

August 01, 2013

Zoning Committee Public Hearing  
Conditional Use Permit  
Mr. B. J. McMahon

This public hearing was called to order at 1:07 p.m. by Zoning Committee Chairman Bob Schneider. This hearing has been posted and published as is required by Wis. Stats and LdF Zoning Ordinance 93-4.

Introductions were made. Zoning Committee members present were: Chairman Bob Schneider, Dan Shanahan, Janet Konopacki and Robert Milburn. Also representing the Town were Sue Ackland, Town Zoning Administrator and Teri Shaw, Zoning Committee Secretary.

Also present is Ken Wickman, from Wickman builders, Scott Harrod and B. J. McMahon. Mr. McMahon has turned in 7 green cards today.

On today's agenda is the request from Mr. B. J. McMahon for a Conditional Use Permit for an addition and basement on a non-conforming structure which does not meet the set-back requirements OTHWM on Crawling Stone Lake.

The committee has viewed the property and asked Mr. McMahon what his plans were.

Mr. Wickman, builder for the McMahon's: What we are proposing to do is to remodel and update the existing home. What we are really asking here today is to be allowed to build a basement within the 75 feet of the OHWM of Crawling Stone Lake.

Discussion took place on the location of the proposed addition and basement using the blueprints provided.

Mr. Wickman: The actual existing footprint within the 75' OHWM will not be changed at all, but behind the 75' OHWM we would like to add on approximately 400 square feet. There is a crawlspace with hardly any room on the existing structure now. We would like to use the 50% onetime

expansion allowance to build a basement. It would be well under the 50% expansion allowed. The proposed basement will be used just for mechanical purpose only. There will not be any added living space added within the 75' OHWM.

Sue Ackland discussed that the McMahon's were also going to re-pitch the roof and that this didn't fall under this CUP application, but a regular building permit she would issue separately.

Discussion took place on what going to be done with this proposed remodel and addition concerning the existing walls within and outside the 75' OHWM.

It was determined that the existing walls within the 75' OHWM must remain intact and the existing walls outside the 75' OHWM can be removed and/or modified.

Discussion took place on how the proposed cathedral ceiling would be tied into the existing walls.

Discussion took place about what the proposed addition plans were beyond the 75' OHWM.

Discussion took place in regards to the Standards Sheet and it's questions and answers.

Rob Milburn asked if there had been any correspondence or negative comments regarding this proposed project.

There was one letter received from Rick and Sue Smith, owners of Unit #3 of FishnBum Condominiums. A copy of this letter will be contained in this file.

Chairman Bob Schneider asked Sue Ackland to address the issue brought up from the Smith's letter.

Sue Ackland: When there is a CUP hearing our ordinance requires notification to any neighboring properties within 300' of property lines, but does not require notification to anyone within the 300'. That would usually be brought up at a Condo Association meeting. It was my understanding the Smith's had just found out about this hearing the week prior to the hearing itself.

Mr. McMahon denied this, stating that they had sat down with the Smith's in late June to discuss this proposed addition/basement project.

He also stated that he didn't realize that the Smith's did not receive the formal notification.

Sue Ackland went on to say that the Zoning Committee could not treat this any different than a house that was not in a condominium as far as the expansion was concerned.

Sue Ackland did talk with Greg Harrold (Town Attorney) because she felt there were some issues that the Zoning Committee did need to cover. Being a condo they are governed by State Statutes. Usually when a condo owner wishes to remodel or put on an addition it is brought to a meeting of the Condo Association or the owners of the condos. Then a form of approval such as a letter from the Condo Association is sent to the both the Vilas County and the Lac du Flambeau Zoning Administrator before they would issue the appropriate permits.

Sue Ackland went on to explain in detail the condo plat map provided and discussion took place.

Sue Ackland: If the McMahan's totally fill in the unit #1 area with their house and the unit #2 area and the existing area designated for a new house for this proposed project, that would use up all of the square footage allowed for expansion and there wouldn't be any space for the Smith's to expand if they would wish to in the future. We can't make Mr. McMahan tear down his house and we are not going to, but because it is represented on the condo plat map to be torn down, and it's really not, it's Greg Harrold's opinion that it's considered a common area. Technically, the Smith's would own 1/3 of that area as they do the regular common area, because it is represented as being removed even though it is not removed. It's a totally different plan. Greg Harrold suggests that we set having the condo plat map amended as a condition in getting this proposed CUP approved. Having the new plat map reflect what's being done today, any changes regarding the not tearing down of structures should be documented and all of the calculations revised.

It was determined that the condo Plat map would need to be amended to incorporate the existing structure in the unit #1 area as well as any additional changes that they might request before Mr. McMahan could obtain any permits to begin construction on this proposed projects.

Mr. McMahan stated that he agreed that the current condo plat map did indeed need to be amended and he understood the Smith's concerns. He already had a meeting scheduled with a surveyor to start work on the plat map.

Sue Ackland stated that while she was out at the site she noticed a covered porch on the lake side. She asked Mr. McMahon how long that it had been there?

Mr. McMahon answered that there had always been a porch there.

Sue Ackland corrected him, saying there was always a cement slab there, but did you get a permit for the covered porch?

Mr. McMahon: No, I did not.

Sue Ackland produced pictures taken in 2005 by Vilas County Zoning that shows the deck with a cement slab on one side. The covered porch appeared between 2005 and now and that it was approximately 40' from the lake. Since it was a deck in front of the house and not living space you can't build a roof over a deck. We have specific language in our ordinance concerning this. So the second condition to approving this CUP permit would have to be that the existing covered porch be removed. The decking over the cement slab must be removed down to the cement slab. If the cement slab needs to be redone we can issue a permit for that to be done.

Discussion took place on whether a permit could be issued for the covered porch as it is.

It was determined that a permit could not be issued.

Chairman Bob Schneider asked if there were any questions or concerns.

Hearing none: May I have a motion?

Rob Milburn: I make a motion to approve the CUP with the conditions as presented.

Janet Konopacki: I second the motion.

Bob Schneider: Are there any discussion on the proposed motion?

Hearing none: May I have a vote?

Dan: Accept

Rob: Accept

Bob: Accept

Jan: Accept

All in favor: Passed, with the following conditions:

1. The condo plat map would need to be amended to incorporate the existing structure in unit #1, any additional changes and revising all of the calculations as needed.
2. The existing covered porch on the lake side needs to be removed down to the original cement slab.

A motion was made by Bob Schneider and seconded by Janet Konopaki to adjourn at 1:47 pm. Motion carried.

The findings of fact will be completed.

Respectfully submitted,

Teri Shaw  
Secretary Zoning Committee

THERE IS A TAPE RECORDING OF THIS PUBLIC HEARING ON FILE AT THE TOWN OF LAC DU FLAMBEAU OFFICES.