

Lincoln County Planning and Zoning Committee
Thursday, April 10, 2008 at 8:30 a.m.
Land Resource Center Meeting Room

1. Call Meeting to Order - Meeting was called to order by Chairman Saal at 8:30 a.m. in the Land Resource Center meeting room. Members present: Saal, Meyer, Rusch and Short along with Dan Miller; Zoning Administrator and Dan Bowers; Zoning Specialist. Mittelsteadt was absent from the tour but joined committee for the hearing.
2. Tour sites that will be the subject of the public hearing that will be held at 10:30 a.m. & Subdivision waiver request site in the town of Wilson – Committee returned to the meeting at 10:50 a.m. (travel time between sites took longer than anticipated) and proceeded with item #3.
3. Public Comment Opportunity - There was no public comment. Harry Gladwin stated that it was nice to see all of the committee members back after the election.
4. 10:30 a.m. Public Hearings – Hearing was held on the item listed in the notice. Hearing called to order at 10:55 a.m. by Chairman Saal. Saal, Meyer, Mittelsteadt, Rusch and Short along with Dan Miller; Zoning Administrator, Dan Bowers; Zoning Specialist, June Winters; Program Assistant, Mary Heedrick; Court Reporter and 20 others were present.
5. Discussion by the Planning and Zoning Committee and Decision on the Conditional Use request which was the subject of the Public Hearing.

CONDITIONAL USE REQUEST

1. A request by Chad and Diane Glaza to build a garage greater than 1,500 square feet in area in a Rural Residential 2 zoning district. The property is described as lots 9 and 10 in Echo Lake Estates of Section 15, T33N–R8E, in the Town of Russell, and has an address of N6482 Tarin Lane. The request is being heard under section 17.3.09(1)(f) of Lincoln County Ordinances.

Chad Glaza was present to support their request. He explained his request to the committee. He wants to construct a 36'x52' garage that he has been planning for several years. He would rather construct one larger garage instead of 2 smaller ones on the property. Saal asked about a concern that a neighbor had that he would be operating a business out of this building. Glaza stated that he does have an office in Merrill and a storage unit for his materials. Saal asked for clarification that he was not going to operate the business from his home. Glaza stated that he did not intend to have his business out there. When he purchased the property the only covenant that he was aware of was that he could not have a mobile home. He said there was no restriction on the size of a building. The code has changed making this an issue now.

Charles Szalewski was present in support of the request. He is a neighboring landowner. He was unaware of the restrictions also. He felt that if this was granted it set a legal precedent and he would be able to put up a larger building also. Mittelsteadt explained that each case is separate and he would have to go through the same process as Mr. Glaza did.

Saal read into record the 3/10/08 favorable township recommendation from the Town of Russell. Saal read into the record a letter of support from Jerry & Michele Muzynoski and letters of opposition from Jerome & Roxann Wissbroecker and Henry & Kathy Brubach. Saal closed the public hearing for the Conditional Use request.

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

CONDITIONS: 1) No unauthorized use may occur inside of the new building or upon the property. Any business related activities shall comply with the permitted uses section of the zoning ordinance for this property.

2) The building shall maintain a 15 foot setback to the eaves or overhangs from the north property line.

Motion carried all ayes.

6. Joint Subdivision waiver request – Charles Jarvis & Allan Lamer - to create a lot that will not have frontage on a public road – off of Nick Rd (Town of Wilson) - Dan Miller explained the request. He said that the Committee toured the road today and it does get progressively narrower. He referenced a copy of the easement submitted by Randy Frokjer indicating the width of the easement. Miller explained the reason why Zoning is requesting that road improvements be made is for health and safety issues. He is asking the committee to not approve this request unless these conditions are imposed.

Gene Uttech was present to represent Jarvis and Lamer. He is a registered land surveyor with MSA in Rhinelander. Jarvis wants to make another lot for his son and Lamer wishes to create another lot to build a home. They do not want to make this a town road and understand that it will need to be brought up to code if they want their request granted. Uttech stated that Gelschus, who also owns land at the end of the road, may want to build at some future date too. Miller asked if Jarvis & Lamer would be willing to shoulder the road maintenance costs instead of burdening the other owners with the maintenance costs. Uttech thought that they may. Saal pointed out that he thought that anyone with an easement on this road would have to be included in the road agreement. Miller said that it depends on how the agreement is written as to who shoulders the responsibility. He explained that it is up to interpretation but he feels that everyone who has an easement should be able to widen or improve it to the width of the recorded easement. Saal asked if the other land owners could stop them. Miller stated that may be a civil matter if they could not agree. If Jarvis & Lamer want their request approved and the rest of the road owners do not want to comply, the only way may be that Jarvis & Lamer are responsible for the cost and maintenance. Mittelsteadt explained that for accessibility for emergency vehicles he feels that it is necessary to widen the road. Uttech suggested that a road association be created to discuss the issues. Saal asked about the concern of some of the land owners that land will be taken away from them to accomplish this. Uttech stated that he believed that most of the legal descriptions read that they own only up to the edge of the easement. Meyer asked Uttech to identify who owned a certain parcel. Short asked if there was another access to the property. Uttech stated that there is another private road that comes in from the north end of Government Lot 3 but would have to go through a wetland to get to this property and typically the DNR will not grant a permit for a crossing if there is another access.

Merle Hickey spoke somewhat in favor of the request (with reservations). He said that if the easement is 20' wide we shouldn't prevent them from widening the road to 16', as that is their right. He only wants to make sure that the people making the request should shoulder the expense. Saal asked Hickey if he would agree to be part of the road association. Hickey said that he would but did not want to be responsible for the initial cost of the improvements, only for sharing in maintenance after it was improved.

Don Kleich spoke not in opposition. He is just worried about the owners that are so close that if any of their property was taken would it be detrimental to them. He is not opposed to the road improvement, he is in favor of it. Maintenance for the road is just a very informal agreement that currently exists. Not all owners contribute but it would be nice if they did. He doesn't know how it will work if they have a formal road agreement and everyone does not want to sign on.

Saal entered into the record a letter of non opposition (with conditions) from David Ackerlund. Saal stated that we have also received the minutes from the town of Wilson meeting regarding this issue.

Randy Frokjer was present to represent Ron & Sue Bellezo. They are one of the cabins that are very close to the easement and they do not think that the road can be widened and not be detrimental to them and their safety. It's a tight situation and widening the road will only make it worse. He clarified the definition of an easement. He feels that creating an association and not including all owners is just asking for more problems in years down the road. It

is a "loose" arrangement now and not including everyone will cause problems. If more development is allowed, it will only compound the problem. It is a very old "poor mans land division" with issues that were never addressed when the lots were created. These are the reasons his clients are opposed to it. Mittelsteadt did agree that there are existing road issues all over the county. Frokjer stated that it just doesn't make sense to compound an existing problem and that it is contradictory to having Zoning regulations in the first place. Frokjer said that regarding the town board minutes, they only reflected that the road is not the town's responsibility so he didn't agree that what was said at the town meeting was an approval or endorsement of this request. Meyer asked to identify which parcel belonged to his clients. Frokjer, Uttech & Miller identified it on the aerial photo.

Eugene Heisler was present in opposition to the request. He is more worried about the run off that will be created off of this increased hard surface area. It will worsen an already existing problem and feels that this issue should be addressed. Saal clarified the surface of the road and Heisler said that even if it is just "gravel that you drive on" it will not allow the run off to seep in.

Saal summarized the letters of opposition for various reasons from William & Mary Lou Hamlin, Charles Berry, The Scheel Family, Merle Hickey, Charles & Marsha Keck, Tom Stanek, Atty. Tim Mahoney representing Frank & Michelle Dedeo and Robert Ely.

Miller estimated that if they were required to increase the width by 4' the entire length of the road it would involve approximately 5,600 sq. ft. of area. Miller stated that any owner of the existing easement is afforded the right to widen the traveled area to 16 feet. Anybody on Nick Rd. who proposes building or replacing a dwelling would be required to improve the road to our ordinance standards. So this is not just be a matter of "if" but "when" this road may need to be widened.

Motion by Meyer, seconded by Mittelsteadt to LAYOVER the request until the May meeting so that the following issues may be addressed: 1) water runoff, 2) tree removal and 3) road improvement & maintenance. Committee further discussed the issues that would need to be resolved before a decision may be made. Uttech agreed to work on getting clarification on these issues.

Motion carried all ayes.

Meeting recessed at 12:20 p.m. for lunch. Saal reconvened the public hearing at 1:20 p.m. to proceed with item #7.

7. Old Business –

- 1) Comprehensive Plan Amendments & WPS Rezone request – Town of Harding – See Below
- 2) Comprehensive Plan Amendments & WPS Rezone Request – Town of Scott – See Below

Saal asked Miller to review any new information. Miller referred to the letter from the Town of Harding asking for another layover for the request. He also referenced an e-mail from Gene Mootz in the Town of Scott that they need more time to make a recommendation. He also stated that there may be a request from Tom Geiger for a recommendation or request from us to FERC to require WPS to submit a shoreland management plan to FERC. Its intent is to bring local stakeholders to the table to decide what is best for the project lands. He doesn't believe that the decision for the comprehensive plan amendment and rezone request should be held hostage by these new requests. He has been advised by Corporation Council that the county needs to make a decision one way or another on these original requests. They may be related but are not interdependent. He said that we did receive WPS' response to the FERC letter that was discussed at last month's meeting. That letter clarified issues in the actual development of the parcel. Meyer asked if every parcel owner would be required to go through these same steps or if WPS does only because they are licensed through FERC. Miller stated that the restrictions are tied to having the license. Bowers clarified some of what FERC may have under their regulations and control. Miller stated that when he speaks with Bob Fletcher at FERC he will discuss the license

process and what information was shared by WPS in obtaining their license. Those questions may have a bearing on how FERC would proceed but again Miller stressed that this is only regarding the “project lands”. Miller stated that he thinks the committee should honor the request of the town in another layover for one more month with the understanding that a decision needs to be made soon. Mittelsteadt asked if the towns are negotiating on the number of lots, what effect would that have on the out come. Miller stated that whatever restrictions this committee would put on the request, if granted, would be the conditions that have to be abided by. Bowers said that they should clarify in their decision, the type and number of dwelling units that would be allowed. There was more Committee discussion on what issues may need to be negotiated.

Saal asked for any new testimony. Tom Geiger spoke in opposition to the request. His new information was regarding requesting a Shoreland Management plan. WPS’ license was granted by FERC on March 4, 2005. There was a proposed amendment to this license called “Wildlife Management Plan” on August 23, 2005. That was approved by FERC on November 30, 2005. When the request was made the towns were not consulted. He feels that this is important because the towns were the ones that are responsible for the Land Use plan. He says that the town wants a mechanism to determine and have a say in how this request impacts the town. He believes that until information is gathered there should be no decision made on this request. He believes that the process for the Shoreline Management document would address these issues. He doesn’t believe that granting the original request with the idea of worrying about addressing these other issues later is a good way to go about proceeding with this. He is very concerned about the loss of public use of lands. Miller asked Geiger if he had asked FERC if they would take this request for a Shoreline Management plan seriously since the license is already issued. Geiger got the impression, after speaking to them, that FERC would review this “after the fact”. Geiger stated that he has spoken to Pat Grant and sent a letter to FERC to petition the commission so that the town has some input. Miller stated that the Shoreline Management plan may clarify issues but he didn’t believe that the non-project lands could be included in this plan. Geiger said that he believes that those lands would be included because it would all impact the town. Miller stated that some of the issues may not be interdependent and that is why our Corporation Counsel feels that we should be making some decisions.

Lynn Geiger was present and spoke at length pleading with the Committee to not make a decision on this matter until all of the issues have been addressed. Once changes are made she is afraid there is no going back. She was very adamant about the impact that the development would have on the area. She stated the importance of all of the agencies and people involved being able to have their concerns taken into consideration. She read from a FERC handbook some issues that should be taken into consideration and who should be involved with a Shoreland Management Plan (SMP). She read from Pat Vanden Elzen’s letter to the towns of Harding and Scott, dated April 3, 2008, regarding access, docks, hunting & fishing. She said that the whole intention of FERC project lands is for public access. She reiterated the importance of not rushing to a decision on this. She has done very in depth research and believes that everything should be taken in to consideration. Bowers asked her if she believes that the Shoreline Management plan is going to be the guiding document that will answer the questions and she did. She didn’t believe that the parcels currently being discussed should be tied to the sale of the Tesch Rd property as the sales are unrelated. She gave Miller a copy of a letter from a lawyer that has gone through the same situation in the Upper Peninsula that could be used as a guideline to avoid the same problems that they went through. She didn’t want the Committee to be intimidated by the threat of a lawsuit if this request is not granted. Saal said that they are not intimidated but they need to be fair, they have a job to do and a decision to make. Mittelsteadt said that as a custodian of the county and representative of the people in the county they have to make sure that they make a decision based on everyone’s best interest. Saal said that the Committee had to be objective and fair and he understands that they will never be able to please all parties involved. Geiger stated that since WPS did give us until June 1, 2008 we shouldn’t make a decision yet. Saal stated that the June 1st deadline was for someone who was interested in the Tesch Rd property as a conservancy, not a deadline for our decision on the non-project lands.

Motion by Mittelsteadt, seconded by Saal, to LAYOVER the requests until next month's meeting with the intention of making a decision at that meeting and giving the affected townships that as a deadline to submit their recommendation to us so that we may make that decision.

There was more discussion on the need for making a decision in a timely manner

Motion carried all ayes.

At 2:40 p.m. the Committee took a 10 minute recess. Saal called the meeting back to order at 2:50 p.m.

8. Discussion on need for amendments to sign ordinance regarding digital billboards - Miller explained why he believes that there is a need for an amendment to the ordinance regarding the digital billboards. Dan Bowers discussed the intent of the ordinance. Mittelsteadt said that it gets to be a safety issue. Saal and Short agreed. Bowers explained the wording that Zoning is proposing as an amendment to that portion of the ordinance. Committee agreed to hold a public hearing in May for amendments to Chapter 17 regarding signs.
9. Approve the March 13, 2008 meeting minutes – Motion by Saal, seconded by Short to approve the March 13, 2008 meeting minutes. Motion carried all ayes.
10. Administrator's Report - Miller reviewed some activities since the last committee meeting. The committee reviewed the Compliance and Financial reports.
11. Adjourn - Motion by Mittelsteadt, seconded by Saal to adjourn at 3:05 p.m. Motion carried all ayes.