

ONEIDA COUNTY PLANNING & ZONING
APRIL 16, 2008
12:30 P.M. CLOSED SESSION
1:00 P.M. REGULAR MEETING – COMMITTEE ROOM #2
2ND FLOOR ONEIDA COUNTY COURTHOUSE, RHINELANDER WI 54501

Members present: Scott Holewinski, Chair
Larry Greschner
Frank Greb
Charles Wickman
(Absent: Ted Cushing)

Department staff present: Karl Jennrich, Zoning Director
Pete Wegner, Assistant Zoning Director
Steve Osterman, Planning Manager
Kim Gauthier, Secretary

Other County Staff: (None)

Guests Present: Kevin Jenkins, William Liebert, Don DalPonte, Marjie Rozumalski, Dennis Herman, Jimmy Rein, Mark Petowski

Call to order

Chair Scott Holewinski called the meeting to order at 12:30 p.m., in accordance with the Wisconsin Open Meeting Law. Mr. Holewinski noted the agenda has been properly posted and the media notified.

Discussion/decision to approve the agenda

Motion by Larry Greschner, second by Frank Greb to approve the amended agenda. With all members present voting "ayes", the motion carried.

It is anticipated that the Committee may meet in Closed Session pursuant to Wisconsin Statutes, Section 19.85 (1)(g), conferring with legal counsel concerning strategy to be adopted by the governmental body with respect to litigation in which it is or is likely to become involved. A roll call vote will be taken to go into closed session.

Motion by Larry Greschner, second by Frank Greb to go into closed session. With all members present voting "aye", the motion carried.

A roll call vote will be taken to return to open session.

Motion by Larry Greschner, second by Frank Greb to return to open session. Ted Cushing "aye", Larry Greschner "aye", Bob Metropulos "aye", Scott Holewinski "aye". The motion carried.

Chair Holewinski announced that the Committee conferred with legal counsel during closed session regarding litigation; however, no decisions were made.

Discussion/decision involving approving the regular meeting minutes of March 5, 2008.

Discussion/decision involving approving the public hearing meeting minutes of February 27, 2008 and March 5, 2008.

Motion by Larry Greschner, second by Frank Greb to approve the regular meeting minutes and public hearing minutes of March 5, 2008 as printed. With all members present voting “aye”, the motion carried. Charles Wickman abstained from voting.

Discussion on the February 27th meeting minutes, as there are only two members present that attended that meeting. Committee decided to ask legal counsel about approving these minutes and agreed to wait until the next meeting.

Discussion/decision involving electing a Vice-Chairman for the Oneida County Planning and Zoning Committee.

Mr. Greschner nominated Frank Greb for Vice Chairman and asked that they be closed and cast unanimous ballot.

Motion by Larry Greschner, second by Charles Wickman to nominate Frank Greb as Vice Chairman. With all members present voting “aye”, the motion carried.

Discussion/decision involving using guest cottages or additional dwelling units in averaging pursuant to Section 9.94, OHWM Setbacks and Special Zoning Permission for Structures in Shoreland Setback, of the Oneida County Zoning and Shoreland Protection Ordinance.

Mr. Jennrich indicated the department is working on drafting language that will address the issues of guest cottages as a dwelling in averaging. Mr. Jennrich indicated the department is holding several permit applications that involve guest cottages due to the need to review the language. Mr. Jennrich requests that he be granted permission to continue processing these permits as in the past until the issue is resolved.

Mr. Holewinski commented that the Committee did not realize the amount of permits being held up and recommends the department process these.

Mr. Wegner noted the department has been processing permits this way since 2001.

Motion by Larry Greschner, second by Frank Greb to authorize the Zoning Director to proceed with issuing these permits as recommended. With all members present voting “aye”, the motion carried.

Mr. Jennrich commented that all the permits will still be reviewed by the Director or Assistant Director. Mr. Jennrich also commented that he is waiting for comments back from legal counsel on the proposed language.

Discussion/decision involving properties with multiple dwelling units and the application of Section 9.99, Shoreland Structures and Uses, and Article 10, Definitions, of the Oneida County Zoning and Shoreland Protection Ordinance.

(See above motion)

Discussion/decision involving Section 9.50, Legal Pre-existing Structures and Uses in Non-shoreland Area.

Mr. Jennrich described the history of Section 9.50, 9.99 and 9.55, noting the Committee had requested these types of businesses be allowed to expand. Mr. Jennrich also noted that the County Board instructed the Zoning Department to grandfather Mr. DelPante (Weasel's) so that he can expand his business. Mr.

Jennrich also noted that the Committee received outside legal counsel from Attorney Andrew Jones that was discussed in closed session. Memo Exhibit #1.

Mr. Wegner commented that the last proposal was to permit 100% expansion of the footprint and that similar language would be found in 9.50 and 9.99, however, the legal opinion received does not recommend this, as it does not follow the spirit of having non-conforming use in a specific district. Mr. Wegner commented that we started out with 50% expansion of the footprint, the Statute show 50% of the current equalized assessed value and noted these are the options available.

Mr. Greschner asked what was on the original conditional use permit.

Mr. Wegner reviewed the file noting the proposed addition was 50' X 70', which is over 100%.

Mr. DalPonte commented that this was originally approved at that time.

Mr. Holewinski commented that it appears 100% is not acceptable and asked the Committee what is acceptable.

Mr. Greschner commented that 50% keeps coming up as acceptable for non-conforming use.

Mr. Holewinski explained that right now there is no expansion in non-conforming uses, although the Committee believes there should be some expansion allowed for these small businesses.

Mr. Greb commented that the County Board said Mr. DalPonte should be allowed to expand and be made whole.

Mr. Wickman commented this issue could be addressed in the adult oriented business ordinance.

Committee discussion on small and large businesses that are allowed to expand based on a percentage and the effects, including that on gravel pits, etc. if expansion was allowed.

Mr. Greschner asked for the square footage of Mr. DalPonte's business.

Mr. Jennrich referred to the application which indicates the existing building is 2892 square feet and the proposed addition was 3500 square feet.

Mr. Holewinski commented that the Committee needs to focus on non-conforming structures and get off Mr. DalPonte. Mr. Holewinski commented that going from zero to 100 % is a large spectrum.

Mr. Greschner commented that he believes this amount is too high and this could go beyond a small bar and could effect gravel pits, etc.

Motion by Larry Greschner, second by Charles Wickman to go to a public hearing with 50% expansion in legal pre-existing in shoreland and non-shorland areas of Section 9.50 and 9.99. With all members present voting "aye", the motion carried.

Mr. McEldowney commented that what happens here will also affect the adult oriented business. Mr. McEldowney also commented on the history of Mr. DalPonte's circumstances in this long process.

Mr. Holewinski commented that the Committee has to look out for the county as a whole also.

Mr. Greschner commented that he understands all of this, but he wishes that someone would have come in to apply for a permit during this whole process.

Jim Rein commented that the Committee should consider cross referencing the ordinance including setbacks, etc. Mr. Rein commented that setbacks and septic areas could be controlling and a percentage would not have to be a controlling factor.

Discussion/decision involving Section 9.99, Shoreland Structures and Uses.

(see above agenda item)

Discussion/decision involving Section 9.55, Adult Oriented Business Ordinance.

Mr. Holewinski welcomed Mr. DalPonte and Mr. McEldowney to the table. Mr. Holewinski commented that they want consistency in the ordinance, but nothing says we can't pick a higher rate within Section 9.55, as there are only two businesses affected in the county. Mr. Holewinski commented there are other inconsistencies the County Board has allowed and reasons why they were allowed.

Mr. Jennrich commented that the Committee has already made amendments regarding liquor licenses, nudity, etc. but the expansion issue has not been resolved.

Committee discussion on possibilities of expansion based on setbacks.

Mr. Greschner commented we were told to make Mr. DalPonte whole and he has no problem with proceeding this way.

Mr. Holewinski commented that the change is only in the adult oriented business ordinance and we can be challenged on other ordinance language so we should not be afraid of this one either.

Mr. DalPonte commented that the Town of Three Lakes told him it could be rezoned, they don't care and to do whatever he wants with the business.

Mr. Jennrich commented that he will come back to the Committee with language to review that will not constrain pre-existing expansion before going to a public hearing.

Mr. McEldowney commented that he believes this is consistent with the legal opinion of Attorney Jones. Mr. McEldowney also recommends referencing in Section 9.50 and 9.99, that this ordinance would not be affected by Section 9.55.

Motion by Larry Greschner, second by Charles Wickman to direct staff to bring back language to Section 9.55, that allows expansion of adult oriented businesses to the April 30th meeting. With all members present voting "aye", the motion carried.

Discussion/decision involving revising Chapter 15, the Oneida County Subdivision Ordinance.

Mr. Jennrich described the subdivision ordinance and presented a draft dated March 26, 2008 (Exhibit #2). Mr. Jennrich discussed the sub-committee's involvement and requests one more meeting with the sub-committee and then a separate meeting with the Committee in three to four weeks and then take this issue to a public hearing. Mr. Jennrich requests that Mr. Holewinski also be involved in the meetings.

Committee agreed to discuss further at a June 2, 2008 meeting at 1:00 p.m.

Motion by Larry Greschner, second by Charles Wickman to set a date for sub division review meeting on Monday, June 2, 2008 at 1:00 p.m. With all members present voting "aye", the motion carried.

Discussion/decision involving the permit specialist vacancy.

Mr. Jennrich indicated he does not recommend filling the Minocqua permit specialist vacancy due to revenue being down. Mr. Jennrich is requesting the position be dissolved at this time after discussing the issue with Labor Relations and Finance.

Motion by Frank Greb, second by Larry Greschner to eliminate/dissolve the permit specialist vacancy. With all members present voting “aye”, the motion carried.

Discussion/decision of line item transfers, refunds, purchase orders and bills

Mr. Jennrich presented bills, refunds and purchase orders in the amount of \$806.03 and \$369.69 (Exhibit #3 and #4).

Motion by Frank Greb, second by Larry Greschner to approve the bills and one refund and purchase orders as presented. With all members present voting “aye”, the motion carried.

Mr. Jennrich also presented statistics for the months January through March, 2008 (Exhibit #5).

Discussion/decision to approve future meeting dates

The following meetings are scheduled:

April 30, 2008
May 7, 2008 (Charles not available)
May 21, 2008
June 2, 2008

Public comments

Chairman Holewinski asked if there was any public comment.

William Liebert commented he is looking forward to the new committee.

Discussion/decision regarding future agenda items.

- Subdivision meeting to be held June 2, 2008 at 1:00 p.m.

Adjourn

1:55 p.m. Adjourn meeting.

Motion by Frank Greb, second by Larry Greschner to adjourn. With all members present voting “aye”, the motion carried.

Scott Holewinski, Chair

Karl Jennrich, Zoning Director