

ONEIDA COUNTY PLANNING and DEVELOPMENT COMMITTEE
October 4, 2023
COUNTY BOARD ROOM – 2ND FLOOR
ONEIDA COUNTY COURTHOUSE
RHINELANDER, WI 54501

Members present: Scott Holewinski, Bob Almekinder, Mike Timmons, Tommy Ryden, Mike Roach

Members absent: None

Department staff present: Karl Jennrich, Director; Todd Troskey, Assistant Director; Monique Taylor, Administrative Support

Other county staff present: Michael Fugle, Corporation Counsel; Andrew Jones, Outside Counsel; Billy Fried; Linnaea Newman; Robb Jensen; Steve Schreier

Guests present: See sign in sheet.

Call to order.

Chair Holewinski called the meeting to order at 12:00 p.m. in accordance with the Wisconsin Open Meeting Law.

Approve the agenda. Motion by Mike Timmons, second by Bob Almekinder to approve the 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. Approve closed session minutes of September 20, 2023.
- b. Proposed Conditional Use Permit for PIN’s MI 3239 and MI 3240.

Motion by Tommy Ryden, second by Bob Almekinder to go into closed session. Aye: Unanimous.

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

Motion by Mike Timmons, second by Bob Almekinder to return to open session. Aye: Unanimous.

Recess at 12:58 p.m.

Return from recess at 1:00 p.m.

Announcement of any action taken in closed session.

- a. Motion by Mike Timmons, second by Tommy Ryden to approve closed session meeting minutes of September 20, 2023. With all members present voting “Aye,” the motion carried.
- b. Discussion only, no action taken.

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Public comments.

Tom Irwin spoke concerning Administrative Review Permit #2201108.

Tanya Borst spoke concerning Administrative Review Permit #2201108.

Approve meeting minutes of September 20, 2023. Motion by Tommy Ryden, second by to approve meeting minutes of September 20, 2023. Tommy Ryden rescinded his motion and rescinded his second to the motion. No voting took place and the matter was tabled with no further action taken.

Discussion/decision concerning objection by Bob Almekinder to the August 9, 2023 procedure.

a. Rule by Chair as to objection.

b. Proceed with ruling as to objection.

Mr. Jennrich read into the record the written objection from Bob Almekinder related to the motion to deny the Conditional Use Permit discussed concerning Minocqua Brewing Company at the August 2, 2023 meeting. Chair Holewinski stated that Oneida County follows A Guide to Parliamentary Procedure for Local Governments in Wisconsin by Larry E. Larmer. The County would subsequently follow Robert's Rules of Order if questions of procedure arose if not addressed in Larmer's Parliamentary Procedure. Chair Holewinski further stated that under Robert's Rules of Order, most breaches of parliamentary procedure must be objected to at the time of the breach, but that there are some instances that there are no time limits to object. One example would include an adopted motion that conflicts with the bylaws of the organization or assembly, the County Code. Another example would be an action violating a fundamental principle of parliamentary law. The motion was not acted upon prior to adjourning the meeting to move the matter to August 9, 2023. With the meeting being adjourned without taking action on the motion, Chair Holewinski stated that he made the mistake of adjourning the meeting without acting on the motion and decided to pick up from the motion on the table from August 2, 2023.

Discussion/decision concerning a Conditional Use Permit application by Kirk Bangstad, for property described as: Village of Minocqua, Lots 1 and 2, Block 3, Section 14, T39N, R6E, 329 E. Front Street, PIN's MI 3239 and MI 3240, Town of Minocqua.

a. Staff will be presenting information from a Conditional Use Permit Report.

Continued discussions concerning objection by Bob Almekinder to the August 9, 2023 procedure.

Chair Holewinski proceeded forward with recapping the public hearing held on August 2, 2023, to make aware on the record of what occurred at the meeting.

Mr. Jennrich spoke on the matter and updated the committee with the following:

1. Mr. Jennrich read the details of the CUP application;
2. Mr. Jennrich read the letter received by the Department from the Town of Minocqua;
3. Mr. Bangstad was questioned about the food truck, music, year-round vs. seasonal intentions;
4. Mr. Jennrich verified that there were fifteen (15) parking spaces required per Ordinance;
5. Discussions about stormwater were clarified by an engineer (explained mainly for the ARP);
6. Discussions about the grassy area;
7. Mr. Bangstad was provided with fifteen (15) minutes to present his CUP;
8. Discussions about the curb cut for Highway 51 access and East Front Street;
9. Mr. Bangstad stated that he felt that the parking requirements were outdated;
10. Mr. Bangstad discussed the awarded parking exemptions that the County has given other businesses;
11. Mr. Bangstad stated that the food truck would be a good idea;

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12. Mr. Bangstad explained the parking in regards to being turned over per hour for the spots;
13. Public comments were opened (Chair Holewinski discussed topics brought forth by individuals who spoke during the public portion of the public hearing on August 2, 2023);
14. Public comments were closed;
15. Mr. Jennrich explained that the committee is required to obtain Town input as a recommendation and that the committee is not bound by the Town's input;
16. The stormwater plan for pervious and impervious areas was again discussed, and determined that the beer garden would be pervious;
17. Discussions about the food truck and the Town of Minocqua does not allow any food trucks on the Island, and a peddler's permit may be required for that;
18. Corporation Counsel discussed the approval and denial process within the Ordinance and advised on speculations of personal foul and violations and exemptions being acceptable or not and with evidence of violations of permits could be a consideration used, but likely not the only consideration;
19. Town Chairman Mark Hartzheim was asked about Highway 51 access over Town property being on the table;
20. Discussions about the beer garden not being part of the application at the Town level at that point;
21. Discussions about the DOT permit and that Mr. Bangstad filled it out but did not file it with the State, and the work was done without a permit;
22. Discussions about serving customers during construction and Mr. Bangstad stated that he would probably stop doing business serving customers and brought up that a federal lawsuit may be filed against the County;
23. The committee asked for a compromise, and Mr. Bangstad declined to compromise;
24. A motion was made to deny the Condition Use Permit, with a second;
25. Corporation Counsel advised adjourning the meeting due to the subsequently scheduled meeting at 5:00 p.m. and insufficient time to discuss the remaining portion of the matter.

Chair Holewinski referenced the Conditional Use Permit Report dated August 2, 2023. He read through Chapter 9, Article 4, Conditional Uses and Structures/Home Occupations, Section 9.42 CUP Application Review Process, of the Oneida County Zoning and Shoreland Protection Ordinance.

9.42 CUP APPLICATION REVIEW PROCESS (Amend #2-2008, 9-2009, 5-2019)

D. Basis of Approval or Denial

2. *To aid in the review of and decision-making regarding the proposed conditional use project, the Planning and Development Committee shall evaluate the following specific criteria as applicable, but shall not be limited thereto:*
 - a. *The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.*
 - b. *The uses, values and enjoyment of neighboring property shall not be substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.*

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- c. *The proposed conditional use is compatible with the use of adjacent land and any adopted local plans for the area.*
- d. *The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.*
- e. *Adequate utilities, access roads, drainage and other necessary site improvements have been or will be provided for the conditional use.*
- f. *Adequate measures have been or will be taken to provide ingress and egress so as to minimize traffic congestion in the public streets.*
- g. *The conditional use shall conform to all applicable regulations of the district in which it is located.*
- h. *The conditional use does not violate shoreland or floodplain regulations governing the site.*
- i. *Adequate measures have been or will be taken to prevent and control water pollution, including sedimentation, erosion and runoff.*

Chair Holewinski read each of the specific criteria stated in Section 9.42(D)(2), and each committee member indicated whether they thought each of the criteria could be met, could be met with conditions, or could not be met. Chair Holewinski discussed the proposal from Mr. Bangstad of September 20, 2023. Mr. Jennrich stated that when Chair Holewinski requested to compromise with Mr. Bangstad at the August 2, 2023 meeting, Mr. Bangstad declined. Mr. Bangstad presented three (3) proposals to staff after the meeting for their review, and it was also submitted to the committee for the October 4, 2023 meeting.

After reviewing the proposals, the committee suggested discussing “Option #3” further. The Option #3 proposal included three (3) parking spaces on Highway 51 and six (6) within the subject property. The committee discussed permits from the Town being needed and a condition implemented for a one-way street to be run onto Highway 51 so that people would not be exiting in reverse onto East Front Street. Option 3 displays six (6) onsite parking spaces and three (3) offsite parking spaces on Highway 51, with no objections from the Wisconsin Department of Transportation (DOT). The dumpster location would be moved, and trash could be removed more easily.

The committee and Mr. Jennrich conferred regarding the previous proposal and the revision of what was submitted on August 2, 2023, which included no parking spaces, the backside of the property being utilized as a beer garden, a food truck entering from East Front Street, and one (1) employee parking space.

The motion on the table was to deny the Conditional Use Permit (CUP). The committee discussed that approval may be considered with conditions being placed but could not be approved as presented. Corporation Counsel conferred with the committee. If the motion to deny the CUP would pass from the August 2, 2023 meeting, the committee would explain why the denial vote was made. If the motion to deny the CUP does not pass from the August 2, 2023 meeting, then the committee would discuss approval consideration and the terms and conditions for approval. The motion to deny the CUP may also be withdrawn, and a continuation would occur, which would require unanimous consent or a majority vote to withdraw the motion to deny.

For the record, Mike Roach was in receipt of the materials provided for the August 2, 2023 meeting, and listened to the audio recording and reviewed documents.

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For reference, the motion made on August 2, 2023, concerning the Conditional Use Permit was read into the record by Ms. Taylor, which stated as follows:

“Motion by Chair Holewinski, second by Bob Almekinder to deny the Conditional Use Permit as presented.”

Motion by Chair Holewinski, second by Bob Almekinder, to deny the Conditional Use Permit as presented. With all members present voting “Nay,” the motion failed.

The committee deliberated on the original proposal presented at the public hearing and the Option #3 proposal of August 31, 2023, provided by Mr. Bangstad and Attorney Melms. The committee conferred with Corporation Counsel and Outside Counsel. The committee discussed the owner’s proposal of Option 3 from August 31, 2023, and the terms and conditions to be considered to be implemented on the Conditional Use Permit upon a decision of approval as follows:

1. ADA parking space (1) between Front Street and the building;
2. Add 3 parallel parking spots on the east line (21’4”x8’4”);
3. Add one parking spot on the south end (10’x20”);
4. Add a fenced/enclosed dumpster area and to be placed on the south end as specified – screened from public view;
5. Obtain a permit from the Town to cross Town property – cross access from Highway 51;
6. One-way traffic going from Front Street;
7. Obtain a permit from the WisDOT;
8. Fix the curb opening;
9. Obtain a food truck license;
10. Submit a revised stormwater plan to indicate pervious surfaces;

Mr. Jennrich read into the record a letter dated February 20, 2023 concerning the stormwater plan.

11. Adjoining properties;
12. Beer garden with permeable pavers with seating for 16.

Tommy Ryden asked Corporation Counsel if the CUP was submitted as a new permit and properly posted. Corporation Counsel stated that the CUP is just a revised CUP and asked Mr. Jennrich if it was sent to the Town. Mr. Jennrich stated on the record that the agenda was sent to the Town but that the revisions to the CUP were not sent separately to the Town of Minocqua. Corporation Counsel stated on the record that the meeting notice and proposals were posted on the Oneida County Website, which is publicly available. The meeting notice described the CUP at the meeting location, adequate notice was provided, the agenda was properly noticed, and the documents were posted and available on the County Website.

The committee conferred with Corporation Counsel concerning the Administrative Review Permit (ARP) and the Conditional Use Permit (CUP). It was stated on the record that an ARP was not needed for operation when a CUP is obtained because the CUP would cover the entirety of the operation. The committee further discussed the conditions as follows:

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13. Complete the driveway, access points, dumpster area, and the beer garden before applicant allows outdoor seating;
14. No outdoor activity until the parking and driveway parking lot are completed; and
15. Prior to opening, all conditions must be met before allowing outdoor seating - installation of pervious pavers and fencing, and paving and designation of the parking areas.

Mr. Jennrich stated that with a motion to approve with the conditions, Mr. Bangstad would have the right to appeal to the Oneida County Board of Adjustments if he felt aggrieved by the decision of the committee, as stated in a letter of approval, with all conditions laid out clearly, to all individuals with an approved Conditional Use Permit. The committee discussed outdoor seating and stated that it is laid out in the CUP that the beer garden is where Mr. Bangstad intends to serve customers and that outdoor seating is not allowed past the garage doors, or it would violate the CUP. The committee would like to add a condition that there will be no outdoor seating except in the beer garden once complete.

The committee requested to have a typed version of the conditions as discussed to review. The conditions were typed as discussed for review by the committee for further deliberations and consideration for approval of the CUP.

Discussion/decision concerning Administrative Review Permit #2201108 for property described as: Lot 3 of CSM V7 P1810 and Part of the SE ¼ of the SE ¼, Section 5, T39N, R6E, 8982 Sandy Court, PIN MI 2096-3, Town of Minocqua. The committee will be discussing the 60 day suspension imposed on Administrative Review Permit #2201108 at the meeting on August 2, 2023. Mr. Jennrich discussed the communications with Mr. Venus and read into the record email correspondence between them, outlining events after the suspension imposed on August 2, 2023. The events outlined were as follows:

1. Mr. Venus entered into a long-term (30 consecutive days or longer) rental agreement with two individuals;
2. Mr. Venus will have another long-term rental agreement will be implemented in October;
3. Mr. Venus sent an email in August of 2023 with his contact information to concerned neighbors;
4. Waste Management is who will haul garbage, and when short-term renters were renting, they were asked to roll the garbage to the curb for pick up. In many instances, empty containers were not brought back to the house, and the neighbors never contacted Mr. Venus but, instead, just filed a complaint with the County;
5. Mr. Venus has a “Welcome Binder,” which includes Mr. Venus’ contact information, resident agent information, copies of permits, house rules, fishing information, and snowmobile information;
6. Mr. Venus will install a “Minut” device for notifications of noise and in-home smoking in an attempt to control noise;
7. Mr. Venus will also have a sign inside the driveway advising guests not to turn left, which leads to the end of the cul-de-sac of a private road;
8. Mr. Venus printed 100 refrigerator magnets with his and his registered agent’s contact information on them to hand out to the neighbors; and
9. Mr. Venus has a “Ring” camera installed to view the front door and the door leading to the lake to know who is coming and going and if any party activities are on the deck.

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Public correspondence was also received and read into the record. The registered agent's address was confirmed, and the distance is within the required twenty-five miles. The committee conferred with Assistant Corporation Counsel, and it was stated on the record that the permit was suspended on August 2, 2023, or until Mr. Venus came into compliance. The 60-day suspension timeframe is up. Assistant Corporation Counsel had reviewed the long-term rental agreement for September and stated that everything looked normal. Additional documents were provided to Assistant Corporation Counsel from the Department, and law enforcement went to the property on at least one occasion. From the Report findings, law enforcement reported that there were not twelve people at the residence. Assistant Corporation Counsel advised the committee to review the evidence presented and determine if Mr. Venus had come into compliance and further stated that unless there would be evidence to the contrary of compliance, then the suspension likely would not be able to continue. It was stated on the record that occupancy at a long-term rental has not been regulated, and restrictions for occupancy for long-term rentals in a single-family home. The committee did not believe there was enough evidence to further act on the tourist rooming house. No further action is needed, and Administrative Review Permit #2201108 is no longer suspended. Discussion only, no action taken.

Continued discussion concerning PIN's MI 3239 and MI 3240. The committee received a paper copy of the typed conditions as discussed for review to continue deliberations. The August 2, 2023 and September 20, 2023 Reports were referenced, and the conditions on the September 20, 2023 Report were decided on to be reviewed and stated on the record as follows:

1. The project is to be substantially commenced within three (3) years.
2. The nature and extent of the use shall not change from that described and approved in this Conditional Use Permit.
3. Proper permits shall be obtained prior to construction (Town/County/State).
4. Signage shall comply with Section 9.78, Sign Regulations, of the Oneida County Zoning and Shoreland Protection Ordinance.
5. ~~Parking to comply with 9.77 Off Street Parking and Loading Space of the Oneida County Zoning and Shoreland Protection Ordinance.~~
6. Exterior lighting shall be downcast and shielded from above.
7. Highway access from Highway 51 (Chippewa Street) shall comply with WisDOT requirements, and any applicable State permits shall be obtained.
8. Site layout shall be one-way traffic flow as presented in Option #3 of the CUP revision concept dated August 31, 2023 (Option #3 attached as Exhibit "A"); signage and pavement markings shall be required to indicate approved traffic flow and parking as specified in Option #3.
9. ~~Stormwater management to comply with memo dated 02/20/2023 from Joel Ehrfurth, PE, Mach IV Engineering and review and approval by the Town of Minocqua.~~
10. Stormwater management shall accommodate Option #3 and include pervious pavers for the beer garden, and the stormwater management plans shall be reviewed and approved by the Town of Minocqua.
11. The property owner shall enter into an agreement with the Town of Minocqua permitting access across a portion of the Town road right-of-way as depicted in Option #3 or otherwise obtain Town approval for the same.
12. A Certified Survey Map combining the parcels MI 3239 and MI 3240 shall be recorded prior to the start of construction.
13. One (1) ADA-compliant parking space shall be provided onsite between the building and East Front Street with the parking space delineated by pavement marking.

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14. Three (3) parallel parking spaces shall be provided onsite along the east property line as specified in Option #3 (spaces to be 21'4" x 8'4"), with the parking spaces delineated by pavement marking.
15. One (1) parking space shall be provided onsite along the south property line as specified in Option #3 (space to be 10' x 20'), with the parking space delineated by pavement marking.
16. A dumpster shall be located as specified in Option #3 and screened from public view.
17. A license for any food truck shall be obtained from the Town of Minocqua.
18. No outdoor seating or activities are allowed except for within the beer garden as specified in Option #3, with a maximum of sixteen (16) seats, as depicted in Option #3.
19. All conditions set forth in this permit shall be met prior to allowing outdoor seating or allowing any outdoor activities.

Linnaea Newman asked for clarification on the condition regarding the stormwater management. The committee clarified the condition and proceeded forward with deliberations. Corporation Counsel provided clarification concerning questions for notifications and stated that documentation for this matter was posted on the County Website. Mr. Jennrich stated on the record that notifications only include the Notice of Public Hearing per Wisconsin Statute.

Motion by Mike Roach, second by Bob Almekinder, to approve the Conditional Use Permit as presented, subject to all conditions as discussed and agreed upon being met. With all members present voting "Aye," the motion carried.

Continued discussions concerning objection by Bob Almekinder to the August 9, 2023 procedure. Motion by Mike Timmons, second by Mike Roach, to extend the rules. With all members present voting "Aye," the motion carried.

Discussion/decision concerning Preliminary four (4) Lot Certified Survey Map of lands owned by the West Group LLC, and submitted by Genisot & Associates, Jon Bandow, surveyor for property located at 4475 County P, further described as: Lot 1, CSM 2739, being part of the SW SE, NW SE, Section 10, T36N, R9E, PIN PE 121-1, Town of Pelican. Mr. Ridderbusch described the details of the proposal and the Town of Pelican's concerns with the proposal. Mr. Ridderbusch stated he previously spoke with Oneida County Highway Commissioner Alex Hegeman. Mr. Ridderbusch read a letter from Mr. Hegeman into the record. A letter from the Town of Pelican was also read into the record. Mr. Ridderbusch discussed the sanitary aspects of the property and recommended that easements be implemented. The committee conferred with Mr. Ridderbusch and Mr. Jennrich and discussed driveway concerns, including size requirements and access points. Mr. Ridderbusch read Section 15.23, Public, Private and Easement Roads, of the Oneida County Subdivision Control Ordinance into the record. Mr. Jennrich read Section 15.31, Modifications & Appeals, of the Oneida County Subdivision Control Ordinance into the record. Mr. Ridderbusch read a written agreement into the record that was not recorded with the Oneida County Register of Deeds. Staff would recommend a condition of approval to have a formal document drafted in recordable format and be recorded with the Oneida County Register of Deeds. The committee conferred with Mr. Ridderbusch, Mr. Jennrich, Jon Bandow at Genisot & Associates, and the property owner concerning the proposal's intentions and current issues. The committee would like staff to work on the plan for the access points concerning the driveway and for the applicant to submit a written reason for consideration of approval. Motion by Chair Holewinski, second by Mike Timmons, to request that staff bring back the matter at a future date with new plans, addressing the concerns as discussed. With all members present voting "Aye," the motion carried.

Discussion/decision concerning multi-family zoning changes. The committee will be discussing zoning districts and uses and Chapter 9, Article 2 Zoning Districts, Section 9.20 Zoning Districts and Appendixes A & B of the Oneida County Zoning and Shoreland Protection Ordinance. Mr. Jennrich discussed the proposal to change District #3 Multi-Family requirements within the Oneida County Zoning and Shoreland Protection Ordinance. The committee conferred with Mr. Jennrich about the current requirements within District #3 and possibilities for changes that could be added to a language proposal for review. Staff will bring it back at a future meeting. Discussion only, no action.

Approve meeting minutes of September 20, 2023. Motion by Tommy Ryden, second by Bob Almekinder to approve the meeting minutes of September 20, 2023. Meeting minutes for September 20, 2023 will be tabled for a future meeting. Tommy Ryden rescinded his motion. Bob Almekinder rescinded his second. No vote was taken on the motion.

Review and approve amended meeting minutes of August 9, 2023. The committee received the amended August 9, 2023, meeting minutes for review. Motion by Mike Timmons, second by Mike Roach to approve the meeting minutes of August 9, 2023. With all members present voting “Aye,” the motion carried.

Discussion/decision concerning Ordinance Amendment #07-2023 to amend Chapter 9, Article 5, Section 9.53, Campgrounds and Recreational Vehicle Parks of the Oneida County Zoning and Shoreland Protection Ordinance. The committee will be reviewing a Resolution to forward to the Oneida County Board of Supervisors for Ordinance Amendment #07-2023. The committee conferred with Mr. Jennrich. Motion by Bob Almekinder, second by Tommy Ryden to forward Ordinance Amendment #07-2023 to Oneida County Board of Supervisors. With all members present voting “Aye,” the motion carried.

Refunds. None.

Approve future meeting dates. October 18 and November 1, 2023

Future agenda items. As discussed.

Adjourn.

3:23 p.m. There being no further matters to lawfully come before the committee, Chair Holewinski adjourned the meeting.

Scott Holewinski, Chair

Karl Jennrich, Planning & Zoning Director