

HUBBARD COUNTY

Planning Commission/Board of Adjustment meeting minutes

6:00 p.m. on Monday, January 26, 2015

Chairman Tom Krueger opened the meeting with the following members present: Ken Grob, Tim Johnson, Charlene Christenson and Ted Van Kempen. Also present was Environmental Services Officer Eric Buitenwerf.

Tom Krueger started the meeting by reading the procedure by which the meeting of the Planning Commission/Board of Adjustment will be conducted to the audience.

Election of Officers:

With all members present,

Tom Krueger nominated Tim Johnson as Chairman.

Charlene Christenson seconded the motion.

The motion carried unanimously 5 – 0.

Tim Johnson called for nomination for Vice Chairman.

Charlene Christenson nominated Ted Van Kempen as Vice Chairman.

Ken Grob seconded the motion.

The motion carried unanimously 5 – 0.

Tim Johnson called for nomination of Secretary.

Ken Grob nominated Charlene Christenson.

Tim Johnson seconded the motion.

The motion carried unanimously 5 – 0.

Board of Adjustment:

Approval of Minutes: December 22, 2014 meeting.

Charlene Christenson made a motion to approve the December 22, 2014 minutes as presented.

Ten Van Kempen seconded the motion.

The motion carried unanimously 5 – 0.

Old Business: None

New Business:

Ken Grob made a motion to close the meeting pursuant to Minnesota Statute 13D.05 Subd. 3b to discuss pending litigation per attorney client privilege involving Hubbard County and David and Karen Hagert.

The motion was seconded by Tom Krueger.

The motion carried unanimously 5 – 0.

The meeting went into a closed session.

Charlene Christenson made a motion to reopen the meeting.

The motion was seconded by Ken Grob.

The motion carried unanimously 5 – 0.

The meeting was reopened at 7:15 p.m.

Planning Commission:

Approval of Minutes: December 22, 2014 meeting.

Ken Grob made a motion to approve the December 22, 2014 minutes as presented.

Ted Van Kempen seconded the motion.

The motion carried unanimously 5 – 0.

Old Business: None.

New Business:

Conditional Use Permit 1-CU-15 by Warren Scouton: Part of the NE ¼ of SW ¼, Section 36, Township 141, Range 33, Mantrap Township by Owl Lake. Parcel: 20.36.00710. Applicant is requesting a conditional use permit for a retail shop per Section 401 of the Shoreland Management Ordinance.

Warren Scouton presented a summary that he is seeking a conditional use permit to open up a retail auto sales, campers, boat and RV lot next to the highway. No commercial repairs would be done on site; repairs would be limited to vehicles for sale on the lot. Most vehicles for sale would be during tax time and at other times would only have 4 or 5 cars on the lot to meet the State of Minnesota guidelines for a used car lot. Also requesting that the conditional use permit would include a possible future 14' x 24' office on the site.

Charlene Christenson asked what would be the maximum amount of vehicles on the lot?

Warren Scouton responded that the maximum would be 25 to 30 during February to May.

Ken Grob asked where the 14' x 24' office would be built on the site?

Warren Scouton explained that it would be within the proposed area designated for vehicle sales on the application and more toward the backside of the area.

Ken Grob asked if a permit would be required for this structure?

Eric Buitenwerf explained that if the location of the structure was within 1000' of the lake, he would be required to obtain a permit. Part of the proposed area is outside the 1000' on the north side of this property.

Tim Johnson commented that if water and sewer were installed in this structure, it would involve the Minnesota Department of Health and Department of Labor & Industry regulations.

Tim Johnson recommended that Warren Scouton read the staff recommended conditions and comment on them.

Warren Scouton reviewed and read the staff recommended condition and commented that the number of vehicles and campers needed to be established. Also commented that using only the existing driveway approach shown on the conditional use permit, from a safety standpoint and the flow with the traffic with vehicles having to turn around, meets the code with the right of way and he would like to have a second existing driveway included in the permit. Also would like to include the office building in the future in number four (4).

Charlene Christenson commented that the number of vehicles could be 30, some in the front and some in the back.

Warren Scouton commented that he was comfortable with the number of vehicles at 30.

Charlene Christenson posed the question that if he had 30 vehicles on the site and 4 other vehicles at his house, would he be within the guidelines of the conditional use permit?

Buitenwerf explained that it all depends on how you phrase the condition but if you have a maximum of 30 vehicles for sale, then 34 on the lot or entire property would not be allowed. You would have to keep it at 30.

Warren Scouton questioned the explanation on that because the site could easily hold 30 or more vehicles but stated that he was still be comfortable with 30.

Opened discussion for public comment.

No public comment was given.

Ken Grob requested that the Board review the conditions on this application.

Ken Grob asked if the Minnesota Department of Transportation (MnDOT) included two driveways in their response to this application?

Eric Buitenwerf reviewed the email he received from MnDOT which did not specifically say whether one or two driveways. My impression was that he was referring to the primary paved driveway.

Warren Scouton explained that he did have a discussion with the MnDOT regarding pulling in and turning around, that both driveways met their guidelines for a residential driveway. MnDOT indicated that they would monitor this new use and address it in the future if there was extra use.

Charlene Christenson mentioned that MnDOT was not viewing this as a year-round business, but it will be a year-round business. There will be more vehicles during a certain time of the year, but you will be open all year.

Warren Scouton did agree that there would be a few cars there all year long. My primary business is the excavating and that will be the main focus in the summer months. In order to maintain the license through the State of Minnesota, vehicles need to be on the site throughout the year.

Charlene Christenson requested that number four (4) be reviewed by the Board.

Tom Krueger suggested that number four (4) should be scratched.

Ken Grob asked what type of controls were needed with regard to buildings on a conditional use permit (CUP) and why?

Buitenwerf explained that it keeps multiple new structures from being constructed and used for the business because that may change the character of it in a way that either the County or neighbors would not find favorable.

Ken Grob suggested that the Board try to find the wording to specify for control.

Tom Krueger explained that since some of the property was outside of the shoreland zoning, there was no need to restrict buildings.

Warren Scouton commented that most of the property was within the shoreland zoning.

Charlene Christenson wanted to add an "s" to number five (5) to make approaches plural.

Warren Scouton requested that this permit include dump truck, tractors or equipment.

Ken Grob explained that all were included in the definition of vehicle.

Ken Grob made a motion to recommend to the County Commissioners that they approve this conditional use permit (CUP) with the conditions one (1) thru six (6) as modified and the findings of fact as modified in the staff report.

Conditions:

1. This conditional use permit (CUP) is for the operation of the entire premises as one retail shop use venture. As such, any land, that through subdivision or addition to the property to which the CUP is granted, is added or subtracted, is/are not granted or allowed the right to operate in accordance with the CUP without first applying for and obtaining the necessary CUP from the County.

2. No more than 30 vehicles, campers, boats, and recreational vehicle items available for sale can be located on the property at any given time.
3. Vehicles for sale can only be located in the area labeled "proposed site" on the conditional use permit application site plan sketch.
4. Only the two existing 30' x 48' pole buildings located on the property and shown on the conditional use permit site plan sketch and a possible, future 14' x 24' office building shall be used for this retail shop use venture.
5. Only the existing driveway approaches shown on the conditional use permit application site plan sketch with Highway 34 frontage shall be allowed to be used for providing access for this use to Highway 34.
6. No artificial lighting of the area labeled "proposed site" on the conditional use permit application site plan sketch is allowed. The exception to this is that the sign advertising the use may be lit on the condition that its lighting complies with the Hubbard County Sign Ordinance.

Findings of Fact:

1. Is the requested use consistent with public health, safety, and welfare?

YES (X) NO ()

Why or why not? The use is located on a riparian lot that is almost 1000' deep and on which the display area for items to be sold is at least 800' from Owl Lake. The two structures to be used for this business already exist and are located ~325' from the lake. The property is situated along Highway 34 which has a number of commercial businesses located along it between Park Rapids and Akeley. The existing approaches onto Highway 34 will be used to access the property and are positioned at a point where the highway is relatively straight with a consistent grade such that sight lines are good. Thus, the proposed use should not harm public health, safety, or welfare.

2. Is the requested use consistent with the goal of preventing and controlling water pollution, including sedimentation and nutrient loading?

YES (X) NO ()

Why or why not? No modifications to the property's topography or vegetative cover are proposed. The proposed display area is over 800' from Owl Lake and the two structures to be used in the business are ~325' from the lake. The soils in this area are relatively porous and there are two wetlands between the display area and the structure into which the upland area on this lot currently slopes. The surface area occupied by the items for sale should not cause any sedimentation or nutrient loading of the lake or exceed the property's ability to have stormwater infiltrate the soil on the property so that it does not runoff outside of the property's boundaries.

3. Will the requested use not adversely affect the site's existing topography, drainage features, and vegetative cover?

YES (X) NO ()

Why or why not? As mentioned in the answer to question 2 above, no alterations to the topography, drainage features, or vegetative cover on the property are proposed with this use. The placement of the various items for sale on the designated parts of the property should not harm any of these three items as the soil is sandy and well drained enough that stormwater ought to readily absorb into the ground during above freezing temperatures and the lot is relatively flat such that it should not generate much for stormwater during spring snow melt. Most surface runoff (if there ever is any) will go into the two above-mentioned wetlands way before it might enter the lake.

4. Is the requested use's site location reasonable in relation to any floodplain and/or floodway of rivers or tributaries?

YES (X) NO ()

Why or why not? There are no FEMA designated floodplains in Hubbard County and there are no rivers or tributaries nor any associated floodways nearby.

5. Has the erosion potential of the site based upon the degree and direction of slope, soil type, and existing vegetative cover been adequately addressed for the requested use?

YES (X) NO ()

Why or why not? As mentioned in answers to previous questions, no modifications to the property's topography or vegetative cover are proposed as part of this retail shop use. The property is relatively level until it gets within ~150' of the lake and the entire use is proposed to occur at or beyond a lake setback of at least 325'. The sandy, well drained soils on the property should be able to absorb any stormwater runoff generated from the impervious surface area created by items placed on the property for sale, the driveway and parking area, and two pole buildings. If any surface runoff does ever occur, the property's topography is such that the runoff will likely go into the two wetlands that flank the property's driveways.

6. Is the site in harmony with existing and proposed access roads?

YES (X) NO ()

Why or why not? There are existing driveways and approaches onto Highway 34 that this property uses and that will be used by the proposed retail shop use. The highway approaches have good sight lines in both directions and are located along a relatively straight stretch with a consistent grade so there should not be any safety hazards created by vehicles accessing the property via these approaches. Highway 34 is a main traffic corridor through the county and thus ought to be able to support the traffic generated by this use of the property.

7. Is the requested use compatible with adjacent land uses?

YES (X) NO ()

Why or why not? Five bare lots stretch over a ¼ mile to the East of this property. The nearest residence west of the property is ~485' away and the next closest residence is over 1200' from this property. On the opposite side of Highway 34, there is a residence that is offset from this property a little to the Northeast and well separated from this property by a dense vegetative buffer of a stand of coniferous trees. The requested use thus does not have any likely potential of harming the nearby property uses.

8. Does the requested use have a reasonable need to be in a shoreland location?

YES (X) NO ()

Why or why not? The property is located on a stretch of Highway 34 that contains a number of commercial businesses scattered along it. The shoreland ordinance allows such uses to be in shoreland areas via a conditional use permit. In this location, with the area historically being a commercial corridor along Highway 34, it is reasonable for this use to be in a shoreland location. The area feels more like a commercial highway corridor than a rural shoreland zone.

9. Is the amount of liquid waste to be generated reasonable and the proposed sewage disposal system adequate to accommodate such?

YES (X) NO ()

Why or why not? The only waste generated from the property will be from a sink and toilet in a bathroom located in the existing office that will be used by employees and customers. The existing septic system into which this office bathroom would be plumbed is compliant and was recently installed in 2010.

10. Will the visibility of structures and other facilities as viewed from public waters comply with Section 901 of the Ordinance?

YES (X) NO ()

Why or why not? The two pole buildings on the property are at least 325' from the lake and thus are well outside of the 100' ordinary high water mark (OHW) structure setback. The slope of the property near the lake coupled with the vegetation that is present within the 100' OHW structure setback area will make it very unlikely that anyone would see these structures from the lake. The display area for "for sale" items will not be visible from the lake as it is at least 800' from the lake and the topographic change on the property at around a 150' OHW setback where the property flattens out will not allow the vehicles to be visible from the water.

11. Is the site adequate for water supply and on-site sewage treatment systems?

YES (X) NO ()

Why or why not? The only water needs are for a bathroom in the existing office and possibly washing vehicles and other items on display for sale outside. As mentioned in answers to previous questions, the septic system to be used for the office bathroom was constructed in 2010 and is compliant.

12. Are the affected public waters suited to and able to safely accommodate the types, uses, and numbers of watercraft that the use will generate?

YES (X) NO ()

Why or why not? The proposed use does not involve any proposed watercraft use of Owl Lake.

Ted Van Kempen seconded the motion.

Motion passed unanimously. 5 – 0

Miscellaneous: None

Communications:

Buitenwerf commented that we currently have three (3) variances and no Planning Commission business for the February meeting and a reminder that the Shoreland Ordinance amendment will be considered by the County Board on the February 3, 2015 meeting at 11:00 a.m. We were able to get language worked out with the Department of Natural Resources (DNR) on the guest cottages that basically they allowed us to revert from the duplex minimum lot size to just a single

family residence lot size in order to have a guest cottage. When they submit a permit application, they would have to include photos of the shore impact zone that we could then use to identify if there have been any vegetative alteration violations and if so, they would have to correct as part of issuance of the permit. If that goes through the Board without issue and is adopted, it would be sometime in March when it would take effect and be published in the newspaper and would also need to get final approval from the Department of Natural Resources (DNR).

Ken Grob made a motion to adjourn.

Ted Van Kempen seconded the motion.

Motion carried unanimously. 5-0

Meeting adjourned at 7:52 p.m.

Respectfully submitted,

Barbara Barth
Recording Secretary