

**TOWN OF LODI
PLAN COMMISSION MEETING MINUTES
MONDAY, FEBRUARY 20, 2017**

1. Call to order & roll call: Meeting called to order at p.m. by Chairman Krause. Commission members present: Kris Krause, Robert Robbins, Terry Martindale, Tom Marx, James Bechen. Absent (excused): Jack Pfister. Also present: Town Atty. Lawrence Bechler, Retired Town Engineer John Lichtenheld, Atty. Paul Johnson, Roberta Arnold,

2. Rezones, Certified Survey Map (CSM) & Waiver of Access relating to creation of 4 lots (Lot 1 @ 5.64 acres; Lot 2 @ 5.00 acres; Lot 3 @ 1.93 acres; Lot 4 @ 14.52 acres) from Parcels 11022-30.A and 11022-30.C. Lot 1 would remain C-2 General Commercial, Lot 2 rezone to RR-1 Rural Residence for new home, Lot 3 rezone to RR-1 Rural Residence with existing home, and Lot 4 rezone to AO-1 General Agriculture & Open Space with A-4 Agriculture Overlay District owned by Dean A. Strander, N2517 CTH V; Lodi, WI:

Atty. Johnson – all of you should have the updated CSM, the Restrictive Covenants document, and the Declaration of Joint Access (for Lot 2, Lot 3, and Outlot 4), and Declaration of Access Agreements and Easements. Krause – the first issue to discuss is the property lines relating to the pond. Atty. Bechler stated previously he was uncomfortable with a lot having a corner in the pond. Atty. Johnson – the 1998 CSM had a lot corner in the pond. Surveyor Greg Knuteson told me that he left the lot lines as there were relating to the pond for continuity. Moving any of the lot lines from this revised one may impact where the shared driveway goes and may affect lot sizes. I looked at it, but could not see any way to put the pond all in one Lot. Krause – at a previous meeting we’d suggested putting the lot line at the ordinary high water mark. Atty. Bechler – the WSS I referred to previously is 236.115(1)(d). Your client owns all of this property, so it is under his control. Atty. Johnson – where do you want the lines? Atty. Bechler – WSS 236.15(1)(d) Surveying requirements states: *“For every subdivision of land there shall be a survey meeting the following requirements: (d) The lines of lots, outlots, parks and public access and land dedicated to the public that extend to lakes or to navigable streams shall be monumented in the field by iron pipes at least 18 inches long and one inch in diameter weighing not less than 1.13 pounds per lineal foot, or by round or square iron bars at least 18 inches long and weighing not less than 1.13 pounds per lineal foot. These monuments shall be placed at the point of intersection of the lake or navigable stream lot line with a meander line established not less than 20 feet back from the determined or approximated ordinary high water mark.”* Atty. Johnson - I could put the line along the west side of the pond, to the east side of the road. Atty. Johnson – it seems it’d make sense to bring the southern lot line of Lot 3 down. Atty. Bechler – this revised CSM doesn’t meet WI State Statute as it is now. Atty. Johnson – so we will move the lot lines out of the water to the estimated high water mark for lots 2, 3 and Outlot 4. Atty. Bechler/Krause – yes. Atty. Johnson – that will put the pond entirely in Outlot 4. Atty. Bechler – that’d make an Outlot 1. The only question I have for the documents provided is in the Restrictive Covenants, there is reference to residential development in paragraph 1 and 2. It should say “for any other development other than Ag”.

Krause – summary from previous minutes and tonight: (A) need to grant a variance for the 33’ access; (B) need to grant a Waiver of Access variance for Outlot 4; and (C) clarify what Dean plans to build on the Lot he’s keeping, which would be a garage with a home in it (such as the recent Guppy Getaway-Epping building).

(A) & (B) Bechen – is there any way to make 66’ access’? Atty. Bechler – it’s possible, I’m not saying whether you should or should not. Bechen – since the 66’ wouldn’t be a hardship, would it encroach on the wetland on Lot 2? Atty. Bechler – there really “is” 66’, it’s just 2 access’ of 33’ each side by side which will be owned by different owners. Atty. Johnson – and those will be controlled by the Joint Driveway agreement. Krause

– the Outlot is predominately wetland, and Lot 2 to qualify to be Rural Residential has to be < 5 acres, which necessitates the Outlot 4.

Note: Lot 2 and Outlot 4 will always be owned by one owner. Atty. Johnson – the Restrictive Covenants restrict any further divisions of these properties.

(C) Krause – Dean Strander stated when he first appeared before the PC that he wanted to build a garage large enough to park his motor home in when he’s here in Wisconsin, with a small home included in the building to live in when he’s here. Atty. Bechler – action on this is a policy matter, not a legal. Krause – I’ve debated this with John Bluemke of CCP&Z the question of how do you create an ordinance with line of sight guidelines in it. I think in this case (Strander) this is “out of sight, out of mind”, it’s not visible from the road. Arnold – the issue is the proportion of the home in comparison to the size of the garage. Krause – the county issues the zoning permit – correct? Bechler – yes. But it’s being rezoned, and thus the rezone has to be approved by both the Town and the County, if either denies it then the rezone is denied. Marx – prior to any ordinance possibly being adopted that has line of sight guidelines in it, maybe we need to consider if the town wants to create such an ordinance. Krause – as with Guppy Getaway-Epping, Strander was not/is not required to tell us what he’s going to build on a lot when he applies for a rezone. Should we have you (Atty. Bechler) review the documents that Arnold has relating to the lawsuit by several residents against the county relating to the Guppy Getaway-Epping building? Atty. Bechler – I could review it and tell you what I read in it. Krause – we’ve never had to consider what a person plans on building on a lot they’re asking to rezone, and never needed legal input. We don’t have any building plan reviews included in the review process for a rezone. Marx – if the town would deny a rezone petition because of what the applicant says they’re going to build on it, wouldn’t that open the town up to litigation for denying a legal building. Atty. Bechler – what does the Comprehensive Plan say about this property? Lichtenheld – it’s Commercial. Atty. Bechler – then a Comp Plan amendment should be considered first to change it from Commercial to Residential and/or Agricultural if the land is suitable for it. If the town wanted to not allow the so-called “toy shed” homes, then you could amend the Comp Plan to state that. Marx – Krause and Atty. Bechler – have we ever dealt with what was going to be built on a property when we reviewed a rezone? Krause – we have asked what they planned to build in the past, though we may not always have been given the true answer. We’ve been told one thing and then they’ve built something totally different than what they told us. Bechen – historically, as I recall, we’ve never revised the Comp Plan prior to a rezone. Atty. Bechler – it’s recommended that a Comp Plan amendment gets done first, but most municipalities have not followed that path. They’ve just done an amendment to the Comp Plan when there’s been several rezones that need to be added to the Comp Plan. Lichtenheld – the requirement to do a Comp Plan amendment prior to

doing a rezone is just another hurdle for properties owners. Atty. Bechler – let’s say someone proposes a Residential lot in an area in the Comp Plan that calls for long-term Agricultural. Then you change from future Ag to current residential. Lichtenheld – that’s what we will be discussing later in this meeting.

Krause – we have decisions to make. Do we, as Arnold suggests, that we get all the facts on a property being rezoned, including asking to do a building plan review? Arnold – that’s not what I suggested. I said you don’t have all the facts to make a decision tonight.

Krause – we have before us a CSM and rezones. Our ordinances don’t state that we can require building plans review as part of considering a rezone. Atty. Bechler – at the moment there is an unresolved question as to the extent to which a town Comp Plan can set standards to land use that are more stringent than the County’s standards. We are under County zoning jurisdiction. If we had an ordinance that stated the living quarters size vs the garage/storage size ratio in residential property then we would have more review powers.

Marx – this subject of residential building review should be approached by being discussed with the PC, TB, Bechler, Lichtenheld at a future meeting. I say we consider the rezones tonight, not taking into consideration any possible building (which there are no plans for to-date).

Robbins – I understand what Arnold is saying, and “toy box” buildings may not fit in some areas, but it seems it would work here. How we control that in the future is something we will have to work on. Atty. Bechler – the

CSM presented tonight shows that where buildings would be built would be 500'+ from CTH V, no visibility from the road.

Bechen – as far as I'm concerned, I have no problem approving the rezones and we don't know and aren't making a decision on what Strander wants to build on his lot. Martindale – I have no problem with it either.

Krause – I didn't anticipate having a motion on the CSM or rezones tonight, but Atty. Johnson is here to hear our discussions and know what to bring back for possible action at the next PC meeting.

Atty. Johnson – if you're not ready to take action on the CSM until I come back with another revised CSM, Dean will be looking for approval of the CSM whether you act on the rezones or not at this time. I ask that you not use Dean as a test case. He applied before the legal action relating to Guppy Getaway-Epping began. You could make the requirement that Dean build his building such that it can't be seen from the road. I will make the changes to the CSM and the minor changes to the other documents at your next meeting.

Marx/Robbins motion to table until next Plan Commission meeting; MC 5-0

3. Certified Survey Map* to “(A) move some lot lines that currently run too close to the home on Parcel 11022-258.37 @ W11288 Cactus Acres Road (owned by Noel & Laura Mattei, formerly Manchester), (B) swap some land on the west side of the Mattei parcel to make up for it, and (C) record the easement for south access to Cave Bluff LLC property from Cactus Acres Road; 43.23-acre Parcel 11022-258.42 located in Section 8, owned by Cave Bluff LLC (Tim & Teresa Escher). *Owners intend to put this parcel into a perpetual conservation easement and applying for Manager Forest Law (MFL) status for the property:

Krause – it's our understanding that Escher's want to put a large portion of this land into a Conservation Easement. Atty. Johnson – correct. What is being proposed is the buff colored section on the CSM I've presented you tonight will be added to the Mattei property (Lot 1), the pink area is where the current 33' access easement is, but will have 33' added to it for the proposed access easement to the Escher property (Lot 2). This will become a conservation easement and will likely be logged. This will be a continuation to other adjacent land Escher's own and already have in a conservation easement. Robbins – would having a 66' easement off of Cactus Acres open this property up to future development? Atty. Bechler – no, because it will be protected by the Conservation Easement. Krause – based on my past discussion with the former owner Stewart Manchester and my review of all current documents, I see no issues with what is being proposed here.

Krause – we have the CSM but not the documents for the Conservation Easement. Atty. Bechler – I would recommend a deferred approval within 6 months (180 days) contingent upon submission of the Conservation Easement Documents.

Bechen/Marx motion to approve CSM to (A) move some lot lines that currently run too close to the home on Parcel 11022-258.37 @ W11288 Cactus Acres Road (owned by Noel & Laura Mattei, formerly Manchester), (B) swap some land on the west side of the Mattei parcel to make up for it, and (C) record the easement for south

access to Cave Bluff LLC property from Cactus Acres Road relating to 43.23-acre Parcel 11022-258.42 located in Section 8, owned by Cave Bluff LLC (Tim & Teresa Escher). *Owners intend to put this parcel into a perpetual conservation easement and applying for Manager Forest Law (MFL) status for the property contingent upon receiving a signed Conservation Easement Agreement reviewed and approved by Atty. Bechler; MC 5-0.

4. Comprehensive Plan revisions:

Lichtenheld – no anticipating action at tonight’s meeting. Hoping to have it approved within the next couple of months. Will require a public hearing be held. We’re basically updating the current Comp Plan map with all the

rezones that have been done since 2010. Sixteen (16) of the thirty (30) amendments are rezones that have already been done. The other fourteen (14) are relating to the land beginning at Fitz’s to the old farmhouse next to the DNR boat launch making some of them Planned Commercial Overlay District and some Planned Residential Overlay District. The next step is a public hearing (Class 2 notification), the possibly a joint meeting with the Town Board to take action on. Atty. Bechler – what this is doing is what is normal in most municipalities. In the future when you approve a rezone/land use change you should include in the motion that you’re also approving a Comp Plan amendment.

Arnold – can action regarding toybox houses be included in the Comp Plan amendment. Atty. Bechler – the best way to do this is to do it in the Comp Plan. Krause – I don’t know that I would want to put something in the Comp Plan that would affect Strander.

Atty. Bechler – New WSS 66.10015 Limitation on development regulation authority and down zoning. (see ATTACHMENT A at end of minutes)

5. Conditional Use Permit to operate a computer technical support business (Angel e-Design Solutions) via a Columbia County Major Home Occupation Permit in the former motel building located on 0.65-acre Parcel 11022-263.E, located in Section 8 @ W11511 CTH V owned by Martin & Mary Kay Wetzel:

Krause – she’s applying for a Major Home Occupation in the accessory building on the property her home is on (building used to be a motel). Bechler – I wrote the letter on December 14, 2016 laying out the requirements. You should also look at the Columbia County CUP Pre-application Report dated 11/21/16.

Bechen/Robbins motion to recommend approval of this Conditional Use Permit to operate a computer technical support business via a Major Home Occupation Permit with the 8 conditions listed in the 11/21/16 Columbia County CUP Pre-application Report, as follows: MC 5-0.

- *The Major Home Occupation Permit is not transferable.*
- *The business shall be constructed in accordance with information provided with application.*
- *Establish hours for pickup and delivery of computers.*
- *Establish a limit on the number of employees cannot exceed 4 by ordinance.*
- *A site plan which shows the parking for drop off and pick up must be included with any final application*
- *The applicant and owner shall comply with and obtain all necessary permits required by applicable federal, state, and local regulations.*
- *The owners will allow inspections any time during the period from 8 am to 5 pm by town officials and Planning & Zoning staff Inspections outside of the period shall be arranged with the owners.*
- *Conditional use permit may be subject to revocation or alteration if the Planning & Zoning Committee finds that these standards or the standards for all conditional use permits in Section 16-15-070D are not being met.*

6. Minutes of October 12, 2016; October 19, 2016; November 14, 2016; December 15, 2016:

Krause – I’ve reviewed all these minutes and I’ve only made a few formatting corrections and minor edits: SEE EMAIL. Note: October 12th Robert Robbins & Jack Pfister absent; Oct. 19th Robert Robbins absent; Nov. 14th

Robert Robbins absent; December 15th Terry Martindale absent.

Marx/Bechen motion to approve all 4 sets of minutes with Krause edits; MC 5-0.

7. Next meeting date:

Tentative dates of Thursday, March 9th or 16th. Marx and Bechen – the 16th works the best for us.

8. Adjourn:

Robbins/Marx motion to adjourn at 8:30 p.m.; MC 5-0.

April D. Goeske
Clerk-Treasurer

ATTACHMENT A

WSS 66.10015

Limitation on development regulation authority and down zoning

History: 2013 a. 74; 2015 a. 391

(1) DEFINITIONS. In this section:

(a) “Approval” means a permit or authorization for building, zoning, driveway, stormwater, or other activity related to a project.

(as) “Down zoning ordinance” means a zoning ordinance that affects an area of land in one of the following ways:

- 1.** By decreasing the development density of the land to be less dense than was allowed under its previous usage.
- 2.** By reducing the permitted uses of the land, that are specified in a zoning ordinance or other land use regulation, to fewer uses than were allowed under its previous usage.

(b) “Existing requirements” means regulations, ordinances, rules, or other properly adopted requirements of a political subdivision that are in effect at the time the application for an approval is submitted to the political subdivision.

(bs) "Members-elect" means those members of the governing body of a political subdivision, at a particular time, who have been duly elected or appointed for a current regular or unexpired term and whose service has not terminated by death, resignation, or removal from office.

(c) "Political subdivision" means a city, village, town, or county.

(d) "Project" means a specific and identifiable land development that occurs on defined and adjacent parcels of land, which includes lands separated by roads, waterways, and easements.

(2) USE OF EXISTING REQUIREMENTS.

(a) Except as provided under par. (b) or s. 66.0401, if a person has submitted an application for an approval, the political subdivision shall approve, deny, or conditionally approve the application solely based on existing requirements, unless the applicant and the political subdivision agree otherwise. An application is filed under this section on the date that the political subdivision receives the application.

(b) If a project requires more than one approval or approvals from more than one political subdivision and the applicant identifies the full scope of the project at the time of filing the application for the first approval required for the project, the existing requirements applicable in each political subdivision at the time of filing the application for the first approval required for the project shall be applicable to all subsequent approvals required for the project, unless the applicant and the political subdivision agree otherwise.

(c) An application for an approval shall expire not less than 60 days after filing if all of the following apply:

1. The application does not comply with form and content requirements.

2. Not more than 10 working days after filing, the political subdivision provides the applicant with written notice of the noncompliance. The notice shall specify the nature of the noncompliance and the date on which the application will expire if the noncompliance is not remedied.

3. The applicant fails to remedy the noncompliance before the date provided in the notice.

(d) This section does not prohibit a political subdivision from establishing an expiration date on an approval.

(3) DOWN ZONING. A political subdivision may enact a down zoning ordinance only if the ordinance is approved by at least two-thirds of the members-elect, except that if the down zoning ordinance is requested, or agreed to, by the person who owns the land affected by the proposed ordinance, the ordinance may be enacted by a simple majority of the members-elect.