



**TOWN OF SPIDER LAKE, SAWYER CO, WI
PUBLIC HEARING 3-10-2005**

The Town of Spider Lake Public Hearing was called to order on March 10, 2005 at 6:00 P.M. by Planning Committee Chairman Promersberger. Present was Promersberger, King, Overman, Brandt, Krause, Zoning Administrator Boss, Clerk Guyer, Town Attorney Jack Carlson assisted by John Carlson. Also present was Byron and Wendy Schroeder and Attorney Dave Anderson representing a group of home owners on Spider Lake. A court reporter was present to record the meeting.

Committee Chairman read the Notice as Published for the Zoning Change and Conditional Use Permit requested by the Schroeder's. This Hearing is a continuation of the tabled meeting held Sept.9, 2005 which requested the Schroeder's to supply further information.

The letter from the Schroeder's dated 11/29/04 was marked as exhibit #21, a map submitted by the Schroeder's in February was marked as exhibit #22. As the notice indicated it is the continued meeting of the Planning Committee from the hearing on Sept. 9, 04. The Town Attorney recommended that the Committee reopen the Public Hearing. A motion was made by Krause and seconded by King to reopen the Public Hearing.

The Town Attorney suggested that persons should be limited to addressing the new items that are on the table. Mr. Post questioned if the Committee had reviewed his information. The complete package was entered into the minutes as exhibit #23. The Memorandum from Attorney Anderson dated 3/10/05 was entered into the minutes as exhibit #24. A document dated 3/10/05 from Richard Trenkmann was entered as exhibit #25. Also, one sheet of 4 photographs previously submitted by Mr. Post was entered as exhibit #26.

Applicant Schroeder read his letter of application which included the information requested by the Committee at the September Hearing and he gave a history of the property. Wendy Schroeder spoke on how they run Whiplash Resort and try to keep it as private and quiet as possible. She said their present sleeping space would be for about 30 people.

People speaking in favor of granting the request was Janet Brandt who stated that the parcel in MFL right now would be taken off and back taxes for that property paid, Jayne Schroeder, Sue and Rich Gorski and Roy Allsup.

Mr. Trenkmann submitted an additional 10 letters that came to him objecting to the Zoning Change and talked regarding the application which included the impact that he feels it will have on Spider Lake. He also reported on issues he found in the Town of Spider Lake Comprehensive Plan. He read a letter written by Mr. Pilling and reviewed the six (6) conclusions included in Exhibit #25..

Attorney David Anderson, representing a group of persons on the Spider Lake Chain opposing the Zoning Change talked regarding the Memorandum he submitted to the Board at the beginning of the meeting. He stated he felt there were many legal issues. He referred to the four (4) issues on page 3 of his Memorandum and reviewed each from his document. He also spoke regarding a concept in the CLUP of a Conservation Easement on the property which is reviewed and regulated by a Land Trust. The property owners put a conservation easement on the property. The benefit would be to preserves the land and get a potential reduction on income taxes. There are available grants from State of Wisconsin which also protects the Real Estate tax and tax reduction.

Mr. Schroeder spoke regarding the fact that he is only asking for permission to built 2 units on his property.

Phil Mork stated he felt the Schroeder's do not have a plan. Prudence Ross spoke regarding the Comprehensive Land Use Plan which states the Town plans to preserve Resorts.

A letter written by Marnie and Dave Mamming's was read and entered as exhibit #27. Other correspondence in opposition to the application and that referred to the Mamming's letter was marked as exhibits 27A through 27P. Other letters in opposition was marked as Exhibits #28 through 44.

Boss stated that he mailed out twelve (12) Notices to adjoining property owners. Seven (7) letters were received that object, one with no objection and four were not returned. Those letters and a letter of opposition from Loren and Judith Pilling were marked exhibit #45 through #53 and a Zoning map showing zoning districts around Spider Lake Chain was marked exhibit #54.

Krause moved to close the Public Hearing and it was seconded by Brandt, All in favor, motion carried.

Attorney Carlson stated the Board must consider if they want to rezone the property. They must consider if the Rezone meets with the standards set in the Spider Lake Land Use Plan and all three parcels must be considered.

Carlson also discussed the present zoning around Spider Lake and quoted cases than leads him to believe this would not be spot zoning. Any Conditions put on a Rezone would have to have a plan in place to enforce them.

Promersberger stated that she felt that the frontage on Spider Lake was not enough to allow all the cabins on Whiplash Lake to use it. She said that she felt this would be in violation of 4.4L of the Spider Lake Zoning Ordinance .

Attorney Carlson stated that if the Rezone was granted or denied, the committee must make their decision in support or opposition based on findings presented at this hearing. He then reviewed portions of the Comprehensive Land Use Plan that would support and oppose a decision for Rezone.

The request is to rezone three (3) parcels 2-42-07-26-0-1.1 3.4 acres known as Spider Lake Parcel presently zoned RR-1 Parcel 2-42-07-26-2.5.1 Presently Zoned F-1 is 13.1 acres and Parcel 2-42-07-26-2.5.2 Presently Zoned F-1 has 22.9 acres to RR-2. Motion to rezone the three parcels to RR-2 was made by Overman and seconded by Brandt. Roll Call vote was King yes, Brandt yes, Krause yes, Overman yes, Promersberger No.

Majority in favor, motion carried.

The Committee based the Rezone on the following findings:

1. Several other RR-2 parcels exist on the Spider Lake Chain and the parcels rezoned by RR-2 are compatible to the surrounding area and use. This finding is supported by a Town map depicting the current zoning of the Spider Lake Chain.
2. For decades the property has been used as a corporate retreat, which is a use similar to resort usage which is a permissible RR-2 use.
3. The number of operating resorts on the Spider Lake Chain has been declining in recent years. Any additional use of the lake attributable to the rezone will be minimal given the fact fewer resorts exist now than in previous years.
4. Rezoning to RR-2 is consistent with the Town of Spider Lake Land Use Plan adopted in April of 2002 which plan is a guide to the long range land use of the Town. Specifically, the zoning change is in conformity with the following provisions of the Land Use Plan:

- Surface water resources in the town are abundant with 50 named lakes and unnamed small lakes, most of which are located in the Chequamegon National Forest. Lakes within the town have tradition of providing quality resort and guest cabin facilities; of which, may still remain as important contributors to the town's economy. (1)

- The questions of maintaining "Northwood's" character, maintaining and improving surface water quality of lakes, and developing an economic climate to meet community needs were identified as major issues facing the Town of Spider Lake. (1)

- Develop and economic climate that satisfied the community's needs (6.1)
- Encourage tourism to sustainable levels (6-4 & 7-14)
- Differential zoning allowed for resorts (6-4)
- Based on an assessment for the need of new recreational facilities, either public or private, establish a format to encourage the development of and location of such facilities or activities (7-15)
- Encourage businesses that are friendly to the "Northwood's" character (6-4)
- Provides for the continuance of active resorts and recreational uses (7-16)
- Recommend new waterfront recreation or retail located at or adjacent to existing resorts/service areas (7-17)

5. Many of the concerns expressed by the surrounding property owners can be addressed by attaching appropriate conditions to any Conditional Use Permit which is subsequently issued authorizing the operation of a resort on the property being rezoned.

6. The applicant's proposed use of the property for resort purposes, as evidenced by applicant's submittal dated November 29, 2004 would have minimal impact on the property and lakes affected by the rezone. The applicant's representations as to the proposed use can be made conditions of any Conditional Use Permit granted so as to assure use is consistent with applicant's stated intentions.

7. The nature and character of the parcel, being adjacent to property presently being utilized for resort which is zoned RR-2, and with other RR-2 districts existing on the Spider Chain of Lakes supports the rezoning of the requested parcel to RR-2.

8. The Board, in ruling upon the zoning request has taken into account the concept of public welfare. Orderly community growth and general prosperity can occur by promoting businesses conducive with the surrounding land use, and any special concerns regarding resort usage having a detrimental effect on land value or having aesthetic or environmental concerns can be addressed or regulated by attaching conditions to any Conditional Use Permit authorizing resort usage.

9. The requested zoning change does not constitute spot zoning because:

- The size of the parcel, being in excess of thirty (30) acres, is a relatively large parcel. Wisconsin case law provides that the size of the parcel, while not dispositive, is a significant factor to take into account in determining if the request constitutes spot zoning.
- The parcel of property subject to the current request is adjacent to property zoned RR-2.
- As determined above, several other RR2 zoning parcels exist in the vicinity of the parcel in question, namely other land fronting the Spider Lake Chain.

10. The requested rezone, whether determined to be spot zoning or not, is in the public interest for several reasons.

- The requested change is consistent with the Town's land use plan as set forth above; Given the declining number of resorts in the Town, and the minimal impact the rezone will have on the Spider Lake Chain, granting the request will not adversely affect the surrounding land value or adversely affect the Spider chain of lakes.

- Since the requested zoning changes meets several of the recommendations set forth in the Town's Land Use Plan, the public, and not just the property owner will benefit from the requested rezone.

The Conditional Use Permit was then considered to allow for a resort operation under section 8, 15.3:10 of the Spider Lake Zoning Ordinance.

Pursuant to Section 8.5 of the Town of Spider Lake Zoning Ordinance, the following conditions were considered for parcels 2-42-07-26-0:1.1, 2-42-07-26-2:5.1 and 2-42-07-26-2:5.2.

1. Resort use shall be in conjunction with existing Whiplash Resort, and not for the development of any new or additional resort.
2. No more than two additional twin cottages may be erected on parcels 2-42-07-26-2:5.1 and 2-42-07-26-2:5.2 in total. Said cottages shall comply with all applicable provisions of the Zoning Ordinance.
3. So long as the parcel is being utilized for resort purposes, no cottage or residence shall be constructed upon parcel 2-42-07-26-1:1.1 unless this Conditional Use Permit is amended or modified.
4. Parcel 2-42-07-26-0:1.1, if utilized for resort purposes:
 - Shall be utilized only by guests/users of Whiplash Resort.
 - Shall not be used for renting watercraft to the public, but watercraft use and activity shall be limited to guests staying at Whiplash Resort;
 - Shall not be utilized for any commercial purposes other than as an amenity for guests staying at Whiplash Resort.
 - All motorized watercraft utilized by guests of Whiplash Resort shall be launched at a public access.
5. Any requested amendment or modification of this Conditional Use Permit shall require the owner to file an application in accordance with Section 8.2 of the Zoning Ordinance. All provisions of Section 8 of the Zoning Ordinance shall apply to any requested amendment or modification of the existing Conditional Use Permit.

Motion to approve the granting of the Conditional Use Permit with the above conditions was made by Krause, seconded by Brandt. Roll Call Vote, King yes, Overman yes, Brandt yes, Promersberger yes, Krause, yes. All in favor, motion carried.

Motion to adjourn the Public Hearing was made by Brandt, seconded by King. All in favor, motion carried.