

LINCOLN COUNTY PLANNING BOARD

Meeting Minutes

June 18, 2013

**1. MEETING CALLED TO ORDER BY KRISTIN**

Present: *Josh Letcher, John Rios, Bonny Peterson, Kirsten Holland, Matt Bowser*

Absent: *Mark Romey, John Damon, Paul Tisher,*

Staff: *Kristin Smith*

Public: None

**2. APPROVAL OF MINUTES FROM MAY 21<sup>ST</sup>**

*No changes to minutes; stand approved*

**3. PUBLIC COMMENT ON NON-AGENDA PLANNING BOARD ITEMS - NONE**

**4. AGENDA**

**a. Giese Lakeshore Construction Permit (Tetrault Lake)**

Josh mentioned that Mr. Schermerhorn advised him earlier in the day that he would not be able to attend the meeting.

Bonny asked where the public access on the lake was in relation to the project. Kristin stated it was at the opposite end.

Kristin introduced the project on Tetrault Lake and showed the aerial photograph from both Google imagery and the state's cadastral imagery, which was from a few years prior. She commented on the difference in water level and stated that she did not know if one was more normal than the other.

Josh stated the lake had a pretty defined high water line and the high water from last year probably wasn't that anomalous.

Kristin drew the Board's attention to the photos and drawings in the application and the location of the proposed rock wall in relation to the shore. She stated that although the county does not prohibit placement of rock, there are considerations in the regulations for appropriateness of rock placement.

She noted that the applicant made a reference to a "Phase 3" but that the materials submitted only refer to Phase 1 and 2. She read the comments from MT FWP which reiterate the policy considerations for rock walls in the county's regulations. She noted that the comments came in after the report was issued.

Bonny stated that the lake was a 10hp lake with a no-wake zone.

Kristin commented that the application suggests there is erosion on the property, but based on the photos there is none apparent and that it appears to be more for aesthetic purposes than not.

John asked about the height of the wall. Kristin stated that the application states 10-15 feet, which would appear to be an aesthetic intrusion on the lake.

Matt asked how that would work. Kristin demonstrated on the photos how an area of the slope would be leveled to create the "sitting" spot.

Kristin recommended approval with a reduction in height and length to reduce overall mass of the project. She commented that she was not wedded to the recommendation in light of FWP's comments.

Matt asked what formed the basis of the recommendation. Kristin stated it was arbitrary and an attempt to reduce the overall massiveness of what was proposed.

John asked if we had never solicited comments from adjacent property owners.

Kristin stated that while the application requires providing adjacent property owner information because it is a joint application for many agencies, Lincoln County did not adopt a policy to notify property owners when it updated its regulations.

John said that would be his big objection that the other property owners have an opportunity to comment on it since it would be a significant change.

Kirsten wanted to know if the owners were intending to use it for uses more intense than residential – such as commercial/recreational since it had been rental cabins.

John and Josh were both questioning the amount of fill required to level the area whether that would require a lot of tree removal.

Kirsten noted that the application states that no trees will be removed.

John suggested the application appears to be inconsistent with what would seem to need to happen. He again stated the impact would be significant to the property owners since there does not appear to be any similar project on the lake.

Josh suggested they use coir logs to prevent erosion and revegetate the shoreline making it much less intrusive. He said he did not see where there was erosion on this project.

Kristin suggested they could recommend that, but she did not think it would get the applicant what they wanted, which was a "recreating" area, which could not be accomplished with several coir logs stacked.

Kirsten asked where in the application was it stated there was erosion.

Kristin directed the Board to page 3, question #13.

Bonny stated she was not in favor of this project. That they should build it back from the Lakeshore Zone

Josh suggested that with the amount of earth movement needed to achieve what is proposed, it would actually create erosion.

Both John and Kirsten suggested there was more to the project and intentions than what was in front of them.

Matt stated that since there is no "active erosion" which is what the policy considerations require that he does not support the project. He also noted the policy considerations state rock walls shall be "appropriately sized for the specific task". He suggested vegetation or he could even support natural rip rap along the existing contours if they were intending to prevent erosion. But this project is not doing that.

Kirsten suggested rather than the Board trying to modify the proposal which would make the applicants have to come back and justify why they cannot do it a certain way, the Board could just deny it and it would be more clean.

John said if the Board denied it they would have to justify that also. He suggested that they could deny it and also give the recommended alternations.

*Kristin read the notes back to the Board of what they had discussed thus far.*

John wanted clarification on the total length. Josh asked if Phase 2 is 85 feet long and Phase 3 is another 85 feet what does that leave for the shore?

*There was some discussion on the homes and buildings on the property.*

John asked if there was property used for commercial uses elsewhere on the property. Josh noted the Chrysalis school.

Josh suggested that the adjacent property owner might be interested in doing something similar since he knows the applicant and owner.

Kristin said that is a concern that once one is approved then several more would likely come in and alter the shoreline and lake.

Josh said since this lake does not have anything like this project on it he feels it should not be approved as it is. It's not like other lakes that have already so dramatically altered the shore.

John suggested that it might not meet the Public Nuisance criteria (#4 – injurious of the senses) and that's why they should solicit the input of adjacent property owners.

Bonny said that is why they should deny it and make them propose a different plan. Matt said he supported that. Kirsten did too.

Kristin asked for a motion. Bonny made a motion to deny the application. John seconded it.

Josh said he would be in favor of it if it was less intrusive.

Motion passed 4 ayes, 1 nay.

#### **b. Burton Lakeshore Construction Permit (Bull Lake)**

Kristin introduced this project which is on the channel of Bull Lake at Angel Island. She presented the proposal and that the applicants had already placed the deck in advance of the application.

John asked what were the consequences for doing something before approval.

Kristin stated that when the regulations were being revised the staff recommended "after-the-fact" fees, or penalties, for not obtaining a permit first. This was struck upon adoption by the commissioners, but is something that could be recommended again now that the regulations have been in place for a few years. She stated that most jurisdictions have such a fee. It acts as a penalty without having to incur legal costs.

Kirsten said it was like a late fee or fine.

Kristin said all they can do at this point is require people to get a permit. If they fail to, then the county can take legal action.

Bonny wanted to see a message go out to lakeshore owners about the regulations. She said contractors need to be made aware and held accountable also. She recalled how a former board member's livelihood had been threatened by clients who knowingly installed projects without permits.

John suggested the Board make recommend approval of the project, but also make a recommendation to the Commissioners that an "after-the-fact" fee be adopted.

Josh suggested the Board recommend the deck be moved back from the bank.

*There were comments about the quality of the setting to even place a deck.*

Kirsten asked about the beavers that were mentioned in the application and how much they should consider that.

Kirsten seconded the motion.

There was discussion about requiring the deck to be moved back. Kirsten noted that she did not recall that the Board had ever required that in the past year.

Matt asked about the photos and the application which appear to be inconsistent in the distance back from the bank.

Kristin suggested it was difficult to gauge distance in the photos with the angle.

Matt stated he was familiar with the channel and that it was practically stagnant water. Matt said he was open minded in terms of aesthetics and found this project to be less appealing than the previous one.

John said he did not have any problem with the deck, but took exception to the fact that the applicant did not obtain a permit first.

Kirsten asked what other projects had been approved in the area. Kristin said none since she had been there. Any projects were either installed without a permit or placed prior to the regulations. The island had been developed over 30 years ago.

Kirsten suggested some leniency could be applied since the owner came in of his own volition.

Bonny suggested they require he place a railing around the deck.

*There was more discussion about making him move the deck back from the bank.*

Kristin noted that docks extend into the water, so she wasn't sure that requiring it be pulled back was a legitimate requirement. Things cannot be cantilevered, but otherwise they can be at the shore and extend.

Motion passed unanimously with recommendations to encourage the commissioners adopt penalties.

**c. Collect "homework"**

Bonny asked if there was a difference between the commercial RV parks or residential uses of RVs. Kristin said it could be both. She noted that from a visual and use perspective there is no difference in impacts between whether there are multiple owners using RVs on one lot; or one owner renting spaces for multiple RVs.

Kristin refreshed the Board about Josh's suggestion to amend the subdivision regulations that govern RVs to address more design elements of the RVs. She said typically we don't see multiple houses on lots, but rather multiple RVs. She said the idea was to look at the other examples from other places, regardless of whether they are in zoning regulations and identify provisions that might work in Lincoln County. She will compile with a recommendation for going forward. She suggested one provision that could easily be changed is the density, which currently allows up to 25 RVs per acre. *She pulled up the standards on the screen of which there are few.*

Some suggestions she thought might be worth considering are setbacks or screening between certain types of uses and adjacent lot sizes.

Kirsten expressed a difference between RVs that were coming and going on a weekly or monthly basis or RVs that were on lots that had a lot of improvements around it such as decks, lawn, sheds, trees, etc.

*There was some more discussion on the density.*

Kirsten confirmed that placing multiple RVs on a lot requires subdivision review.

Matt suggested the density should be based on something like how many could easily fit with all other requirements. Josh agreed.

Matt asked what others thought about limiting RV parks to parcels of a certain size. He said he had mixed thoughts about it since it would limit smaller endeavors by people who did not own enough property. John countered that nothing prohibited people from entering into an endeavor together, i.e., those with less acres getting together to buy more.

Kristin suggested that would be an easy way to restrict their location and might meet some concerns about adjacent property owners who purchased property in a subdivision with certain expectations. It would allow for enough room to screen or buffer.

Bonny suggested the definition would need to account for different RV uses (i.e., parks vs. multiple RVs on a lot)..

Matt thought the higher the acreage the harder it might be for the public to accept it. He used the KOA as an example in Troy.

Kirsten wondered if the county would even see really dense RV parks like a KOA.

Matt asked if there was a way to quantify a minimum acreage size.

*There was some discussion about parkland requirements.*

Kristin suggested to help the discussion to think about the other performance standards first and then work backwards to come up with a minimum acreage to accommodate all of them.

Josh mentioned the RV Park behind the Silverado and how it is completely obscured and people didn't realize it was there.

Kirsten suggested the example from Oregon was the most straightforward.

John wanted clarification on why the Board was looking at these standards.

Kristin reminded the Board that there were no specific standards for RVs other than the couple identified at the beginning of the meeting and that every time we review something with RVs the Board has a lot of questions and wants to make some

changes based on the comments from adjacent property owners who do not want the RVs next to them. She had said that one approach was zoning and she had given a 101 presentation at the last meeting and another approach was changes to the subdivision regulations. She said looking at a variety of examples from very different areas gives the Board some ideas to consider to go forward with a more complete picture for changes.

John liked Kristin's suggestion that they work backwards towards minimum acreage.

Kristin said she received some comments from Mark, which she read.

Kirsten said permanent structures might be a consideration also.

John asked how the idea 10-15/acre was developed.

Kristin said they had looked at one in Rexford at the last meeting that was about that. *She pulled it up on the screen.*

She also reminded the board that just because the owners of Open Range lots received approval as multiple owners of one lot, nothing prevented them from turning around and selling it to an individual as approved for an RV park.

John asked what do we want for Lincoln County for density.

Kristin noted the area around Rexford has been and continues to be a recreational area.

Kirsten said 10/acre should be the maximum.

Bonny asked if they made that change would they be bound by it.

Kristin said any performance standards adopted would provide better latitude for wavering from the density.

Josh suggested it be 15 per acre.

Kristin said people just did not propose 25 per acre. They understand that is too dense. The standards date back many, many years before the RVs were the behemoths they are today.

John suggested not adopting a number yet, but look at other standards first.

Kirsten said we probably wouldn't be able to that tonight.

Matt asked what we needed to do tonight.

Kristin said she was hoping to get everyone's ideas, i.e., homework, to compile and move the discussion forward. She asked the Board to e-mail her suggestions and thought there probably would be many similar features among the Board.

Kirsten said we have to anticipate that if an approval is granted to one set of owners, that ownership can change.

Kristin said the review has to consider "worst case scenario".

Matt liked the idea of 15/acre because if people have less than that they will probably do better business. He liked the example that had open space requirements based on number of RVs.

Kristin asked for input in two weeks.

**d. Discuss possible changes to Lakeshore Regulations**

Kristin had forwarded a couple memos from 2011 when the Board first started looking at changes. She reiterated a few areas in the regulations that she and legal counsel identified needed to be changed. One area in particular has to do with easements.

She summarized the discussion and philosophies about easements and what other areas have done, i.e., prohibit easement holders from obtaining permits.

She mentioned dock measurements as another provision that could be addressed.

Bonny likes the size of the dock currently and that should be the starting point for square footage with a minimum of 4 feet wide with a maximum of 50 feet long.

*There was some discussion about slips and how their defined or measured.*

John asked about the lawsuit with the easement. *Kristin summarized the Steed/Casazza case.*

Kirsten said easement holders should always have the landowner's permission. She asked about the project on Sophie Lake that had several large lots with a common dock. Kristin said that was designed into the subdivision as a 10 foot easement and a common dock area that was actually installed by the developer.

John liked the language that suggested all the other easement holders must sign the application.

Bonny asked about the number of docks on a property and the spacing between them to account for sufficient navigation on narrow lots.

Kirsten said the burden is on the easement holders. They do not have a right to build something just because they have an easement.

John asked why should easement holders even have the opportunity to apply. Kristin said some jurisdictions did not allow it. The Board had discussed it and at that time recommended the owner must sign the application.

*The Board reviewed the other recommendations from the 2011 memos.*

**5. PLANNING DEPARTMENT REPORT**

**a. Update on Subdivision decisions**

Kristin informed the Board that the Commissioners had approved the Sophie Lake RV Park Subdivision. She noted that no comments from agencies identified critical impacts that some of the neighbors had concerns about. She said the Comprehensive Economic Development Strategy update will have a public hearing in July and the Community Wildfire Prevention Plan update was adopted in June.

**6. PLANNING BOARD COMMENTS AND QUESTIONS**

Matt suggested the Board look at Google's Earth Engine in time lapse from photos in the 80s. John asked about a Troy representative for the Board and said he spoke with Stu Briskin who was hesitant about coming back..

**7. NEXT MEETING: August (*pending materials for review*) Kristin will be absent in July.**

**8. 8:00 – Meeting Adjourned**