

**ONEIDA COUNTY PLANNING & ZONING**  
**March 10, 2011**  
**1:00 PM**  
**COMMITTEE ROOM #1**  
**ONEIDA COUNTY COURTHOUSE, RHINELANDER WI 54501**

---

Members present: Scott Holewinski  
Gary Baier  
Dave Hintz  
Billy Fried  
Mike Timmons

Department staff present: Peter S. Wegner, Assistant Zoning Director  
Lila Dumar, Secretary III

Guests: Bob Martini  
Norris Ross  
Bob Williams

---

Call to order.

Scott Holewinski, Chairman, called the meeting to order at 1:00 p.m. in accordance with the Wisconsin Open Meeting Law. Mr. Holewinski noted the agenda was properly posted. All members are present.

Approve the agenda.

**Motion by Dave Hintz, second by Gary Baier to approve the agenda. With all members present voting "aye", the motion carried.**

Public Comments.

There were no public comments at this time. Public comments will be taken throughout the meeting.

Approve meeting minutes of February 10, 2011.

**Motion by Gary Baier, second by Mike Timmons to approve the meeting minutes of February 10, 2011 as presented. With all members voting "aye" the motion carried.**

Review/establish policy/goals related to shoreland zoning.

Peter S. Wegner had sent the Committee a memo dated March 1, 2011 which contained a list of major issues or topics for the Committee to develop policies on. The memo is

---

part of the record of today's meeting. Mr. Wegner also researched what the DNR had used for its policies during the NR 115 re-write. Mr. Wegner also contacted Heidi Kennedy, DNR asking whether a county could create language based on policy that would allow staff to make exceptions to the impervious surface standards. (No response has been received yet) Mr. Wegner reviewed the information with the Committee.

Dave Hintz commented that the DNR approached the NR 115 re-write by looking at what was wrong with the existing rules and was trying to correct them. As discussed at previous meetings, Oneida County plans to look at what the County's goals and objectives are and what is envisioned for the future and base the ordinance revisions on that.

The Committee and staff discussed the Public Trust Doctrine, which is a common and statutory law that provides that the state holds title to navigable waters in trust for public purposes. The Committee discussed the goal for the protection of water quality, habitat and property rights of Oneida County citizens. A balance is needed between the rights of the public and the rights of the private property owner. In order to do so, there needs to be restrictions placed on the property rights of the landowner. These restrictions would be to protect water quality and to prevent pollutants from going into the lake.

An issue that continues to arise as changes are made to zoning regulations is the creation of more nonconforming structures and properties, especially with most lakefront properties already developed. The key is simple rules—too many exceptions will cause complex rules. The goal would be to have people move away from the lake, but every situation is different. In some situations, a house located 35 feet from the OHWM would have less adverse effects to water quality and scenic beauty than a house located 75 feet from the OHWM. The property owner should prove that whatever they want to do to their property, will not impact the water quality. The difficulty is administration of the rules to fit a variety of situations, there must be standards to be followed. Again, simple rules, easy to understand and to allow staff, based on policy, to recommend the best place for placement of a home, to allow the property owner a viewing corridor, and to work with each property owner.

Dave Hintz commented that the Committee's discussion seems to be getting too far into the procedures and enforcement of the policies before the policies has been identified. The policies should be clearly defined at a high level with procedures to follow that. The Committee agreed and moved on.

#### Setbacks.

The Committee discussed setbacks in the shoreland area and concluded that the minimum setback from the OHWM shall be 75 feet for new construction. Averaging provisions will be implemented as in the current ordinance. The shallow lot provision

---

shall be implemented as in the current ordinance. Staff to encourage property owners to move back further to allow for future expansion toward the OHWM (deck or patio or addition). The minimum side yard setback shall be 10 feet.

Nonconforming.

The Committee discussed nonconforming structures and concluded that existing nonconforming structures should be permitted to be utilized including additions lateral or landward. In order to discourage the 3 story structures on the water, promote moving nonconforming structures located 0-40 from the OHWM back to 50-60 ft with mitigation. The question is when to require a structure to be moved back rather than to be permitted to add more living space to the structure. When is there more new than old?

Definition of structure.

The Committee discussed the definition of a structure. Gary Baier stated that buildings, boathouses, garages, sheds, gazebos, and homes are structures. A retaining wall, flag pole, fire rings are not structures. It was noted that a structure is something that is enclosed. The Committee discussed walkout basements and the need for retaining walls to stabilize the soil.

Mr. Wegner advised the Committee that in the past the County attempted to exempt retaining walls, but could not do so. The most that could be done was to allow replacement of existing retaining walls needed to control erosion. Mr. Wegner added that the "Gazebo" provisions can also be used for retaining walls and that earthen walls are also an option. Mr. Wegner cautioned the Committee that to exempt retaining walls as a structure could create placement of retaining walls all over the waterfront. It would also allow a retaining wall to be placed up to the lot line. Mr. Wegner noted that there are other ways to divert water than retaining walls.

The Committee concluded that some retaining walls are beneficial for safety and/or erosion purposes and some retaining walls are not useful and can become excessive. The Committee concluded that retaining walls should be allowed under certain circumstances and there should be a mechanism to exempt retaining walls in certain applications. Staff would determine exemptions and include it on a permit. Mr. Wegner will research possible exemptions where a retaining wall would be permitted and not considered a structure. Mr. Wegner will also research the definition of a retaining wall/structure and how other counties handle this.

Storm water runoff.

The Committee discussed storm water runoff occurring between neighboring properties and concluded that runoff should be controlled on each property owner's lot or directed into the right-of-way. There may need to be exceptions for a home on a steep hill and

---

there are properties that are difficult to manage with other unique property conditions. Mr. Wegner will draft language to address this issue and research other counties ordinances.

Discussion was held on NR 151 and upcoming changes. The Committee concluded that they would not take NR 151 into consideration for the purposes of ordinance revisions for NR 115.

Review revisions to Chapter 9, Section 9 of the Oneida County Zoning and Shoreland Protection Ordinance due to changes in NR 115. Staff will present language for the Committee to review.

This agenda item was not discussed.

Approve future meeting dates: March 24, 2011.

The Committee confirmed the March 24, 2011 meeting date (1:00 pm). For the record, Dave Hintz is excused.

Public Comment.

There was no public comment at this time.

Future agenda items.

There were no future agenda items.

Adjourn.

Motion by Billy Fried, second by Mike Timmons, to adjourn. With all members voting "aye" the motion carried.

---

Scott Holewinski, Chairman

---

Karl Jennrich, Zoning Director