

WINNEBAGO COUNTY
PLANNING AND ZONING COMMITTEE
PUBLIC HEARING

Tuesday, July 26, 2011

6:30 P.M.

Lounge Room – Courthouse

Present: Supervisors: Pat Brennand – Chairman, Joanne Sievert, Claud Thompson, Jeanette Diakoff, Tom Egan; Candace Zeinert – Code Enforcement Officer; Karen Frederick – Court Reporter, and guests

The meeting was called to order by Patrick Brennand, Chairman at 6:30 P.M. Committee members introduced themselves and Code Enforcement Officer explained appeals procedure and stated that protests for rezoning must be made 24 hours prior to the County Board meeting.

1. Bindi LLC, 2000 Holly Rd, Town of Menasha – Zoning Change.

The request is for a rezoning to include the Highway Business zoning overlay in order to operate the property as a motel, as it has been used in the past.

David Viaene, prospective buyer of the property (pending the zoning change), was sworn in and described that the structure would operate as a motel, as was it's prior/existing use. Supervisor Sievert questioned if the motel would be used for longer stays and about the grounds. Mr. Viaene further explained that the rooms will be furnished, but will not have stoves; that they will be used the same as any other motel. Guests' stays could range from 1 to 2 weeks up to a couple of months; whatever they needed. Mr. Viaene also described the possibility to lease part of the building for a business, such as a bar. He mentioned that the grounds will be improved from their current condition.

George Dearborn, Town of Menasha Director of Community Development, was sworn in and informed the Committee that the Town of Menasha Board of Supervisors recommends approval as it complies with their plan. He also mentioned that the building has been used as a motel since the 1960s and that the building permit and site review will address the look of the site as well as other concerns. The Committee inquired about the building's condemnation status. Mr. Dearborn stating that they were waiting to condemn the building until a resolution had been made on the zoning change request and that the process would continue until the building permit requirements are met.

2. Terry Pieper, 9198 Oakwood Ave, Town of Clayton – Conditional Use.

The request is to locate a cell tower in an A-2 (General Farming) zoning district.

Shane Begley of Begley Wireless Consulting Services, LLC, on behalf of AT&T was sworn in. Mr. Begley described the issues AT&T has been having with locating a proposed tower on the south side of the highway, which would greatly improve service to its customers. They have already received FAA approval for the tower. Supervisor Sievert ask if co-location would be possible with this tower and if a fence would be required. Mr. Begley replied that yes, the tower would provide for 3 tenants and that a chain link with barbed wire fence would be installed around the compound.

3. Randy Stafford, 4237 State Rd 21, Town of Algoma – Conditional Use.

The request is to construct a pond greater than 100 sq ft in a residential district.

Randy Stafford, applicant/property owner, was sworn in and described that the project all started when an excavator owed him money so he traded for excavation of the pond. Mr. Stafford said he received approval from his neighbor to the south, Mr. Tenpas to put the spoils on his property but this spring Mr. Tenpas approached him and asked for the spoils to be removed. Mr. Tenpas gave Mr. Stafford a list of conditions to be met by a June 30th deadline, which they were. When questioned about needing permits, Mr. Stafford stated that he asked local/county officials for the required permits (Town, no permit; Land and Water Conservation Department, erosion control permit granted; Zoning Department, conditional use permit required). Mr. Stafford stated that he moved his berm back 3ft from the property line even though no governing authority had setback requirements. To meet the 3ft setback, at the request of Mr. Tenpas, the berm had to be tapered at the slope that it currently is at. Mr. Stafford stated that the DNR visited the property because the pond would be within 500 ft of a waterway. The DNR did not have a problem with the pond, but noticed the disturbed soils on Mr. Tenpas' property. The DNR gave Mr. Stafford conditions in order to remediate the disturbed soils and Mr. Stafford has thus far complied. Mr. Stafford stated that at an initial Town meeting they asked that he comply with DNR and erosion control permit requirements and to have a drainage plan in place, done by a professional. Mr. Stafford further described that Martenson and Eisele will be presenting the drainage plan, that he now knows a permit is needed, is trying to comply in whatever way possible, and that he apologizes to the Town Board for missing the second meeting. The Town posted a stop work order. Mr. Stafford went on to describe the "wall of mud", which is the berm of clay. He stated that the berm is to be compacted and will create privacy for his family with the unknown location of State Highway 21.

Supervisor Sievert asked for clarification that permission was originally given and then later told to take spoils off of neighbor's property? Mr. Stafford confirmed this and stated that messages were being relayed to his neighbor through his neighbor's relatives. Supervisor Sievert and other Committee members made general inquiries regarding the pond. Mr. Stafford answered, saying the pond will be approximately 110' x 60' with a sandy beach area, it will be 10-12ft at the deepest, there was more work to

be done on the pond, and that he was unaware that he would need approval from the State in order to direct drainage to State Highway 21. Mr. Stafford then presented pictures of the project.

James Smith of Martenson and Eisele (hired to create drainage plan as required by Town), was then sworn in. He stated that the pond was approximately 80'x120-130'. Mr. Smith stated that if the pond overflows, the excess water will drain to the highway ditch, but that no more water should be contributed to the highway ditch as water historically drains off the front of the property to this ditch. Chairman Brennand asked if the pond complies with a 3:1 slope which is generally required of ponds. Mr. Smith replied that slope of the pond was not analyzed because it is not like a normal storm water pond.

Ronald Tenpas, the adjacent land owner/neighbor to the south of Mr. Stafford's property was sworn in. He then distributed a CSM and pictures. Mr. Tenpas stated that he was not against the conditional use permit, but his concern is in how it will affect his property, the biggest concern being drainage. Mr. Tenpas also describe one of his other concerns, the "wall of mud" or berm, stating that there is a large gap in the berm where water will be able to run onto his property and that rain will disintegrate the berm, the water and sediments then disturbing his property. Mr. Tenpas then described the sequence of events, included a dispute over property boundaries, placement of spoils/rocks on his property, and the letter that was sent to Mr. Stafford that described what happened and what would need to be done in order to return his property back to normal. Supervisor Sievert asked several questions to which Mr. Tenpas answered that the pond was no longer on his property, the rocks that had been dumped on his property had been cleaned up, and that alfalfa has yet to be replanted (to be done this fall).

Dennis Moe, resident on Horseshoe Rd south of the Stafford property was sworn in. He stated that Mr. Stafford had done a beautiful job with the pond, that Mr. Stafford has helped the Town of Algoma, and that he was in favor of the conditional use.

Brent Jalonon of the Land and Water Conservation Department was sworn in. He stated that an erosion control permit had been granted to Mr. Stafford for the pond and that he has thus far complied with requirements of the permit. Mr. Jalonon stated that the silt fence was to be extended, an area was to be trenched, and that revegetation was required. Supervisor Egan inquired about the opening/gap between sections of the berm. Mr. Jalonon stated that grading and revegetation would be ok and that yes, extra water could drain through the gap onto the neighboring properties. Supervisor Sievert asked if there was a spring supplying the pond with water and Mr. Jalonon said that he was not aware of there being a spring there; that water from the water table and rain should be the only water supplying the pond.

Jennifer Stafford, resident at 4237 State Rd 21, was sworn in and stated the following about the pond: the gap is of natural grade therefore runoff will be same; there is no natural spring supplying the pond; there is plenty of water storage; there are footings under the stone making the mud wall stable; and that they plan on spraying seed on or using a mesh material to revegetate the berm.

John Behm, property owner of land east of Mr. Stafford's was sworn in. Mr. Behm informed the Committee that these properties historically drain north to south so additional drainage problems should not be created by the construction of the pond. Mr. Behm stated that he was for the conditional use.

Ms. Zeinert of the Zoning Department read the Town's recommendation for denial with insufficient findings and stated that the Zoning Department recommends adjourning the matter in order to give the Town time to come up with sufficient findings.

Motion by Supervisor Diakoff, seconded by Chairman Brennand to postpone the item for 30 days. Discussion as to the length and necessity for the postponement and the Town's responsibilities was made. Mr. Stafford approached the Committee again and informed them that there was a special meeting through the Town and that the Town plans on visiting the property on September 1, 2011. Committee voted 2-3-0. Motion failed.

4. Omro Land Co, 5916 State Rd 21, Town of Omro – Conditional Use.

Request is to amend an existing conditional use permit. Town requested a postponement.

Motion by Supervisor Sievert, second by J. Diakoff to postpone item for 30 days. Committee voted all ayes.

ADJOURNMENT

MOTION made by Supervisor Egan to adjourn meeting. Seconded by J. Diakoff. Motion carried unanimously. Meeting adjourned at 8:00 P.M.

Respectfully submitted,

Candace Zeinert
Recording Secretary