

**Town of La Pointe Zoning
Town Plan Commission Special Monthly Meeting Minutes
August 4, 2010**

Town Plan Commission (TPC) Members Present: Ted Pallas, Chair, Charles Brummer, Vice-Chair, Larry Whalen, Suellen Soucek, Ron Madich, Greg Thury (6).

Town Plan Commission Members Absent: Carey Baxter (1).

Public Present: Mike Starck, William Tibble, Bob Douglas, Sara Luck Pearson (4).

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 4:30 PM at the Town Hall. Roll call reflected members present or absent as recorded above.

II. Public Comment

None.

III. Approval of Previous Meeting Minutes

a. Town Plan Commission Workshop, July 1, 2010

- In item III a, second bullet point, change the first sentence from “*There is a large area of W-1 that is along South Shore Drive and bordered to the north by W-2, but by Mixed Use on the Comprehensive Plan Future Land Use Map*” to read “*There is a large area of W-1 that is along South Shore Drive and bordered to the north by W-2, but is bordered by Mixed Use on the Comprehensive Plan Future Land Use Map.*”
- In item III, thirteenth bullet point, delete “*(the seven lots*” from the end of the sentence.

C. Brummer moves to approve the Town Plan Commission Workshop minutes of July 1, 2010 as amended. S. Soucek seconds. All in favor, 4 aye, 2 abstain (Chair Pallas, G. Thury). Motion Carries.

b. Town Plan Commission Special Monthly Meeting, July 7, 2010

- In item VI a, second sentence, change “*...and changes were made were mostly to reflect...*” to read “*...and changes made were mostly to reflect...*”
- In item VI a, second bullet point, delete “*has bought.*”

C. Brummer moves to approve the Town Plan Commission Special Monthly Meeting minutes of July 7, 2010 as amended. S. Soucek seconds. All in favor, 5 ayes, 1 abstain (G. Thury). Motion Carries.

c. Town Plan Commission Workshop, July 15, 2010

G. Thury moves to approve the Town Plan Commission workshop minutes of July 15, 2010 as submitted. S. Soucek seconds. All in favor, 6 ayes. Motion Carries.

d. Town Plan Commission Public Hearing, July 28, 2010

- In Town Plan Commission members present heading, delete “*(arrives at 4:37).*”

G. Thury moves to approve as amended the Town Plan Commission Public Hearing minutes of July 28, 2010. L. Whalen seconds. All in favor, 6 ayes. Motion Carries.

IV. Zoning Administrator’s Report

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Regarding the Zoning Ordinance Revision Project, the ordinance revision draft has been submitted to Mike Fauerbach. He hasn't had a chance to read it yet, but he is planning to set a date to do that by August 20th. Vierbicher Co., the mapmakers, has the parcel data in electronic format from the Ashland County Land Description office, so they are updating the parcel map as well as the zoning district map.

V. Consideration of Permit Applications

a. Bohn, Lorene/Lindsey, Debra & Daniel re: Certified Survey Map at parcel #s 014-00045-0140 and 014-00045-0130 North Shore Road

This was a preliminary CSM that was done to clear up setback issues. The Ashland County Land Description office has presented their list of required changes, and the Zoning Administrator suggests to the Town Plan Commission that they require those same changes, as the Town Plan Commission has already preliminarily approved this.

C. Brummer moves to recommend to the Town Board that they approve the Lorene Bohn Certified Survey Map dated June 21, 2010, with the Ashland County Surveyor corrections included. G. Thury seconds. All in favor, 6 aye. Motion Carries.

b. Lein, Eric & Laural/Lein, Kristin/Lein, R. Kurt re: Certified Survey Map at parcel #s 014-00055-0900, 014-00056-0400, and 014-00056-0200 Big Bay Road

This Certified Survey Map shows what were once three lots being changed to two, as the center parcel was willed to the other two, and the property owners have agreed to split it this way. The new division of land would make the two lots standard (they were substandard prior). The Zoning Administrator recommends that the Town Plan Commission approve this as long as Ashland County's corrections to the map are made.

C. Brummer moves to recommend to the Town Board approval the Lein Certified Survey Map dated March 24, 210, including corrections requested by the Ashland County Surveyor. S. Soucek seconds. All in favor, 6 aye. Motion Carries.

c. Bergeon, Glen & Susan re: Special Exception permit application for reduced setbacks at 2635 Big Bay Road, parcel #014-00054-0900 – Discussion and Possible Decision

Chair Pallas asks if all commissioners have visited the property now—yes, everyone has. He states that because one commissioner is absent from the meeting and the Zoning Administrator's summary haven't been received yet, this item will only be discussed and no decisions will be made on it tonight. He also mentions that a faxed letter from Cynthia Nye, a neighboring property owner, has been received since the Public Hearing.

L. Whalen states that if the Town Plan Commission were a quasi-judicial body, new information could not be considered post Public Hearing. Also, he asks if there will be a simple yes or no vote on the special exception?

Chair Pallas responds that if the Town Plan Commission were to not approve the proposal, the commission should dictate a different buildable core or other solution, and that each commissioner would give a written list of reasons for their vote (the same as for a Conditional Use Permit).

C. Brummer states that additional Public Hearings would be unnecessary even if the buildable core area were changed, as the public has had their say.

R. Madich reiterates that there is *no* standard formula for determining buildable cores. He further states that the Town Plan Commission should be very clear in their decision language that precedent will not be set with this special exception. Each case will be unique.

Chair Pallas states that the only way he will be comfortable agreeing to let them build on the lake side of the road is if the Bergeons can show how they will prevent future erosion. He feels that 25% setback relief is probably a more likely option because of the size of the lot, and that a house would have to be built at an angle to the road (and probably run parallel with the shore). He states that when walking the property he decided that much of the erosion is coming from water running from the top of the bank, not from waves.

J. Croonborg-Murphy notes that if they lose even one more foot from erosion, they would be non-conforming.

C. Brummer states that they will have to remove the carpet that is on the property and is causing water runoff and further erosion.

J. Croonborg-Murphy points out that the boundary map being used is from 1992. Elevations and shoreline could well have changed in the past 18 years.

Chair Pallas states that if the Town Plan Commission agreed to find a buildable core on the lake side of the road, he would want to require a new boundary survey be completed before making a decision on a specific core.

J. Croonborg-Murphy feels that if the Town Plan Commission wanted a new boundary survey done, they should have asked for one before the Public Hearing. If they want a new survey, they should require it along with the mitigation plan.

C. Brummer feels that the Town Plan Commission would be wrong to require new information (a boundary survey). They should have caught the fact that the map was 18 years old earlier in the process.

M. Starck asks the Town Plan Commission about their thoughts on the comments made by members of the public at the Public Hearing asserting that a property's setbacks are measured from the rear of the lot (in this case, the far-inland edge of the inland section of the Bergeons' property) and that the county doesn't have easements where Big Bay Road runs across people's property.

Chair Pallas and C. Brummer answer that they don't agree with that view. Setbacks have always been measured from the center of the road. Chair Pallas doesn't agree that the county doesn't have easements for Big Bay Road; he states that he knows that they do.

C. Brummer notes that, according to the tax roll, the property taxes are one-third of those of the two neighboring properties. He feels that this indicates that the property has been assessed as unbuildable. He also feels that the letter from Tom Fratt (Ashland County Conservationist) and the opinions of the Nyes (adjacent property owners) should hold a lot of weight in this decision. All were opposed to the special exception. He states that if the Town Plan Commission were to approve a building core on the lake side, he would want it to be far from the Nyes' property line.

The Town Plan Commission will look at Section 7.1 C (standards for approval) thoroughly and consider how each point in that section would be addressed.

L. Whalen asks if others feel that building on the inland side of the road would be possible. Chair Pallas and J. Croonborg-Murphy answer that they do think it is possible.

The Bergeon special exception will be on next week's Special Meeting agenda. Chair Pallas wants all commissioners to be at that meeting.

G. Thury makes a motion to move item VII New Business up to before item VI Old Business. L. Whalen seconds. All in favor, 6 aye. Motion Carries.

G. Thury makes a motion to move item VII b up to before item VII a. L. Whalen seconds. All in favor, 6 aye. Motion Carries.

VI. Old Business

Zoning Ordinance Revision Project

a. Review and possibly revise working draft of tentative Ordinance Revision, Sections 1.0-16.0. Zoning Dimensional Table for new proposed zoning districts

- In Appendix 1, Dimensional Requirements, add columns for all new districts, with requirements as follows:
 - LZ-2 will have the same requirements as R-1
 - LZ-1 will have the same requirements as the current LZ
 - G-1 will have the same requirements as C-1
 - P-R will have the same requirements as W-1
 - T-P will become an overlay district, with the same requirements as whichever district it overlays
 - C-D will have the same requirements as W-1
 - M-1 will have the same requirements as C-1
 - W-P will become an overlay district, with the same requirements as whichever district it overlays
- In Section 3.0, Zoning Districts, change title of “3.2 W-P Wetlands Protection District” to “3.2 Wetlands Protection Overlay District”, and draft language for initial paragraph to reflect this change.
- In Section 3.0, Zoning Districts, change title of “3.18 T-P Town Park District” to “3.18 Town Park Overlay District”, and draft language for initial paragraph to reflect this change as well as specifying that land only falls under this overlay as long as the land is owned by the Town of La Pointe. If the land is sold, the district designation reverts to the underlying district again.
- In Section 3.5 R-1 Residential, Single Family, Low Density, change note from *Required lot size for Multiple Family Dwellings and Planned Unit Residential Developments shall be the number of residential units times the Minimum Required Lot Area and minimum lot shoreline width shall be the number of residential units times the Minimum Shoreline Lot Width for the Zone specified in the Zoning Schedule-Lot Dimensional Requirements* to read:
“Required lot size for Multiple Family Dwellings and Planned Unit Residential Developments shall be the number of residential units times the Minimum Required Lot Area. Minimum lot width shall be the number

of residential units times the Minimum Lot Width for the Zone specified in the Zoning Schedule-Lot Dimensional Requirements.”

- In Section 3.7 R-3 Residential, Multi-Family, change note from “*Required lot size for Multiple Family Dwellings and Planned Unit Residential Developments shall be the number of residential units times the Minimum Required Lot Area and minimum lot shoreline width shall be the number of residential units times the Minimum Shoreline Lot Width for the Zone specified in the Zoning Schedule-Lot Dimensional Requirements”* to read:
“*Required lot size for Multiple Family Dwellings and Planned Unit Residential Developments shall be the number of residential units times the Minimum Required Lot Area. Minimum lot width shall be the number of residential units times the Minimum Lot Width for the Zone specified in the Zoning Schedule-Lot Dimensional Requirements.”*
- In Section 4.2 G, change “*1. Utility Towers and/or/ antennas less than thirty five feet (35’)*” to read “*1. Wind Generator, Telecommunications, and Radio Tower, Solar Generator over thirty five feet (35’) High.”*
- In Section 7.2, draft language for a new item “N,” Conditional Use Permit Termination Procedure.

VII. New Business

a. Hansen, James/Renee re: contractor proposals for replacement of failed foundation at 3419 Big Bay Road, parcel #014-000230500

The Town Plan Commission discusses what the contractor should do with the house while the foundation is replaced. The two options are either that the contractor should move the house off the foundation area or just lift it above so that the foundation can be replaced.

There are concerns as to whether the house could be moved aside during the work without ending up in the road right of way, so the Town Plan Commission feels that the house should just be jacked up directly above the foundation.

G. Thury moves to resume agenda as posted at item VI Old Business. S. Soucek seconds. All in favor, 6 aye. Motion Carries.

b. Douglas, Robert/Luck-Pearson, Sarah re: preliminary Certified Survey for division of property at 2334 Benjamin Blvd, parcel #014-00048-0100

The property owners own a parcel that is partially zoned S-1 and partially zoned W-1. They would like to create a 3 acre parcel out of the section of land designated S-1, but if it is done using straight lines, as zoning prefers, a small section of this new parcel would overlap into the W-1 area. They wish to do this in order to sell the main W-1 area of the parcel.

The Zoning Administrator states that they really only have two options for dividing this 20 acre parcel, and either would have to come to the Town Plan Commission.

One would be to request a map change for the whole parcel to become S-1 so they could divide it, although this is unlikely as the whole property could then be subdivided.

The other option would be to divide out a 3 acre property to be zoned S-1. However, this would create a W-1 parcel of less than 20 acres.

C. Brummer states his concern that the ordinance prohibits the creation of non-conforming lots.

The Zoning Administrator states that they would have to get a CSM done, the Town Plan Commission would have to deny it, the Town Board would next have to deny it, and then they'd have to apply for a variance with the Board of Appeals.

The Town Plan Commission feels that they can recommend neither of these options with much view of success. They recommend that Mr. Douglas and Ms. Luck Pearson look into the option of selling the property and creating a rental agreement with a guest house and principal dwelling, after the Zoning Ordinance Revision Project has been completed and guest house regulations are passed.

VIII. Future Agenda Items

IX. Schedule of Next Meeting

- Town Plan Commission Special Meeting to be held on Wednesday, August 11, at 4:30 pm.

X. Adjournment

G. Thury moves to adjourn. S. Soucek seconds. All in favor, 6 aye. Motion Carries. Meeting ends at 6:37 pm.

Draft Town Plan Commission Minutes respectfully submitted by Margaretta Kusch, ZCA on Saturday, August 07, 2010.

Town Plan Commission minutes are approved as amended by Margaretta Kusch, ZCA on Wednesday, August 11, 2010.