

**Town of La Pointe Zoning
Town Plan Commission Special Monthly Meeting Minutes
July 5, 2012**

Town Plan Commission (TPC) Members Present: Charles Brummer, Vice-Chair, Suellen Soucek, Carey Baxter, Larry Whalen (4).

Town Plan Commission Members Absent: Ted Pallas, Joan Martin, Greg Thury (3).

Public Present: Bob Hartzell, Pete Rogers, Paul Brummer, Dave Thomas, Lisa Potswald, Heidi Lahm-Huber, Wayne and Mirka Nelson (8).

Town Staff Members Present: Jen Croonborg-Murphy, ZA, Margaretta Kusch, ZCA (2).

I. Call to Order/Roll Call

Vice Chair Brummer called the Meeting to order at 4:30 PM at the La Pointe Town Hall. Roll call reflected members present or absent as recorded above.

II. Public Comment

J. Croonborg-Murphy speaks as a member of the public and reads aloud a letter she has submitted (attached to these minutes and part of the permanent record). She requests that Chair Pallas be designated as the zoning official to oversee the permitting process of the Ashland County Housing Authority CSM. Next, she details twelve omissions and/or corrections to the ACHA's proposed CSM:

1. The easement granted by the Town to Croonborg is only granted to lots 5 and 6: needs to be changed.
2. "Travelled Road (gravel)" shown on map is actually her driveway: needs to be changed.
3. Sanitary Sewer easement running along her driveway and the plotted alley for lots 4, 5, and 6: needs to be shown.
4. The proposed "Lot 2" is actually a replat of CSM #203: should be indicated as such.
5. There are sewer laterals into lots from the alley: should they be shown?
6. Should the wetland delineation for the properties be shown?
7. Should the setbacks be shown?
8. Should the Zoning District be shown?
9. Should the fact that the platted alley is not the actual placement of the road be described on the map?
10. The "unplatted lands" on the map should be instead identified as the area with an order to lay a highway (the Rice Street extension).
11. The "legend" repeats the same language twice.
12. The signature line needs to be changed to "Ted Pallas, chair."

She also notes, on a different subject, that her fire number needs to be corrected to a Big Bay Road number, and asks that the Chair assist her with this.

Pete Rogers reads aloud a letter he has submitted (attached to these minutes and part of the permanent record). He feels that the Town Plan Commission should dismiss Paul Brummer's complaint against the Madeline Island School of the Arts (MISA), as he feels that the complaint is "simply a re-hash of what you have already spent a year and nearly \$10,000 in legal fees on... in addition to the \$14,000 in legal fees spent by the Town to deal with his two lawsuits against the Town and MISA in 2008 and 2009."

Mr. Rogers also feels that Charlie Brummer should recuse himself from any participation in discussion regarding MISA's Conditional Use Permit.

Dave Thomas suggests that an ad-hoc committee on agricultural zoning should be created in some form. The discussion of agriculture on the island is at the Town Board level currently.

III. Approval of Previous Meeting Minutes

a. Town Plan Commission Special Monthly Meeting Second Draft, June 7, 2012

- Change “*Rental of Single Family Dwelling*” to “*Rental of Principal Dwelling*” throughout.

C. Brummer moves to approve the Town Plan Commission minutes of June 7, 2012, second draft, as amended. S. Soucek seconds. All in favor, 3 aye, 1 abstain (C. Baxter). Motion carries.

b. Town Plan Commission Regular Monthly Meeting, June 21, 2012.

- Change header from “*Special Monthly Meeting, June 7, 2012*” to “*Regular Monthly Meeting, June 21, 2012.*”
- In VII.a, third paragraph, add “*that that is a possibility*” after “*C. Baxter agrees.*”

C. Brummer moves to approve the Town Plan Commission Regular Monthly Meeting minutes of June 21, 2012, as amended. S. Soucek seconds. All in favor, 4 aye. Motion carries.

IV. Zoning Administrator’s Report

This will be ready at the next meeting.

V. Consideration and/or Action of Permit Applications

a. Osterbauer, Morris Certified Survey Map, 936 South Shore Rd., LP #014-00292-0400 and LP #014-002920500.

Ashland County Zoning still hasn’t finished their review of the CSM.

C. Brummer moves to postpone the Morris Osterbauer CSM at 936 South Shore Rd., LP #014-00292-0400 and LP #014-002920500, until the next meeting. L. Whalen seconds. All in favor, 4 aye. Motion carries.

b. Ashland County Housing Authority Certified Survey Map, Block 5, LP# 014-00393-0200 and 014-00393-0100.

Ashland County Zoning still hasn’t finished their review of the CSM.

C. Brummer moves to postpone the Ashland County Housing Authority Certified Survey Map, Block 5, LP# 014-00393-0200 and 014-00393-0100, until the next meeting. S. Soucek seconds. All in favor, 4 aye. Motion carries.

VI. New Business

a. Zoning Administrator request for interpretation re: Accessory/“greenhouse” at 690 Main St., LP #014-00442-0000 and 014-00443-0000—is a land use permit required?

The Zoning Administrator explains that this request is about the “greenhouse” being used for storage of kayaks on the property, not the one that is attached to the dwelling.

C. Baxter would like to have a chance to look at the structure, and also feels that more commissioners should be present to make an interpretation. S. Soucek agrees.

C. Brummer would like to have more information on the structural characteristics.

C. Baxter moves to postpone this item until the Zoning Administrator obtains more information on the subject. S. Soucek seconds. All in favor, 4 aye. Motion carries.

b. Brummer, Paul complaint submitted 6/26/2012 regarding use of Craftivity, Inc. property at 978 Middle Road, LP #014-00178-0200.

C. Brummer recuses himself for this item.

L. Whalen moves that C. Baxter act as chair. S. Soucek seconds. All in favor, 3 aye. Motion carries.

The Zoning Administrator reviews the requirements of Section 15.2 of the Zoning Ordinance (complaints regarding Conditional Use Permits): *“Such written complaint shall set forth the name, address, and telephone number of the complainant, the name and address of the property being complained about, and a detailed statement on the grounds and basis for such a complaint. Such complaint shall be signed by the complainant.”* The procedure then follows that the Zoning Administrator and the Town Plan Commission shall receive and evaluate it as follows: *“during an open meeting of the Town Plan Commission within thirty days of receipt of the complaint the Town Plan Commission may close the matter if the complaint does not present sufficient information of cause to proceed, is warrantless, or frivolous. The Town Plan Commission shall state the reason(s) to close the complaint.”* If they decide to proceed on the complaint, they must schedule a Public Hearing (jointly with the Town Board) within 30 days of complaint receipt.

Acting Chair Baxter states that he feels uncomfortable with the idea of deciding on this item with so few commissioners present and participating.

Acting Chair Baxter moves to postpone the Paul Brummer complaint. L. Whalen seconds. All in favor, 3 aye. Motion carries.

c. Zoning Administrator request for Town Plan Commission interpretation of “Accessory Structure” and “Accessory Use.”

L. Whalen moves to restore C. Brummer as the Acting Chair. C. Baxter seconds. All in favor, 3 aye. Motion carries.

The Zoning Administrator asks what would be considered the principal building on a property that only has accessory structures on it. For instance, if a property only has a pole barn on it, does the pole barn then become the principal building?

C. Brummer feels that in such cases, the building would still be designated an accessory structure, and of course would still need to have a permit.

The Zoning Administrator asks about a situation where a pole barn is being used for storage of items of other people’s things (not those of the property owner) in a zone where storage facilities aren’t permitted uses. Does it then need a Conditional Use Permit as a storage facility?

C. Brummer responds that it would not require a Conditional Use Permit, unless the property owner is advertising a storage business. It’s not the Town’s business to regulate what people store inside their own buildings.

d. Zoning Administrator request for Town Plan Commission interpretation: does the project at 922 Middle Rd., LP #014-00179-0300 require a land use permit?

Mirka and Wayne Nelson, the agents for the property owner, are in attendance at the meeting to speak to this agenda item.

Ms. Nelson feels that the project does not need a Land Use Permit as the work carried out was only landscaping and fruit tree planting.

The Zoning Administrator asks the Nelsons what the use of the property is. Mr. Nelson responds that it's agricultural. They used mini-excavators to plant fruit trees and set up an irrigation system for the saplings.

The Zoning Administrator asks what the approximate area of excavated land was. Mr. Nelson states that he will not estimate and therefore won't answer. The Zoning Administrator asks what was done with the dirt that was excavated. Mr. Nelson responds that they filled in the holes that they dug. The Zoning Administrator states that the DNR said it looked like the dirt went into the wetlands at the site. Mr. Nelson says that that did not happen, and that they are currently working with the DNR.

The Zoning Administrator states that agriculture and silviculture both are defined by producing a product, which is not occurring at this site. She therefore doesn't think that the use of the property is for agriculture.

The Zoning Administrator further states to the Town Plan Commission that she thinks the project required a land use permit, specifically a Land Disturbing Activity permit, as filling and grading occurred, activities which need permits.

Mr. Nelson reiterates that they don't feel they need a permit as all they did was plant trees, which is farming. He states that if a farmer tills, he moves dirt. As for the pond that is on the property, he states that it was an existing pond, and all they did was maintenance and landscaping of that pond, they were not developing a new pond.

C. Brummer feels that the planting of trees doesn't need any permit, but enlarging the pond does.

S. Soucek feels that they need a Land Disturbing Activity permit, which doesn't have a fee.

L. Whalen asks Mr. Nelson why they don't want to get a permit. Mr. Nelson responds that the property owner doesn't want anybody on the land or to spend thousands of dollars on a permitting process.

The Town Plan Commission are in agreement that a Land Disturbing Activity permit (no fee) is required.

C. Brummer moves that the project at 922 Middle Rd, LP #014-00179-0300 requires a Land Use Permit; specifically a Land Disturbing Permit. S. Soucek seconds. All in favor, 4 aye. Motion carries.

VII. Old Business

a. Hartzell, Robert: interpretation of Lightkeeper's Lodge Conditional Use Permit regarding parking at LP #014-00446-0200.

Mr. Hartzell is in attendance at the meeting to respond to this item.

The Zoning Administrator states that Mr. Hartzell said the suggestion of rearranging the parking lines in front of the Lightkeeper's Lodge wouldn't work. There simply isn't enough space.

Mr. Hartzell states that the Pub, Lightkeeper's Lodge, and Rendezvous Center are all on the same property, and there's enough parking space overall for the buildings, just not room for 8 spots in front of the Lodge. He also notes that there are 20 spots across Main St.

C. Brummer responds that Mr. Hartzell's Conditional Use Permit designated 8 spots in front of the Lightkeeper's Lodge, and Conditional Use Permits requirements have to be followed, otherwise what's the point of issuing them if they're not enforced?

C. Baxter asks if the Town Plan Commission is looking at this issue under the Zoning Ordinance version in 2008 (when the Conditional Use Permit was issued) or the current one. The Zoning Administrator responds that it'd be the Zoning Ordinance version from the time of the Conditional Use Permit.

C. Baxter asks Mr. Hartzell if he measured the parking spots that are currently in front of the Lodge. He wonders if another spot or two could potentially be created, seeing as there's some space on both edges of the lot. Mr. Hartzell responds that they measured over and over, and there's really no way to fit any more spots in the space.

C. Brummer reiterates that Mr. Hartzell needs to follow the requirements of the Conditional Use Permit.

The Zoning Administrator notes that the Conditional Use Permit states that the Lodge requires 12 parking spots, but it doesn't specify where. It's the map attached to the Conditional Use Permit that shows eight spots in front of the Lodge.

Mr. Hartzell says that they can easily put up signs designating six of the spots in front of the pub as reserved for the Lodge.

S. Soucek would like to know how the Town Plan Commission can help Mr. Hartzell comply with his Conditional Use Permit.

L. Whalen feels that designating six spots in front of the Pub parking for the Lodge would be fine.

C. Baxter states that, as a person, he thinks designating six spots in front of the Pub parking for the Lodge, but as a Town Plan Commission member, he thinks maybe the Conditional Use Permit has to be changed.

The Zoning Administrator states that the issue in front of the Town Plan Commission is whether Mr. Hartzell's proposed parking plan fulfills the requirements of the Conditional Use Permit.

S. Soucek moves that Mr. Hartzell shall provide 12 parking spaces of at least 180 square feet, no narrower than nine feet with a deed restriction in the event of sale keeping any parking off the site of this development. L. Whalen seconds. 2 aye (S. Soucek, L. Whalen), 2 nay (C. Baxter, C. Brummer). Motion fails.

L. Whalen moves to invalidate the last vote on the Robert Hartzell Conditional Use Permit. S. Soucek seconds. 4 aye. Motion carries.

L. Whalen moves to postpone this item until a time when we have a full Town Plan Commission. S. Soucek seconds. All in favor, 4 aye. Motion carries.

b. Ryder, Ben: after-the-fact accessory: does the square footage comply with Zoning Ordinance Section 6.2.A?

The Zoning Administrator states that she is frustrated with the notes for the original permit as left by the then Zoning Administrator. There are different figures for the square footage of the cabin on the property: what the previous Zoning Administrator had noted on the folder of the permit, what Mr. Ryder

stated on the permit, and the fact that the original permit didn't include the basement as part of the calculations for the livable space. These different numbers make it difficult to tell if the square footage of the accessory being built on the property complies with the Zoning Ordinance (i.e. whether the square footage of the accessory is less than 65% of the principal dwelling).

The Town Plan Commission feel that they need more information from Mr. Ryder as to the square footage of the current principal dwelling before they can decide on this item.

C. Brummer moves to postpone the Ben Ryder after-the-fact accessory question. S. Soucek seconds. All in favor, 4 aye. Motion carries.

VIII. Future Agenda Items

- **Zoning Administrator request for interpretation re: Accessory/“greenhouse” at 690 Main St., LP #014-00442-0000 and 014-00443-0000—is a land use permit required?**
- **Brummer, Paul complaint submitted 6/26/2012 regarding use of Craftivity, Inc. property at 978 Middle Road, LP #014-00178-0200.**
- **Hartzell, Robert: interpretation of Lightkeeper’s Lodge Conditional Use Permit regarding parking at LP #014-00446-0200.**
- **Discussion of procedure and policy regarding commissioner absences at meetings**

IX. Schedule Future Meetings

- Town Plan Commission Regular Monthly Meeting to be held Thursday, July 19, 2012, at 4:30 pm.

X. Adjournment

C. Brummer moves to adjourn. S. Soucek seconds. All in favor. Motion Carries. Meeting ends at 6:17 pm.

Town Plan Commission minutes respectfully submitted by Margaretta Kusch, ZCA on Monday, July 16, 2012.

Town Plan Commission 2nd draft minutes submitted by M. Kusch, ZCA on Monday, July 23, 2012.

Town Plan Commission 2nd draft minutes approved as amended Thursday, August 02, 2012.