

Lincoln County Planning and Zoning Committee
Thursday, August 14, 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 8:34 a.m. in the Land Resource Center meeting room. Members present: Saal, Mittelsteadt, Meyer, Eisenman and Rusch along with Dan Miller; Zoning Administrator, Dan Bowers; Zoning Specialist, June Winters; Program Assistant and 12 others were present.
2. Old Business – A request by Bill Eastwood of Billy Bob’s Sports Bar & Grill to authorize the following under an “Outdoor Commercial Entertainment” use in a Cross Roads Mixed Use district: 1) an outdoor volleyball court, 2) a seasonal (Memorial Day through September) outdoor festival tent to accommodate dance bands and an outdoor bar. The property is located in part of the NE¼ of the NE¼ of Section 3, T35N–R6E, in the Town of Bradley and has a site address of N12025 County Rd L. The request is being heard under section 17.3.04(10) of the Lincoln County Code of Ordinances.

Dan Miller updated the Committee with information since the last meeting. The request was laid over at last month’s meeting waiting for Town of Bradley recommendation. We did receive that recommendation with the Town of Bradley denying the request. Miller amended his staff report and reviewed that with the Committee. Miller in his report recommended approval of the volley ball courts and the “festival/outdoor entertainment” limited to Harley Fall Ride weekend each year with numerous conditions. Chairman Saal discussed with the Committee and decided that they would take only additional NEW testimony on the request.

Bill Eastwood was present and spoke on his request. He commented to the Committee that if they decide to deny the request completely, not allowing him outside activities even on Harley Fall Ride Weekend, that decision would affect the rest of the businesses in the Tomahawk area that put up tents and have extra activities that weekend and that decision would have a terrible impact on the financial benefit to the community from Harley Fall Ride weekend.

Char Shelton was present in opposition to the request. She is one of the residents of the Outback Resort Condominium. She still had concerns even with the restrictions/changes that Miller has proposed. She is concerned about the location of the tent even if it is only for Harley Fall Ride weekend. They would like assurances that the location of the tent for festivals would not be where he originally proposed the volleyball courts. She also questioned that if granted, would he be required to install some type of “buffer” between the two properties prior to having any more “festivals”. She was also proposing a condition to end scheduled activities at 10:30 or 11:00 p.m. as she said there is always residual noise that continues after the scheduled end of an activity. Shelton commented that Eastwood did not appear to have any regard whatsoever for the residents in the area and stated that Eastwood has been less than truthful about his intentions and she worries that even if the request is granted with restrictions he may not abide by the conditions and hopes that the neighbors will have assurances that he will be held to the conditions. She proposes some type of fence or netting to prevent volleyballs and patrons from coming onto the condominium property during games. She also asked if the request is granted would the conditions be public record as she wants to be able to protect their interests against Eastwood not following conditions. Saal did respond to this one last comment saying that minutes and all of these records are available upon request under Wisconsin open meeting and open records laws.

Dottie Andersen was present and wanted clarification on if the request is granted for Harley Fall Ride weekend she was hoping that it did not included Thursday night of that week as in September that would be a school night.

David Claflin was present in opposition and just commented that this operation does not belong in a residential neighborhood.

Harry Gladwin, a member of the Bradley Plan Commission, was present and stated that at the July 14, 2008 Town of Bradley Board meeting there was a number of residents in attendance. He could not speak for the town on the proposed amendments that Miller is suggesting if the request is partially granted. He spoke to the Chairman this morning and was hoping that he would be attending today’s meeting. He asked that if granted that they put some stipulation or condition regarding profane language over the public address system. He asked Miller also which days of Harley Fall Ride weekend would be included. Miller said that issue was up for Committee discussion.

Saal closed the public hearing for the Eastwood request. Meyer questioned if the profanity that Gladwin was referring to was in the music or just something that was said over the p.a. system. Miller stated that he believed that it was not in the content of the music but spoken by the band over the p.a. system. Saal stated that he sees validity in Miller's request in some type of compromise in this request. He understands the neighborhood opposition but also agrees that we shouldn't suppress a business. He sees that the request as originally proposed it would in essence be allowing two businesses on the property, one inside one outside, which he didn't agree with on a "regular" basis. Saal commented on Eastwood's statement regarding denying all businesses in the area outside activities for the Harley Fall Ride weekend stating most of our issues are "complaint" prompted and those are the ones that we address.

Eisenman stated that he would like to re-open the hearing to listen to comments from Town of Bradley Chairman, who had just arrived at the meeting. The Committee agreed to hear those comments. Jack Huston, Town of Bradley Chairman, came to the podium. He said originally when Eastwood came to the Town of Bradley Plan Commission meeting, he was "for" the request. However, since then with other facts coming to light, he felt they were misled as to the original details of the request. After input from other townspeople the Town Board voted unanimously that the request should be denied all together. Huston stated that he has polled the Board members and have agreed that Harley Fall Ride weekend should still be allowed as almost every business in Tomahawk has extra activities on that weekend.

Motion by Mittelsteadt, seconded by Saal to partially APPROVE ON CONDITION the Conditional Use Request.

CONDITIONS:

- 1) No outdoor "festival" activities (bands, beer distribution, contests, etc.) may extend beyond 11:30 p.m. and no more than 6 hours of play time may be used by outdoor bands on any authorized day.
- 2) Outdoor "festival" activities are limited to Harley Festival weekend. (Thursday through Sunday)
- 3) All outdoor lighting must abide by the performance standards of Section 17.5.04 of the Zoning Ordinance.
- 4) The volley ball court must not infringe upon the defined easement as evidenced by the survey map stamped by "Boundary Hunter" on Jan 20, 2003 and labeled "Exhibit 'C'" unless that easement is relinquished by Thomas and Lisa Herriges or their assigns.
- 5) The outdoor volley ball games may not occur on the same days as any outdoor festival activities and they must conclude by 11:00 p.m.
- 6) A parking plan, with written agreements that guarantee rights for parking (i.e. legal easements), must be submitted to the Zoning Department before this permit will be authorized.
- 7) A landscaped buffer yard or a privacy fence that meets the zoning ordinance definition shall be maintained or installed along the property lines of Billy Bob's and those properties lying north and west (the south property line is encumbered by an easement so no such buffer yard is practical). A net shall be installed on the south side of the volleyball court to capture errant volleyballs.
- 8) Waste receptacles of sufficient quantity to handle garbage generated by the activities shall be placed in strategic locations on the lot for customers to dispose of cups and other waste.
- 9) Private security shall be supplied for all activities utilizing the outdoor festival tent.
- 10) There shall be portable restrooms supplied and maintained in sanitary conditions for both sexes whenever a festival activity occurs on the property.
- 11) Follow the plot plan drawing as originally submitted by the applicant for the location of the "festival" tent and the volleyball courts.
- 12) Committee to re-evaluate this decision under "Old Business" one year from this date to decide if the conditions of this decision are being adhered to.

Miller did comment that the profanity issue is not really under our jurisdiction as it is already addressed by laws and would be enforced by the Sheriff's Department if there are complaints made to their department.

Motion carried all ayes.

3. Public Comment Opportunity – Dave Claflin commented that he is disappointed that the Eastwood request was granted even in part with the amount of opposition from the neighbors. He is afraid that with the history of this request being less than truthful at times he fears that Eastwood would not worry about following the conditions of the permit. Committee took a 5 minute break. Earl Welker was present and updated the Committee on issues in the Town of Schley. They are currently working on a subdivision ordinance to be presented at their October 2008 meeting. He gave Dan Miller a draft of that ordinance and asked that he “look it over”. They are also looking at updating their Town’s Code of Ordinances. He just wanted the Committee to be aware of what Schley was working on.

4. Discussion on County Board goals - Dan Miller explained that every department was asked to discuss goals affecting their department at their Committee meetings. One of the goals listed was to “relax the Zoning Code”. Miller asked the Committee to discuss this goal. Saal stated that this specific goal was proposed by a Supervisor in a township that is not under county zoning but has their own zoning code. Saal suggested that we contact the townships that are currently zoned in the county and get their input as to whether they want the Zoning Code relaxed. Mittelsteadt stated that the Zoning Code is a document that is constantly being changed to adapt to the issues as they come to light. He believes that the town’s opinion is very important in making decisions or changes in the Zoning Code. Miller stated that it has been almost 10 years since the current Zoning Code started to be developed through a comprehensive public input process. He feels that you have to support the popular opinion in making changes. Rusch said that issues are addressed as necessary and in some instances we have made them more restrictive or relaxed as the situation dictates. Meyer thinks that the changes made have been for the betterment of the public interest. Eisenman commented that he believes the townships and the county work well together in making the changes. Saal commented that this proposed goal may just have been a general “swipe” at the county Zoning Department and the individual did not identify any specific changes or issues. Saal asked Miller, in his opinion, how they should proceed with following through with this goal. They discussed sending a memo to the townships stating that this “goal” has been brought up and ask them for their comments and ask if there is anything specific that they would like to see changed. Earl Welker feels that the way that issues are dealt with as they come up is the best process and it is working. Saal commented that he felt a better goal would be to have more involvement from the townships in our County Zoning. Harry Gladwin said he feels that Lincoln County accepts input from the townships in considering changes a lot more than other surrounding counties do when they pass new regulations. Gladwin stated that township involvement is very time consuming and that is probably why more towns aren’t more involved and appreciates the cooperation that he receives from the Zoning Staff and Zoning Committee. He also believes that a general statement of “relaxing the Zoning Code” is not feasible.

The Committee instructed Miller to send a mailing to the zoned Townships for their opinion and inviting town officials to specifically share their feelings regarding this specific County Board goal during the “Public Comment” segment of the Zoning Committee meetings. Miller said he would send the mailing.

5. Discussion on proposed 2009 fee schedule - Miller reviewed the proposed changes to the fee schedule for 2009. There was lengthy discussion on the proposed changes and/or increases. There was discussion on how to handle errors in zoning designations that were the result of oversights that are found to conflict with the township’s intentions during the re-codification process. The Committee discussed the possibility of charging applicants only “advertising” costs or even having the township/county share equally in the advertising cost in these situations. Saal was worried about the precedent that may be set by not charging every applicant equally for rezone requests. No action was taken.

At 10:25 a.m. the Committee took a 10 minute break. Meeting resumed at 10:35 a.m.

6. Discussion and signatures on 2009 Preliminary Budget - Miller reviewed the discussion from last month’s meeting for the Committee. The Committee had a lengthy discussion on the proposed budget and the serious situation that the county is in this year and the cuts that are going to have to be made.

Motion by Mittelsteadt, seconded by Meyer to sign the budget as proposed and submit to Finance. Motion carried all ayes.

7. Administrative Secretary position vacancy in Zoning office - Miller explained to the Committee the possibility that the Administrative Secretary position may soon be vacant as the current secretary may be transferring to another department. In speaking with John Mulder he had the impression that he would support a request to refill the position.

Motion by Rusch, seconded by Meyer to refill this position if it becomes vacant. Motion carried 4-1 with Mittelsteadt voting nay.

8. Approve the June 12, 2008 meeting minutes – Motion by Mittelsteadt, seconded by Eisenman to approve the July 10, 2008 meeting minutes. Motion carried all ayes.
9. Administrator's Report - Miller reviewed with the Committee some activities since the last committee meeting. He shared with the Committee that he and Supervisor Meyer had attended the Town of Russell Board meeting last week and issues that were discussed there. He also told the Committee about a “scoping” meeting that will be held tomorrow morning in this meeting room with FEMA and the DNR to discuss flood plain issues. The committee briefly reviewed the compliance report. The Committee reviewed the financial report. Miller shared with the Committee the correspondence he had received regarding a “layman’s” explanation of the Public Trust Doctrine and how it affects all waterfront owners and everyone who enjoys Wisconsin’s lakes.
10. Adjourn - Motion by Saal, seconded by Rusch to adjourn at 11:07 a.m. Motion carried all ayes.