

LINCOLN COUNTY PLANNING BOARD

Meeting Minutes

August 16, 2011

1. 5:30 – Meeting Called to Order by Chair, Joe Kelly

Present: *Mark Romey, Frank Dierman, Ted Clarke, Dave Johnson, Joe Kelly, Matt Bowser, Bonnie Peterson, Paul Tisher*

Staff: *Kristin Smith*

Not Present: *Ted Anderson*

Public: Robert Laidlaw

2. Approval of Minutes from June 21st – Ted Clarke moved to approve, Dave seconded. Motion carried with change to note Joe Kelly chaired the meeting.

3. Public Comment on Non-Agenda Planning Board Items – NONE

4. Agenda

a. Lakeshore Permit – Laidlaw (Glen Lake)

Kristin presented the project – a rock patio that will sit on a beach that was filled into the lake without a permit approximately 10 years ago. The placement of the fill made it difficult to discern where the ordinary high water mark. Kristin showed in a presentation the area of the project and some photos of the site. She noted that after a site visit; discussion with Mr. Laidlaw; and comments from adjacent property owner and the Glen Lake Irrigation District (GLID), Mr. Laidlaw provided some modifications to his original application. She stated the recommendations and Bonnie wanted to know if the new application reflected the 10' setback from the side. Frank asked about the property markers and location of the boat lift.

Kristin noted that one of the conditions required the property owner to establish by survey the lakeward property line so that the County was not permitting a project in an area that it would not normally permit it since the area had been filled. She summarized the other primary condition which was to reduce the size of the rock. Joe asked if the front property line had been established. Kristin reminded him that it was a condition of approval. Bonnie stated that she had talked to GLID and they thought the property line wasn't as shown. There was some discussion about the status of Glen Lake and Kristin let Bonnie know that if she'd like to get the history on it, she'd be happy to share.

Joe asked Mr. Laidlaw if he had any comments. Mr. Laidlaw explained his project and how he had modified it in response to Kristin's comments. He had contacted a surveyor who will stake where the property is in relation to the elements shown in the photos. There was some more discussion about the property line and the adjacent property owner.

Frank asked about the size of the rocks and how the patio would be constructed. Mr. Laidlaw explained the modifications and the material used. Ted asked if there was

anything the County could do about the placement of sand in the past. Kristin said there has been too much time passed.

Bonnie said she had talked to Steve Curtiss about his letter. There was some discussion about that and the relationship between GLID's role and the County's. Mark wanted to know if the County was concerned about GLID's statements of ownership and Kristin stated that no, it was not, that the County was concerned solely about the lakeward side property boundary.

Mr. Laidlaw spoke some more about his past experience with GLID. Kristin re-iterated for the new Board members that GLID does not have permitting authority pursuant to state law for lakeshore construction permits. That authority is for the County only.

Matt asked a question about violations and enforcement. Kristin explained how enforcement is generally complaint-driven and the County is working to follow-up more diligently. Ted Clarke noted it was an important comment and stated that the County has to take initiative to take action against violators. Kristin stated the County doesn't need to perpetuate the practice of ignoring problems and not following up.

Paul moved to recommend approval of the permit, Ted Clarke seconded. Motion carried.

b. Lakeshore Permit – Borden/Davidson (Upper Thompson Lake)

Kristin presented the project. She noted the issues with it being that it is removing a lot of native material to place hardscape patio. She noted there were some other projects nearby that were permitted prior to the new regulations and without adequate oversight. She noted her conflict about the project in that it disturbed a large area so close to the lake. She did not offer a recommendation for approval or denial, but did present some conditions should the Board want to approve it.

Paul wanted to know what happened to all the vegetation. Mark said he walked it and it was real thin soil. Ted noted that the properties on both sides had shrubbery. Paul noted it looked like they had cut it. Paul asked what the regulations said about retaining walls. Others answered, they are not permitted. Bonnie noted that the trees identified for removal appear to be bigger than 3" diameter as noted in the application.

Ted Clarke referred to the staff report which quoted sections of the regulations noting that only where active erosion is present can a retaining wall be installed and not for aesthetic purposes. He drove around the Thompson Lakes and commented that most had beautiful shorelines, but this property was not since it appears to have been denuded.

No one seemed concerned about the dock and making a path. Ted noted that the applicant could move the whole project back so that it was out of the Lakeshore Protection Zone in order to keep with the spirit of the regulations. Kristin stated that the Board could recommend partial approval – i.e., the dock or make other changes.

Paul said if they approved the project as presented – 28" from the water – it would be setting a bad precedent for protecting the lakes.

Mark moved to recommend denial based on the fact that it did not meet the intent of the Lakeshore Protection Regulations. Bonnie seconded. The Board suggested the applicant (who was not present) resubmit. Bonnie thought it would set a precedent as well. Joe

asked about the other properties that had similar projects. Kristin explained they really should not have been approved. Motion passed.

Paul commented that rock walls should be outside of the 20' zone and thought if they started granting variances it would be hard to go back. Kristin noted that variances, although they can be requested, must be evaluated on whether there is a hardship.

Kristin stated that the County cannot go back to everyone in violation from many years ago, but if someone reports something and there is no permit for it from before the regulations changed then that's something that could be pursued.

Ted suggested we put a letter in the papers about the status of Lakeshore Protection Regulations letting people know what's going on and what's expected.

c. Review proposed language change to Lakeshore Regulations re: easement holders

Kristin discussed the memo that she submitted based on the Board's direction to prepare language addressing the concerns raised about easements to lakes and whether easement holders have the right to apply for a lakeshore permit.

Dave raised a question about the language and how it affects homeowner's association if they have a common ownership on the lake.

Kristin suggested they could define what the various terms mean or give some parameters for what is required to apply for a permit (e.g., a minimum of 40'). Kristin noted there is a difference between easements and deeded common area – owned by an HOA. Joe was concerned they'd be eliminating easements. Kristin stated that the County cannot eliminate easements. Rather, the intent, as directed by the Board based on the Carter/Casazza application was to place *limitations* on what, if anything, can be applied for. Kristin reminded the Board that just because an easement exists does not mean it is sufficient to meet the regulations.

Paul stated that just because we say an easement holder cannot apply for a dock does not mean that the easement doesn't exist.

Ted Clarke proposed some changed language to add "wharves and MCA [...]" and striking the rest of the sentence. Kristin noted the problem with that language from Title 85 is that it has to do with navigable waters as established by the state and Glen Lake, along with many other lakes that the County regulates, do not have that designation. Title 75 is where the authority lies for lakeshore protection.

Paul stated he didn't think that the County could legally issue a permit for someone to build something on someone else's' property.

There was a recounting of the permit reviewed the previous month for Mr. Carter on Mr. Steed's property at Glen Lake. Kristin reported that the commissioners denied the permit, but that then Mr. Casazza placed a dock anchored to the shore claiming it was exempt from the Regulations. The exemption provision states that an 8x25 *floating* dock does not need a permit. However the regulations do not define floating dock. Kristin stated she thought the provision was probably in conflict with state law and the commissioners were

waiting on advice from the County Attorney before issuing a removal order to Mr. Casazza.

Paul suggested easement holders applying for a lakeshore construction permit, must have approval from the deeded landowner. Frank suggested, what if there are 15 easement holders, but an association owns the land and the association tells each easement holder that they can have a dock. Then we'd have 15 docks on a particular easement. Ted responded with the idea that it would only happen if the County approved it.

There was some discussion about other provisions that perhaps need to be changed in the regulations since it will have to be reviewed in a public hearing anyway.

Ted Clarke suggested a provision requiring docks be a certain distance from property lines. Kristin also suggested that the dock length be clearly stated as to how it is measured. She stated that a dock company was apparently telling property owners that gangplanks did not count towards the total length.

Kristin suggested that perhaps adding language that states "where multiple easement holders have access to the same easement, only one application for a dock may be requested for a permit."

Ted Clarke wanted to know if we should be defining how docks should be anchored. Mark pointed out that in our regulations it states that floating docks shall be anchored to the lake bottom. This seemed sufficient for everyone.

d. Review Stimson Conservation Easement Area (preliminary)

Kristin presented a map of the Stimson properties and some other features near those properties such as forest roads and species of concern to get the Board thinking about how it might want to comment on the pending easement when it is presented in the near future.

There were several comments about how the conservation easement was good since there was a lot of developable land in the Stimson holdings.

Ted wanted to know what the status of Stimson allowing off-road vehicle use. Kristin states that could be part of the comments provided by the Planning Board. Kristin reiterated what some of Stimson's concerns were regarding access to their property because of abuse, garbage and maintenance, etc. Ted suggested that if Stimson could allow for an area for an OHV club to use an area if they agree to some maintenance that would seem to be good since so many roads are closed by the Forest Service.

Folks noted that some of the roads are probably cost share.

Kristin stated that a group would have to step forward and propose some kind of agreement with Stimson for access/use. She also stated that there would be several public meetings/hearings prior to Stimson finalizing the easement with the Trust for Public Lands. Kristin summarized the process for the new board members and how the commissioners wanted the Planning Board to look at the easement closely when providing their input.

Matt asked if conservation easements normally deal with multiple use or just development. There were several comments about how an easement shapes what happens on the land, so timing is critical for getting items into the language of the easement before it is filed. Kristin mentioned that it was apparently hard to change an easement after it was filed.

Ted brought up the idea of a Board sub-committee to review access rights in the County and work with clubs in the County who want to do trail projects and who are willing to maintain them. There was some more discussion about access and the Forest Service and how there does not seem to be very much in the way of developing or re-opening off-road vehicle trails. People noted that the grizzly bear seemed to be affecting a lot of closures and the process to develop trails.

Paul and Ted noted that it was good that the Board got to comment, but that it was private property and the two parties involved in the easement were the only ones that really mattered.

5. Planning Department Report

Kristin reiterated that the County was following up with Mr. Carter's blatant refusal to comply with the County's lakeshore permit denial; that the Commissioners felt it was a slap in the face to the Planning Board and the Commissioners.

Kristin gave the two new board members a copy of a map that showed the other conservation easements in the County.

6. Planning Board Comments and Questions

Ted stated that if people ignore the County and its decisions then we are all wasting our time. Frank asked about a big project on Glen Lake near the outlet. Kristin explained part of that was reviewed for a lakeshore permit prior to Frank being on the Board.

Paul wanted to know what the status of the Sand and Gravel addition to the Growth Policy was. Kristin said she would get back on it. She had been putting it off because she thought she would coordinate with the Natural Resource Plan, but since that has been delayed, we could just go ahead and make the changes.

7. Next Meeting – September 20th

8. 7:30 – Meeting Adjourned