

**Town of La Pointe Zoning
Town Plan Commission Regular Monthly Meeting Minutes
September 20, 2012**

Town Plan Commission (TPC) Members Present: Ted Pallas, Chair, Charles Brummer, Vice-Chair, Suellen Soucek, Larry Whalen, Joan Martin, Carey Baxter (6).

Town Plan Commission Members Absent: Greg Thury (1).

Public Present: Dave Thomas, Charlie Meech, Jim Rogers, Pete Rogers, Paul Brummer, Mike Starck, Chuck Nelson, Nancy Martin (8).

Town Staff Members Present: Jen Croonborg-Murphy, ZA, Margaretta Kusch, ZCA, Pete Clark, Town Administrator (3).

I. Call to Order/Roll Call

Chair Pallas 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

III. Approval of Previous Meeting Minutes

a. Town Plan Commission Special Monthly Meeting, September 6, 2012.

- On page 3, seventh paragraph, change “*offfundraisers*” to “*of fundraisers.*”
- On page 3, paragraph 10, delete “*states.*”
- On page 4, delete fourth paragraph (“*C. Brummer agrees that “F” from the 2004 Conditional Use Permit should be reinstated*”).
- On page 4, change motion votes from “*7 aye*” to “*6 aye, 1 abstain (C. Brummer).*”
- On page 5, item d., third paragraph, delete the period after “*Doug.*”
- On page 5, item d., fifth paragraph, change “*Mr.*” to “*Dr.*”

C. Brummer moves to approve the Town Plan Commission Special Monthly Meeting minutes of September 6, 2012 as corrected. S. Soucek seconds. All in favor, 6 aye. Motion carries.

IV. Zoning Administrator’s Report

The Zoning Administrator notes that she’ll be out of the office for POWTS training October 3rd through the 5th. She also notes that although she has budgeted for two Town Plan Commission meetings per month next year, the Town Plan Commission might consider going to one meeting per month for the rest of this year.

Chair Pallas moves to bring Old Business up at this point. C. Brummer seconds. All in favor, 6 aye motion carries.

V. Consideration and/or Action of Permit Applications

VI. New Business

a. 2013 Budget

The 2013 budget and the Fee Schedule are discussed separately.

2013 Budget

The Zoning Administrator notes that the budget presented is just a draft; Barb Nelson hasn't looked at it yet.

- She has proposed an addition of a ferry pass (just for a person, not for a vehicle) for herself like the Town Administrator and some police officers have been given, as she's moving to the mainland next year (\$1,000 of the \$15,000 from Ashland County is going to that).
- She's budgeted for Town Plan Commission members to attend training meetings again, and would like to see that happen if commissioners can.
- She's budgeted ten hours per week of her work to be for Ashland County (which is about 26% of her time), which comes out to be about \$13,000 (not including the Zoning Administrator's insurance).
- \$250 for office expenses (phone, etc.)
- \$500 for vehicle repair and maintenance

A discussion ensues regarding the number of meetings that should be held per month. The consensus is that there should continue to be two per month.

Fee Schedule

The Zoning Administrator feels that the fact that there's no penalty (double fees) for projects that don't have fees in the first place is an issue. She suggests adding a \$50 penalty for after-the-fact land disturbing activity.

C. Baxter notes that there's an extra "transfer" line that should be deleted.

The Town Plan Commission agrees that both of these changes should be made.

Chair Pallas moves to recommend budget and schedule of fees to the Town Board. C. Baxter seconds. All in favor, 6 aye. Motion carries.

VII. Old Business

Kron, Robert re: Camping unit and deck @ 385 Middle Rd., LP #014-00466-0100. Zoning Administrator request for Conditional Use Permit and Zoning Ordinance interpretation.

The property owner has a Conditional Use Permit for this property. There's a new model camping unit on the property replacing a previous unit, and a deck has been added to it. The Zoning Administrator feels that after-the-fact permits are necessary for both and asks the Town Plan Commission for their interpretation.

The Town Plan Commission is in agreement that the deck addition does need an after-the-fact permit.

The Town Plan Commission feels that as no one lives in the model camping unit and it's a sale model, it falls under the Conditional Use Permit for the property and doesn't need a land use permit.

C. Brummer moves that the current parked model camper is in compliance with the Conditional Use Permit but that the property owner needs an after-the-fact permit for the deck. S. Soucek seconds. All in favor, 6 aye. Motion carries.

Brummer, Paul: June 26, 2012 Complaint re: use of property at 978 Middle Rd., LP #014-00178-0200, owner, Craftivity, Inc. Town Plan Commission consideration of Complaint and recommendation to Town Board per Section 15.2.E of Zoning Ordinance.

The Zoning Administrator reviews the procedure necessary for this agenda item. Complaint procedure is outlined in Zoning Ordinance Section 15.2 Complaints (*"At the decision meeting the Town Plan Commission may*

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amend, suspend, or revoke the Conditional Use Permit after consideration of the same criteria used in deciding to grant a Conditional Use Permit in Section 7.1.C”) Each commissioner is to state how their vote is in consideration of those thirteen standards of approval that are relevant and to verbalize as their considerations as much as possible.

At the last meeting, the Town Plan Commission decided to create language to amend the Conditional Use Permit, and to have attorney Fauerbach draft such language to review. This draft has been received and will be under discussion. The proposed amendment drafted by the attorney reads as follows (strikeouts are proposed deletions; underlined text, proposed additions):

“The undersigned, being duly sworn on oath, deposes and says as follows:

- I. Craftivity, Inc. is the owner and/or lessor of the Land Parcel #14-178.0200 located at 978 Middle Road, La Pointe, Wisconsin.*
- II. On January 8, 2008 Craftivity, Inc. submitted an application for an amendment to the existing Conditional Use Permit.*
- III. Craftivity, Inc. agrees to accept and abide by the following conditions imposed by the Town of La Pointe.*
- IV. All of the undersigned agree that this Conditional Use Permit replaces and supersedes all earlier Conditional Use Permits for these premises.*

Article 1 (Uses):

- A. Serve as a site for teaching activities related to various arts and/or crafts.*
- B. Serve as a site for students and teachers to exercise their artistic expression by creating works of arts or crafts on the premises.*
- ~~C. Serve as a site for social gatherings related to the promotion and/or financial support of the art and craft activities conducted at the premises.~~*
- C. Serves as a gallery site for the sale of works of art and/or craft supplies and related services.*
- D. Serve as a site for temporary overnight housing in the building designated as the “farmhouse” for up to four (4) unrelated persons while engaged in teaching activities.*
- E. Serve as overnight housing for enrolled students and their immediate family while attending classes.*
- F. This Conditional Use Permit is conditioned upon the premises of being used as an art school. If the premises are used for any purpose other than an art school that will be grounds for immediate termination of the Conditional Use Permit.*
 - 1. The premises will not be used for weddings, parties, receptions or other events not related to the arts.*
 - 2. The owners may host _____ events per calendar year for monetary gain to support the art school. Under no circumstances will the owners be allowed any events that are not directly related to the uses of the premises as an art school. Any fundraising shall be for the art school only except that the owners may solicit and host events solely for the purposes of the growth of the school and its arts educational mission. Only events in which the named, sponsoring and/or contracting organization possess and produces and IRS 501(c)3, non-profit designation and is primarily engaged in art or art-related activities may be held at the school.*
 - 3. Because a number of neighbors have complained about the impact on themselves and their property due to events with large numbers of people present, the owners will make all reasonable efforts to see to it that people attending their events do not park on town roads or private roads or driveways in the area of the art school.*
 - 4. No events will be held on the premises that include more than 125 participants (not including people employed by the art school).*

Article 2 (Buildings and Structures):

The site and buildings are to be maintained in a farmstead like appearance to the extent possible. Buildings authorized on this site include the following:

- A. *The original farmhouse plus the addition of approximately 760 square feet of covered porches added to three sides in accordance with the plans submitted on May 15, 2006.*
- B. *A barn-like structure of approximately 3800 square feet in accordance with the plans submitted on November 11, 2005.*
- C. *An administrative and classroom building of approximately 935 square feet.*
- D. *A classroom building 3360 square feet.*
- E. ~~*A classroom building of approximately 3360 square feet.*~~
- F. *A replicate brooder house of approximately 108 square feet.*
- G. *A replicate granary of approximately 120 square feet.*
- H. *A replicate chicken coop of approximately 120 square feet.*
- I. *A replicate outhouse or approximately 25 square feet.*
- J. *Three (3) cottages, each with (4) bedrooms and (4) baths, not to exceed 1400 square feet for each cottage.*

Article 3 (Vehicle Parking):

- A. *As a condition of use, the owner(s) and/or operator of the school must provide adequate off-street parking for all the participants and/or guests for the events and activities held at the site. The parking area may be lighted at night using indirect lighting as to permit safe foot traffic to and from vehicles during periods of darkness. Such parking area lighting must be extinguished when there are no activities.*
- B. *Parking of campers and recreational vehicles is permitted however such vehicles may not be used for overnight occupancy on the site.*

Article 4 (Activities Permitted and Not Permitted):

- A. *The owner(s) and/or operator of the facility may provide beverages and snacks and arrange for meals to be provided to students, teachers, and guests participating in activities at the site.*
- B. *There shall be no activities which emit excessive amounts of noxious fumes, odors, and pollutants into the environment.*
- C. *Noise will be held to the limits stated in the current Town of La Pointe Ordinance. This item is subject to annual review by the La Pointe Town Board.*

Article 5: Duration and relation to prior Conditional Use Permits on the same property.

This Conditional Use Permit as modified will replace and control over all earlier Conditional Use Permits for this premises. This Conditional Use Permit is conditioned on the premises being used as an art school. If the premises are used for any purpose other than an art school that will be grounds for immediate termination of the Conditional Use Permit.

The Zoning Administrator notes that Article 2.E (“A classroom building of approximately 3360 square feet”) was crossed out by accident in the draft and shouldn’t be removed.

C. Baxter feels the Commission should look at G. Thury’s memo to the Town Plan Commission regarding the matter first as he isn’t able to be at the meeting.

G. Thury brings up three points in his memo:

- Change “other” to “any” in 1.F.1 of Mr. Fauerbach’s draft
- If MISA is not a 501(c)3 (non-profit) organization, then would the language in 1.F.2 prohibit MISA from hosting events to benefit itself?
- Is Article 5 redundant considering Article IV at the beginning of the Conditional Use Permit?

It's agreed to change "other" to "any" in 1.F.1 should Mr. Fauerbach's language be adopted.

L. Whalen notes that Charles Meech indicated that MISA wasn't a 501(c)3 at the last meeting.

Chair Pallas adds that the 501(c) status of MISA wasn't even discussed previously by the Town Plan Commission.

L. Whalen states that he doesn't want to regulate the uses of gatherings, it seems arbitrary. He doesn't care what kinds of events are held at MISA, only the number and size of the events.

C. Baxter responds that he feels that the language of item F in the 2004 Conditional Use Permit was put there for a reason and should therefore be reinstated (*"The premises will not be used for weddings, parties, receptions or other events not related to the arts"*). He states that he stands by this opinion and also that the focus should not be on Article 1.C (*"Serve as a site for social gatherings related to the promotion and/or financial support of the art and craft activities conducted at the premises"*) but rather the gist of the whole section, which he thinks is about the promotion of arts and crafts at the school, not social gatherings.

S. Soucek feels that things need to go back to basics: arts and crafts at the school. In her opinion, the language of the Conditional Use Permit was created to enforce that focus; the school wasn't meant to be an events center.

J. Martin states that she would like to find a compromise. She has an objection to any non-art events (weddings, concerts, receptions, etc.) being held at the site. She has a problem with events being held there where there is no regulation over the number of people at the site, parking, emergency services access, etc.

After discussion, the Town Plan Commission agrees that the way the Conditional Use Permit is written, it already regulates parking, as the property is regulated by the Zoning Ordinance (which has parking requirements).

Chair Pallas states that he is against weddings, receptions, and events such as the Madeline Island Wilderness Preserve fundraiser being held at MISA. As for the Chequamegon Chef's Expo being held there, if there had been cooking classes being taught by the Chefs then he'd consider that art, but as it was, he feels that it was a benefit for the Chamber of Commerce. He further states that he thinks that the regulation of MISA's Conditional Use Permit is supposed to be a zoning issue, not a political one.

J. Martin asks Chair Pallas how he thinks the situation can be cleaned up.

Chair Pallas responds that he doesn't think it can be cleaned up. It becomes a political issue and back at the Town Plan Commission every meeting. His recommendation would just be to suspend the Conditional Use Permit for the week of the Madeline Island Wilderness Preserve benefit as a way of demonstrating that there are consequences to violating a Conditional Use Permit.

S. Soucek states that she likes item F.2 in the draft.

C. Baxter feels that the item F language that was removed from the 2004 Conditional Use Permit should be reinstated and that, besides that, the Conditional Use Permit should remain as is.

S. Soucek agrees that the missing language should be reinstated.

A discussion ensues regarding the number and type of events that should be allowed at the site and the maximum number of people allowed at these events. The Town Plan Commission agrees that events should be limited to four annually with a maximum of 125 participants (not including people employed by the art school).

It is agreed to remove Article 1.C.

J. Martin reiterates her concern that parking requirements and access for emergency services be specified in the Conditional Use Permit.

Chair Pallas responds that the original permit states that they must have adequate off-street parking, so it's already in the permit and that concerns such as these are complaint driven—it's up to the landowner.

The Zoning Administrator reiterates that there's parking requirements in the Zoning Ordinance already.

L. Whalen feels that it is important that the Conditional Use Permit is compatible with the Comprehensive Plan, as per Standards of Approval 13.

The Zoning Administrator feels that the Comprehensive Plan can be used to support whatever viewpoint one has, so it's very important that the commissioners focus on the Standards of Approval when they vote.

Chair Pallas states that it is important that the Town Plan Commission's recommendations are clear.

S. Soucek moves to recommend to the Town Board the verbiage in the Conditional Use Permit now except take out Article 1.C, add the statements "*The premises will not be used for weddings, parties, receptions, or any events not related to the arts,*" "*The owners may host four (4) events per calendar year for monetary gain to support the art school,*" "*No events will be held on the premises that include more than one hundred twenty-five (125) participants not including people employed by the art school,*" and move Article 5 to 1.F. C. Baxter seconds. All in favor, 4 aye, 1 nay (Chair Pallas), 1 abstain (C. Brummer). Motion carries.

The commissioners state their reasons for their votes.

L. Whalen states he voted aye because the existing Conditional Use Permit conflicts with:

- Standards of Approval 1 (*"Established character and quality of the area"*): the physical appearance doesn't match land
- Standard 10 (*"The movement of traffic"*): this is fixed with the amended language.
- There have been substantial violations of the Conditional Use Permit in the past.

C. Baxter states he voted aye based on consideration of:

- Standards of Approval 1: the W-2 district is low density.
- 2. (*"Its physical appearance and compatibility with the use of adjacent land"*): No other nearby property has near as many buildings.
- 3. (*"Existing Topography"*): the original barn is no longer there.
- 4. (*"Drainage features"*): there are lots of impervious surfaces due to all the buildings already.
- 8. (*"The prevention of the overcrowding of any natural resource"*): MISA was already pushing this boundary before the three new buildings were permitted to be added in the last Conditional Use Permit amendment.
- 11. (*"The demand for related services"*): there could be a problem with emergency services access if a big gathering was held at the site.

- 12. (*"The possible hazardous, harmful, noxious, offensive, or nuisance effects resulting from the requested use"*): many neighbors have complained about the school already.
- 13. (*"The extent to which the proposed use would be compatible or incompatible with the Comprehensive Plan of the Town"*): a Convention Center doesn't fit the goals of the Comprehensive Plan in that Zoning District.
- And also because of the multiple and obvious past violations of MISA's Conditional Use Permit.

J. Martin states that she is frustrated by continual violations and neighbors' concerns being ignored. Her biggest concerns are noise, parking, and hours of events held at the site. She's not in agreement with any more buildings being allowed at the site.

S. Soucek voted aye based on Standards of Approval 1 and 11. She states that she wants to see an end to the violations and complaints. She feels that it is the Town's opinion that MISA has expanded enough. She states that MISA has to remain a school and nothing else.

Chair Pallas feels that by voting the way the majority did, the thirteen standards of approval were met. However, he voted nay as he feels that MISA will keep violating their Conditional Use Permit regardless of changes in language unless there's consequences imposed.

VIII. Future Agenda Items

IX. Schedule Future Meetings

- Next Special Monthly Meeting to be held Wednesday, Oct. 3, 2012, at 4:30 pm.

X. Adjournment

L. Whalen moves to adjourn. S. Soucek seconds. All in favor. Motion Carries. Meeting ends at 6:10 pm.

Town Plan Commission minutes respectfully submitted by Margaretta Kusch, ZCA on Wednesday, September 26, 2012.

Town Plan Commission minutes approved as amended Wednesday, October 03, 2012.