVE ON CONDITION the request.
CONDITION:

- 1) Deed covenant is placed on record in the Register of Deeds binding the owner of Lot 1 on the proposed Certified Survey Map to be responsible for maintenance of this private road.

Motion carried all ayes.

The Committee proceeded to Item #6, Public Comment.

5. Discussion and approval of 2009 meeting schedule - Dan Miller reviewed the proposed schedule. Motion by Eisenman, seconded by Mittelsteadt to approve the proposed 2009 schedule. Motion carried all ayes. Committee proceeded to Item #7.

6. Public Comment Opportunity – Mark Voigt was present with public comment. He stated that he wanted to make a comment about the Shoreland Zoning Ordinance. He feels that in regards to the parcels, A & B, in the Town of Merrill at the corner of County Rd K & County Rd G, the shoreline zoning ordinance at it stands will not be enforced. He has been informed that Victory Lane will be snowplowing in a manner that will create a problem with stormwater management and this will affect the Prairie River. The Committee agreed that we can not address this issue at this time and suggested that it be put on the next agenda for discussion. An agenda will be sent to the interested parties.

The committee returned to item #5.

7. Approve the November 13, 2008 meeting minutes – Motion by Rusch, seconded by Eisenman to approve the November 13, 2008 meeting minutes. Motion carried all ayes.
8. Administrator's Report - Miller reviewed with the Committee the activities since their last meeting. He reminded the Committee that we are getting close to the deadline (January 1, 2010) for the towns' to comply with state mandate of Comprehensive Planning law. He said that staff has had discussions and we are planning on having a workshop possibly in February/March 2009 with the towns to facilitate this process. Meyer questioned which townships were affected and Miller explained that they may be affected whether they are zoned or not. There was discussion on the process that was followed with the re-codification. Mittelsteadt felt that the process may have been too cumbersome and curtailed participation from some of the townships. Saal stated that Land Use was the main focus previously and that more focus should be placed on the Economic Development and Transportation aspects in the next step. The Committee briefly reviewed the compliance and financial reports. Miller mentioned that we recently received some correspondence that grant and loan monies may be available from USDA – Rural Development for older lower income rural homeowner's for purchasing or doing improvements to their home. We have some information regarding this that we can pass out to the public.
9. Adjourn - Motion by Mittelsteadt, seconded by Meyer to adjourn at 11:40 a.m. Motion carried all ayes.