

**Town of La Pointe Zoning  
Town Plan Commission Regular Monthly Meeting Minutes  
Wednesday, February 10, 2010**

**Town Plan Commission (TPC) Members Present:** Ted Pallas; Chair, Charles Brummer; Vice-Chair, Larry Whalen, Ron Madich, Greg Thury, Carey Baxter (6)

**Town Plan Commission Members Absent:** Suellen Soucek (1)

**Public Present:** none.

**Town Staff Members Present:** Jennifer Croonborg; ZA, Margaretta Kusch; ZCA (2)

**I. Call to Order/Roll Call**

Chair Pallas called the meeting to order at 5:00 PM at the Town Hall. Roll call reflected members present or absent as recorded above.

**II. Public Comment**

Paul Brummer asks that when the Zoning Ordinance Map is reviewed and possibly revised with consideration to the Comprehensive Plan Future Land Use, the Comprehensive Plan be reviewed as well, specifically in terms of zones.

**III. Approval of Previous Meeting Minutes:**

**a. Town Plan Commission Regular Monthly Meeting 2<sup>nd</sup> Draft, January 20, 2010**

Change "7 aye" to "6 aye" in all motions throughout the minutes, as there were only 6 TPC Commissioners at the January 20<sup>th</sup> meeting.

G. Thury moves to approve as amended the second draft of the Town Plan Commission Regular Monthly Meeting minutes of Wednesday, January 20, 2010. C. Brummer seconds. All in favor, 5 aye, 1 abstain (R. Madich). Motion Carries.

**b. Town Plan Commission Public Hearing, February 3, 2010**

On page 1, item III b., approval of 1/27/2010 minutes, insert "*to read*" in between uncorrected and corrected phrases.

On page 3, third sentence, replace "*be prepared and/ or approval*" with "*require.*"

C. Brummer moves to approve as amended the minutes of the Town Plan Commission Special Monthly Meeting of February 3, 2010. G. Thury seconds. All in favor, 6 aye. Motion Carries.

**IV. Zoning Administrator's Report**

**V. Consideration and/or Action of Permit Applications:**

None.

**VI. Old Business**

- 1. Discuss possible recommendation to the Town Board for text changes presented at January 27, 2010 Public Hearing – sections under moratorium and those sections affected by the moratorium:**

## Section 2.0 Definitions

### Section 4.3.3 Non-Conforming Grandfathered Lots

Attorney Mike Fauerbach sent a letter, received February 8, 2010, regarding the proposed changes that the Town Plan Commission have made thus far as a result of the comments made at the Public Hearing.

Mr. Fauerbach addressed the issue of fusion of non-conforming lots when they are platted, which was brought up by members of the public at the Public Hearing. He suggests adding the following sentence to the end of Section 4.3.5C:

*“Nothing in this subsection shall prevent a landowner from using such fused lots for a purpose that was in existence at the time that this part of the ordinance became effective.”*

The Town Plan Commission agrees to follow this suggestion.

In 4.3.4 B., change *“should”* to *“shall”* to have the sentence read: *“In considering whether or not there is a reasonable core in the lot the Town Plan Commission shall consider the size of a lot as a whole with a smaller lot justifying a smaller buildable core.”*

In 4.3.4 C, add *“and Water”* to the title of the department, which will read *“The Asbland County Land and Water Conservation Department.”*

In 4.3.4 D, the Town Plan Commission agrees to change sentence per public suggestion at the Public Hearing from *“The filing fee for a special exception shall be the same as for a conditional use”* to *“The filing fee for a special exception shall be the same as for a variance.”*

At the Public Hearing members of the public suggested that a mathematical formula be added to this section to determine buildable cores. Discussion ensues. The Town Plan Commission feels that an overarching formula cannot be created as there are too many variables (e.g. the lay of the land: ravines, wetlands, etc.) to be considered.

Chair Pallas and J. Croonborg, ZA both spoke to Mr. Fauerbach this week regarding the necessity of another Public Hearing being held as a result of changes made to the Ordinance since the January 27, 2010 Public Hearing. Mr. Fauerbach thinks it unlikely. The Town Plan Commission will recommend changes to the Town Board and submit changes to Mr. Fauerbach. If another Public Hearing is required, the Town Board will direct the Town Plan Commission to hold one.

## Section 7.0 Conditional Uses

At the Public Hearing, input was given by the public that Section 7.1 should be further subdivided for clarity. The Town Plan Commission divides the text of 7.1 B into 7.1 B and 7.1 C. The terms *“general performance standards”* and *“specific design standards”* in 7.1 B are vaguely defined. The Town Plan Commission changes the final paragraph from block text to list format and adds additional language for clarity. The following changes are made:

- In 7.1 B, change *“General performance standards and specific design standards for approval are provided in this Ordinance for conditional uses”* to read *“General performance standards and specific design standards for approval are provided in the following Section 7.1 C.”*  
In 7.1 B, change *“The Town Plan Commission and Town Board shall consider the overall effect of such grant of Conditional Use on the health, general welfare, safety, and economic prosperity of the town and the immediate area in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical*

*appearance, existing topography, drainage features, erosion potential, vegetative cover, the prevention and control of water pollution, the location with respect to floodplains, the movement of traffic, the demand for related services and the possible hazardous, harmful, noxious, offensive or nuisance effects resulting from the requested use” in format and with text additions, to read,*

*C. Standards for approval. When applying the standards of this section the Plan Commission and Town Board shall bear in mind the statement of purpose for the zoning district such that the proposed conditional use at its location does not defeat the purposes and objective of the zoning district. The Town Plan Commission and Town Board of Supervisors shall consider the overall effect of such grant of conditional use on the health, welfare, safety, and economic prosperity of the town and the immediate area in which such use would be located, including the following ,without limitation because of specific enumeration:*

- 1. Established character and quality of the area. The uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.*
- 2. Its physical appearance and compatibility with the use of adjacent land.*
- 3. Existing topography*
- 4. Drainage features. Adequate measures have been or will be taken to provide drainage and other necessary site improvements.*
- 5. Erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.*
- 6. Vegetative cover*
- 7. The prevention and control of water pollution including sedimentation*
- 8. The prevention of the overcrowding of any natural resource.*
- 9. The property location with respect to floodplains. The use may not violate floodplain regulations governing the site.*
- 10. The movement of traffic. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in public or private roads.*
- 11. The demand for related services*
- 12. The possible hazardous, harmful, noxious, offensive or nuisance effects resulting from the requested use*
- 13. The extent to which the proposed use would be compatible or incompatible with the Comprehensive Plan of the Town.”*

The Town Plan Commission again discusses input from the Public Hearing about the need for clarity of requirements, this time for Conditional Use Permits. 7.2 C, which lays out the application procedure for Conditional Use Permits, currently reads:

*“Applications and supporting documents shall be submitted in twelve (12) copies to the Zoning Administrator who shall receive the application and conduct a review and research of the application and documents. Within ten (10) days after the Zoning Administrator’s receipt of the application, the Zoning Administrator shall deliver the application and related materials to the Town Plan Commission for its review and consideration. The Zoning Administrator shall make a preliminary inspection of the property to confirm the accuracy of the application and identify potential issues or considerations. The Town Plan Commission and/or Zoning Administrator may require the applicant to submit other pertinent data and information they deem necessary to properly evaluate the request.”*

Text is added for clarification, and the item now reads:

*“Applications and supporting documents shall be submitted in twelve (12) copies to the Zoning Administrator who shall receive the application and conduct a review and research of the application and documents. Within ten (10) days after the Zoning Administrator’s receipt of the application, the Zoning Administrator shall deliver the application and related materials to the Town Plan Commission for its review and consideration. The Zoning Administrator shall make a preliminary inspection of the property to confirm the accuracy of the application and identify potential issues or considerations. The Town Plan Commission or the Zoning Administrator may require the applicant to submit other pertinent data and information they deem necessary to properly evaluate the request. Such information may include, without limitation because of specific enumeration:*

- 1. A plan of the area showing contours, soil types, wetlands, ordinary high water mark, groundwater conditions, bedrock, slope and vegetative cover.*
- 2. A survey prepared by a registered land surveyor showing existing and proposed development, location of buildings, structures, parking areas, traffic access, driveways, walkways, piers, open spaces, and landscaping*
- 3. Sewage disposal facilities, water supply systems and arrangements of operations thereof.*
- 4. Specifications for areas of proposed filling, grading and lagooning*
- 5. Building plans, including floor plans and exterior designs or elevations.*
- 6. Development schedule indicating the appropriate date when construction can be expected to begin and be completed, including initiation and completion dates of separate stages of a phased development.”*

At the January 27, 2010 Public Hearing, public input was heard that the terms “*substantial construction*” and “*substantial completion*” were ill defined. The Town Plan Commission chose to use “*substantial completion*” solely and added a definition for the term at the February 3, 2010 Special Monthly Meeting. However, item 7.2 J still references “*substantial construction.*” 7.2 J currently reads:

*“When an approved Conditional Use Permit that has been issued contemplates the construction or erection of buildings and/or structures, the failure to commence substantial construction completion within twelve (12) months after approval of the issuance of a Conditional Use Permit shall result in the Conditional Use Permit being automatically null and void unless it specifically provides otherwise. Upon timely application and for good cause, the Town Plan Commission may grant a specific extension of this twelve (12) month period”*

The text of this item is changed to read:

*“Where the Town Board has approved or conditionally approved an application for a conditional use, such approval shall automatically become null and void within twelve (12) months of the date of the Town Board’s action unless the use is commenced, construction is underway, or the current owner possesses a valid Land Use Permit for each building and/or structure contemplated. Construction under such Land Use Permit(s) shall be commenced within six (6) months of issuance and shall be substantially complete upon permit expiration. If a timetable of developments is approved as a condition under paragraph F of this Section, only those uses, buildings, and/or structures contemplated within this twelve (12) month time period shall be required. Upon timely application and for justifiable cause, the Town Plan Commission may grant a specific extension of this twelve (12) month period.”*

### **Section 8.0 Administration**

Not discussed.

### **Section 10 Zoning Board of Appeals**

No changes.

### Section 13.0 Town Plan Commission

No changes.

### Section 15 Complaints

No changes.

G. Thury moves to recommend to the Town Board the proposed text changes to the Sections under moratorium being 4.3.3 Non-Conforming Grandfathered Lots, 7.0 Conditional Uses, 8.0 Administration and those Sections affected by the moratorium with amendments made as a result of the Public Hearing and the changes as of last week and tonight, being February 10, 2010. C. Baxter seconds. All in favor, 6 aye. Motion Carries.

G. Thury moves to direct the Zoning Administrator to forward the proposed text changes to the Sections of the Zoning Ordinance under moratorium (4.3.3 Non-Conforming Grandfathered Lots, 7.0 Conditional Uses, 8.0 Administration) and those Sections affected by the moratorium and the amendments made as a result of the Public Hearing and the meetings of last week and tonight, being Wednesday, February 10, on to the Town's Attorney for review as to whether or not another Public Hearing is required. C. Brummer seconds. All in favor, 6 aye. Motion Carries.

### c. Zoning Ordinance Revision Project

#### Review and possibly revise Sections 1.0 through 14.0

- **Section 2.0 Definitions**

The definition for Dwelling, Accessory does not include the phrase "*not including decks.*" Add phrase to first sentence of Dwelling, Accessory definition: "*Accessory Dwellings shall not exceed sixty-five percent (65%) of the square footage of the principal dwelling or up to fifteen hundred (1,500) square feet, not including decks, whichever is lesser.*"

Change title of "*Dwelling, Accessory*" to "*Accessory Dwelling*" so that it is found with other accessory definitions (*Accessory Structure* and *Accessory Use*).

Add definition for "Agent," to read, "*Agent shall mean the person designated by the owner as the person in charge of such establishment and whose identity shall be filed in writing with the Zoning Administrator upon issuance of the permit and updated five (5) days prior to a designated agent taking charge.*"

- **Section 5.0 Signs**

In Section 5.1.3, add "*visibility of*" to read, "*The front and rear yard setbacks for a sign located on a lot may be placed at but not in the road right of way provided that it doesn't interfere with the passage of vehicles, pedestrians, or visibility of traffic control signs.*"

#### **Section 6.0 Regulation of Special Uses: discuss possible addition of regulations regarding employee housing**

Research is still being carried out by J. Croonborg, ZA, regarding employee housing. It is a complicated issue as this Ordinance's language must agree with State regulations. The subject will be discussed at later meetings.

In 6.2 A Accessory Dwellings, delete item 3, which reads "*The building footprint shall not exceed fifteen hundred (15,000) square feet of habitable space, not including decks*" as it repeats the definition for accessory dwelling.

**Section 4.0 General Provisions: discuss possible addition of regulations regarding erosion control**  
Not discussed.

3. **Review and possibly revise Official Zoning Map with regard to Comprehensive Plan Future Land Use Map**  
Not discussed.

**VII. New Business**

**VIII. Future Agenda Items**

**IX. Schedule of Next Meeting**

**X. Adjournment**

C. Brummer moves to adjourn. Chair Pallas seconds. All in favor, 6 aye. Motion Carries. Meeting ends at 7:00 pm.

**Draft Town Plan Commission Minutes respectfully submitted by Margareta Kusch, ZCA, Thursday, February 11, 2010.**

**Town Plan Commission Minutes are approved as amended by Margareta Kusch, ZCA, Wednesday, March 03, 2010.**