

ONEIDA COUNTY PLANNING & ZONING
January 5, 2011
12:30 pm – Closed Session
1:00 pm - Regular Session
COMMITTEE ROOM #2
ONEIDA COUNTY COURTHOUSE, RHINELANDER WI 54501

Members present: Scott Holewinski, Chairman
Gary Baier, Vice-Chair
Dave Hintz
Billy Fried
Mike Timmons

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

Other Department staff: Brian Desmond, Corporation Counsel

Guests: Bob Martini
Norris Ross
Bill Liebert
Ben Loma

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, with the exception of Mike Timmons, who will be joining the Committee in session shortly. (For the record, Mr. Timmons joined the meeting at 12:35 pm).

Approve the agenda.

Motion by Dave Hintz, second by Billy Fried to approve the amended agenda. With all members present voting “aye”, 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.

- a. Cat complaint in the Town of Little Rice.
- b. Failing POWTS for a resort in the Town of Hazelhurst.

12:31 pm - Motion by Billy Fried, second by Dave Hintz, to go into closed session. Roll call vote: Scott Holewinski "aye", Billy Fried "aye", Gary Baier "aye", Dave Hintz "aye", Mike Timmons "aye." The motion carried.

12:59 pm – Motion by Billy Fried, second by Scott Holewinski, to go into open session. Roll call vote: Scott Holewinski "aye", Billy Fried "aye", Gary Baier "aye", Dave Hintz "aye", Mike Timmons "aye." The motion carried.

Chairman Scott Holewinski announced that while in closed session the committee held discussion on the cat complaint in the Town of Little Rice. The secretary read the motion in the record:

Motion by Dave Hintz, second by Gary Baier, to allow staff to initiate a long form complaint against Michel Schanus. Mr. Jennrich will send Mr. Schanus a letter to advise him of this action. The motion carried on a roll call vote with all members voting "aye."

Chairman Scott Holewinski announced that while in closed session the committee did not take any action on the failing POWTS for a resort in the Town of Hazelhurst. There was discussion only.

Public comments.

There were no public comments.

Approve meeting minutes of December 1, 2010.

Motion by Mike Timmons, second by Gary Baier to approve the meeting minutes of December 1, 2010 as presented. With all members voting "aye" the motion carried.

Approve meeting minutes of December 15, 2010.

Motion by Mike Timmons, second by Gary Baier to approve the meeting minutes of December 15, 2010 as presented. With all members voting "aye" the motion carried.

Grills Landing, Town of Newbold. The Committee will be discussing a request of the Zoning Director to inspect the Private Onsite Wastewater Treatment Systems that serve structures on Grills Landing.

Karl Jennrich, Zoning Director, informed the Committee that last month the Department conducted an onsite inspection of a holding tank installation in the vicinity of Grill's Landing. During that onsite inspection, it was noted that Grill's Landing has multiple homes on this island with private onsite wastewater treatments systems (POWTS) that may be failing. The Department believes they are failing because 3 other properties

currently have holding tanks; the grade of the land is approximately two feet above Boom Lake and the island is mapped floodplain. It is the Department's belief that the various septic tanks that are not holding tanks, which serve structures on Grill's Landing, are situated in groundwater and are defined as failing. Mr. Jennrich recommended that existing septic system inspections be done on those systems.

Motion by Gary Baier, second by Mike Timmons, to support the Zoning Director to require existing septic inspections for the septic systems on Grill's Landing that are not holding tanks. With all members voting "aye" the motion carried.

Forward Ordinance Amendment #9-2010, Section 9.56, Domesticated Chickens and Ducks, to the Oneida County Board of Supervisors.

Karl Jennrich, Zoning Director, provided Ordinance Amendment #9-2010 to the Committee. Chairman Holewinski asked that this be postponed to the February 2011 County Board Meeting because he will not be present at the January 2011 County Board meeting. Mr. Holewinski would prefer to be present when this is acted on the by County Board.

Motion by Gary Baier, second by Mike Timmons, to approve Ordinance Amendment #9-2010 and to forward to the County Board for the meeting of February 15, 2011.

Discussion on motion. Chairman Holewinski asked Mr. Jennrich to send a letter to the County Board along with the ordinance amendment stating what happened at the public hearing and also a copy of what was presented at the public hearing. Mr. Jennrich agreed.

Chairman Holewinski called for a vote on the motion. With all members voting "aye" the motion carried.

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.

Karl Jennrich, Zoning Director, and Peter S. Wegner, Assistant Zoning Director, reviewed the proposed revisions to Chapter 9 – The Oneida County Zoning and Shoreland Protection Ordinance.

Peter S. Wegner, Assistant Zoning Director, reviewed his memo to the Committee dated December 29, 2010. Mr. Wegner clarified that a permit is not required per NR 115 to create a viewing area, but staff is recommending a permit be required to create a viewing area to ensure compliance with Section 9.95 –The Vegetation Protection Area. Mr. Wegner stated that it is currently Department policy to onsite for viewing areas.

Scott Holewinski asked about having multiple 30 ft viewing areas and how the Department will interpret the vegetation between the viewing areas and what can be in the buffer zone.

The tape recorder malfunctioned at this point and the tape was temporarily inaudible with static and muffled voices.

Section 9.95 (A) (9). A permit is required for a viewing area and for removal of vegetation that is exotic or invasive species. Pruning for the health of a tree would be permitted. Dead bows could be pruned without a permit. It is not the intent to take a balsam tree and go beyond the few low branches that are brown or dying. Mr. Holewinski would like to make it easy for the average person to understand what he/she is allowed to do, but it has to be only to prune the dead branches outside the viewing area. Otherwise it is too wide open for cutting. Bob Martini suggested "Pruning is allowed for established horticulture and forestry purposes, but not to increase the size of an already permitted viewing area." Chairman Holewinski asked staff to re-word (9) so that it is understandable to the average person and to also incorporate Mr. Martini's suggestion.

9.94 (A) (2). Exceptions to the 75 foot setback from the OHWM

9.94 (A)(2) (d) (15) was added.

9.94 (A) (2) (f) was created to be consistent with mitigation requirements and then re-numbered as 9.94 (2) (e) (16).

9.94 (C) Impervious Surface Standards.

Peter S. Wegner, Assistant Zoning Director, sent an email to the DNR to provide a better description of impervious surface standards. Mr. Wegner will provide examples for the next meeting of impervious and pervious structures and the maintenance of such structures. Mr. Wegner noted that many counties are not allowing these new products because of the maintenance aspect. How is it enforced? Or should the County allow pervious concrete, etc. without maintenance requirements. Mr. Wegner will develop a list for the Committee to choose from and go from there.

Discussion was held on the DNR being non-committal and not providing answers to the County's questions. Mr. Fried is concerned that the zoning committee is wasting time until those questions are answered. Mr. Hintz is concerned that the process has been broken and the County is stuck in the middle of it. Mr. Baier noted that this is an Administrative Rule and now the County has to create a zoning ordinance to meet the requirements. The County will send it to the DNR and they'll reject it and the County will make changes until it is accepted. Mr. Wegner added that the DNR is giving the County choices; there are a lot of variables and questions. Mr. Holewinski commented that the Committee needs to fit the new rules for Oneida County the best it can, if the DNR does not accept it, they will send it back. Mr. Fried asked if the DNR would come

and meet with the Committee. Mr. Wegner stated that Tom Blake (WDNR) will meet with the Committee at any time. Chairman Holewinski acknowledged that the WDNR would meet with the Committee, but they cannot and will not advise the Committee. Mr. Hintz asked about the Model Ordinance and if a County could adopt that, and then increase the standards to be more restrictive in some areas. Mr. Jennrich stated that the Model Ordinance does not just set the minimum standards. The new Model Ordinance gives choices. Mr. Wegner stated that the "minimums" are mixed in with all the choices. For the most part, it is the minimums, but when it comes to mitigation, there are options. Mr. Baier commented that he supports the repeal of new NR 115 and that it is a waste of taxpayer's dollars in a poor economy.

The Committee continued its discussion on impervious and pervious surfaces. As stated previously, Mr. Wegner will provide a list of pervious surfaces for the Committee to consider. There is maintenance that is required to keep the products pervious, so that they do not clog up. Chairman Holewinski is concerned with the maintenance of the pervious surface products and staff time if there are onsite inspections to follow-up on the maintenance.

Mr. Wegner stated that existing impervious surfaces can be replaced like-for-like. A zoning permit and onsite inspection is required. Relocation/modification is allowed if setback requirements are met and the percentage of impervious surface that previously existed in not exceeded. Mr. Wegner noted that this includes both accessory and principal structures. Mr. Wegner stated that there are issues because an accessory structure can be replaced less than 75 feet from the OHWM, but a principal structure is limited to go vertical or if horizontal, must meet the 75 ft setback.

Section 9.94 C (5) (b). "Replacement of impervious surfaces with similar surfaces within the existing building footprint," taken directly from NR 115. Mr. Wegner stated that he believes that this is an error by the DNR. Discussion entailed whether an accessory structure located less than 75 feet of the OHWM should be allowed to be replaced. Currently, an accessory structure less than 75 feet of the OHWM cannot be replaced in Oneida County. It was the consensus of the Committee to put this on hold pending the DNR's answer and additional input.

Section 9.95 Shoreland Vegetation Protection Area.

Section 9.95 A (5) is stricken.

Section 9.95 A (6) is new language to allow more than one viewing area, but the viewing areas must have at least 30 feet of vegetation in between them. 9.95 A (6) (d) is optional to require a permit for any vegetation removal in the viewing area.

Section 9.95 A (7) is amended per the last meeting to require a permit and to replace with native species.

Section 9.95 A (9). Pruning language. Mr. Wegner will make changes as suggested previously.

Section 9.95 A (10). This language was moved to Section 9.94 for boat launches.
Section 9.95 A (14). Language will be added to allow maintenance of existing lawns.

Section 9.96 Shoreland Mitigation Plan.

Language was stricken regarding consultation with Land Conservation Department, etc.

9.96 D (4) was added to require mitigation for the construction of a private boat launch.

The Committee will begin with Section 9.97 Shoreland Alteration Permits at the next meeting.

There was discussion regarding the process that will be followed when the Committee has developed a final draft.

1. Public Hearing (3 locations)
2. Return to Committee to make changes.
3. May have another public hearing, if necessary.
4. Send to WDNR prior to going to County Board.
5. Final approval by the Committee.
6. Resolution to the County Board.

Mr. Wegner distributed the following:

1. Questions pending clarification from the DNR.
2. Email from Heidi Kennedy (DNR) to Peter Wegner regarding impervious surfaces.
3. Ordinance Sections which will require amendments in order to comply with NR 115. (Updated 12/27/10).

The Committee reviewed and briefly discussed the documents listed above.

The Committee will be discussing/taking action on concerns related to the newly adopted NR 115. As part of revising Chapter 9, Section 9, the Oneida County Zoning and Shoreland Protection Ordinance, the Committee is becoming concerned with the effect of revisions on the public and staff.

The tape recorder malfunctioned at this point and the tape was temporarily inaudible with static and muffled voices.

Motion by Dave Hintz, second by Gary Baier for staff to draft a resolution to be sent to the State Legislators based upon today's discussion for the February County Board Meeting. With all members voting "aye" the motion carried.

Zoning Directors attendance at the WCCA Executive meeting January 20th and 21st.

Motion by Gary Baier, second by Mike Timmons for the Zoning Director to attend the WCCA Executive meeting on January 20 & 21, 2011. With all members voting “aye” the motion carried.

Zoning Director Attendance at NR 135 Round Table Discussion presented by WI DNR.

Motion by Gary Baier, second by Dave Hintz, for the Zoning Director and one other staff member to attend the NR 135 (Non-metallic Mines) Round Table discussions presented by WI DNR. With all members voting “aye” the motion carried.

Line item transfers, purchase orders and bills.

Bills submitted for approval are \$3,039.50.

Purchase Orders submitted for approval are \$454.02.

Motion by Scott Holewinski, second by Gary Baier to pay the bills. With all members voting “aye” the motion carried.

Refunds.

There are two refunds that were previously approved by the Committee.

John Wich, \$1,000.00 for an after-the-fact Conditional Use Permit application fee.

Musson Bros. Inc., \$1,000.00 for an after-the-fact Conditional Use Permit application fee.

Motion by Gary Baier, second by Mike Timmons to approve the refunds noted above. With all members voting “aye” the motion carried.

Approve future meeting dates: January 19 and February 2, 2011.

The future meeting dates were approved for January 19 and February 2, 2011. Scott Holewinski will be absent on January 19, 2011. Billy Fried will be absent on February 2, 2011. A meeting is also scheduled for January 25, 2011 for the NR 115 ordinance revisions.

Public comments.

Ben Loma suggested that a definition for a boat launch be added to the ordinance.

Ben Loma stated his opposition to reinstating the overlay districts.

Bill Liebert asked the Committee to remove from the ordinance under Section 9.73 where it states: "*Dwelling Overlay Districts. Eliminated from ordinance effective 4/22/08.*"

Future agenda items.

Gary Baier asked that the Committee sponsor a meeting with landscapers, builders, etc. regarding NR 115. This will be a future meeting agenda item.

Adjourn.

3:36 pm – Motion by Dave Hintz, second by Mike Timmons to adjourn the meeting. The motion carried unanimously.

Scott Holewinski, Chairman

Karl Jennrich, Zoning Director