

August 7, 2014

Zoning Committee Public Hearing
ATF two lot subdivision
Craig and Terri Foster

This public hearing was called to order at 1:00 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 Schnieder, Robert Milburn, Dedie Hansen, Janet Konopacki and Dan Shanahan. Also, present representing the Town is Sue Ackland, Town Zoning Administrator and Teri Shaw, Zoning Committee Secretary.

Also present at this time is Craig Foster and Barbara and Gus Erdmann, neighbors of Mr. Foster.

Mr. Foster has turned in 3 green cards today.

On today's agenda is the request from Mr. Foster for an after the fact two lot subdivision.

The committee has viewed the property.

Chairman Bob Schneider: Sue Ackland would like to make an opening statement before we get started today.

Sue Ackland: I haven't spoken to everyone on the Zoning Committee so I would like to at this time. Craig Foster is the property owner of the small parcel and I wanted everyone to know that this after the fact hearing was no fault of his. The previous owner subdivided this property, with his surveyor without coming to the Town. They put the property up for sale and Mr. and Mrs. Foster bought it without any knowledge of this. I wanted the Committee to know this. Mr. Foster is applying for this permit because he wants to clear all this as soon as possible. He didn't want to wait until the previous owner and/or surveyor straightened it all out.

Rob Milburn: When did the property sale take place?

Mr. Foster: We closed on June 22, 2014.

Rob Milburn: That was really recent. How did you find out things were amiss?

Mr. Foster: Well, I want to build a garage. I came in to get a building permit. Sue did some digging and discovered that the property wasn't subdivided with the correct permits. I guess it was done through Vilas County, but not through Lac du Flambeau. That's when Sue brought it to my attention.

Janet Konopacki: So, the existing home was all build when you took over?

Sue Ackland: When the Foster's called me about building a garage, I looked up the property using the computer number. I was familiar with this property. I had been out there a few years ago when the previous owner wanted to excavate down to the lake – which you are not permitted to do. I took a lot of pictures at this time. I called Vilas County to get some clarification on what exactly happened. A number of years ago this two acre section was cut out and given its own computer number, but it was for MFL. It was still one large parcel, but for tax purposes the two acre non MFL parcel was identified differently, but it wasn't subdivided. When you have a MFL property you cannot have a year around home in it. In 2013 Gary Erdmann had the surveyor draw up a plat map and subdivide the parcel.

Rob Milburn: So, who has the title to this then?

Sue Ackland: The Fosters own it.

Janet Konopacki: You own all of this, both parcels?

It was clarified that the Fosters own the smaller two acre parcel and Gary Erdmann still owns the large parcel.

Discussion took place on how this issue could happen.

Sue Ackland: Vilas County zoning doesn't acknowledge subdivisions until there are more than 3 lots. Then it goes to their Committee for review. Anything under three lots just happens, trusting that it will be done correctly. So, it was filed in Vilas County, just not in the Zoning Office, but the mapping Department instead.

Chairman Bob Schnieder: So, they can convey proper ownership of this property, correct, exclusive from any concerns from Lac du Flambeau?

Sue Ackland: Yes. I have dealt with this surveyor before. He knows that we have zoning in Lac du Flambeau, he just chooses to ignore it.

Chairman Bob Schneider asked if the Erdmann's present had any comments in regards to this.

Barbara Erdmann: No, we were notified about the hearing and thought that we would come to it and find out what was truly happening. We haven't been in close contact with Gary since he left Lac du Flambeau.

Discussion took place on who responsibility it was to obtain the correct permits and complete the proper recording of all the documents. It was determined that ultimately the property owner and the surveyor at the time are responsible for obtaining the proper permits and recording all the necessary documents.

Discussion took place on the language that is required by Lac du Flambeau zoning to be written on a subdivision plat map.

Discussion took place on how a mistake of this nature could theoretically affect a possible sale of a property.

Mr. Foster: I wanted to have this issue corrected as soon as possible. I have been reimbursed by the Erdmann's for all the fees incurred. They did so right away, which I appreciate. I wanted to make this right so I can go ahead with the permit to build my garage.

Chairman Bob Schneider asked about the road right of way maintenance agreement between the Fosters and the Erdmann's (the sellers).

Sue Ackland asked Mr. Foster if he had any type of agreement in writing in regards to the road maintenance.

Mr. Foster: There is very loose language concerning the maintenance agreement, written in the closing statement. I have to meet with Gary Erdmann in regards to this.

Chairman Bob Schneider: I advise you Mr. Foster to get something in writing as best as you can, so you don't have the hassle of who's going to pay for what. If you need to attain an attorney so be it.

Sue Ackland: That agreement will need to be recorded with the Register of Deeds and the Town of Lac du Flambeau will need a copy also.

Discussion took place on the lot lines/boundaries and the marker placements on the Foster's parcel.

Chairman Bob Schneider asked if there were any further questions or comments.

Hearing none, asked for a motion.

Rob Milburn: I make the motion to recommend that the Lac du Flambeau Town Board approve this subdivision as presented.

Janet Konopacki: I second the recommendation.

Chairman Bob Schneider asked if there were any discussion on the motion.

Hearing none, asked for a vote.

Rob Milburn: In favor.

Dedie Hanson: In favor.

Dan Shanahan: In favor.

Janet Konopacki: In favor.

Chairman Schneider: A motion has been made and passed to recommend to the Lac du Flambeau Town Board to approve this subdivision as presented.

This hearing was adjourned at 1:16 pm.

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.