

**LAKE COUNTY BOARD of ADJUSTMENT**  
**October 8, 2014**  
**Lake County Courthouse Commissioners Office (Rm 211)**  
**Meeting Minutes**

**MEMBERS PRESENT:** Sue Lavery, Paul Grinde, Don Patterson, Frank Mutch, Steve Rosso

**STAFF PRESENT:** LaDana Hintz, Robert Costa, Jacob Feistner, Lita Fonda

Sue Lavery called the meeting to order at 4:00 pm.

Sue corrected 'what resulted' to 'that result' in the second-to-last paragraph on pg. 6 of the Sept. 10, 2014 minutes. **Motion made by Don Patterson, and seconded by Paul Grinde, to approve the Sept. 10, 2014 meeting minutes as amended. Motion carried, all in favor.**

**HOLMS CONDITIONAL USE—FINLEY POINT**

Robert Costa presented the staff report. (See attachments to minutes in the Oct. 2014 meeting file for staff report.) He mentioned a public comment received yesterday that was handed out to the Board. He briefly outlined each public comment received.

Steve asked how it was determined that infiltration chambers were the only solution to the stormwater. Robert thought this was to encourage more discussion than what was proposed. If only the areas north and west of the buildings were available, they'd want to have the stormwater underground so it didn't just run off to cause further erosion. The idea to have the stormwater management underground was to prevent sheet flow. Steve thought the idea was to have more engineering done on the stormwater management, rather than to specify the technique. Robert was open to a proposal for something that demonstrated stormwater wouldn't run onto Tarrs Lane. As proposed, there were concerns from staff and neighbors.

Sue checked that the disturbance was not in putting the building up but to have room around it and to level the driveway off. Robert said this was also his understanding. It didn't look like the actual footprint of the building required much leveling.

Johna Morrison (of Carstens) spoke on behalf of the applicant. She introduced Stacey Doney, who was the contractor. The applicant could not be here today. Regarding the drainfield replacement area, she submitted that to Sanitation. It crossed paths with the staff report. For the stormwater runoff, they were okay with infiltrators. Those were probably one of the easiest things to design without involving an engineer. She spoke to Charlie Deschamp, whose email had been presented. He called her office today. She wasn't saying he was for or against the project. He was a little confused about the layout. They talked about where the driveway was going. He didn't seem to have an objection. He had thought they were going to put this down by the lake. She told him it was 47 feet from his property line. He had the property to the north.

Paul asked about the replacement drainfields. Johna said they found room and described a spot between the house and Tarrs Lane. She'd been asked for a 30-foot by 30-foot spot and she gave them one that was 30 feet by 30 plus.

Steve asked for clarification on the disturbed areas on the attachment 5 drawing. Johna referred to the drawing below the top one. The areas disturbed with slopes over 25% were the darker red hatch. The areas of 25% that would not be disturbed were lighter. Steve asked if there was disturbance on the west side of the building by Tarrs Lane. Johna confirmed there was a little bit there that was just barely 25%. That should have been hatched also. Steve confirmed with Johna there would be disturbance for the driveway off of Tarrs Lane. He asked about the arced line on the east side of the hatched area, which looked almost purple. Was that the retaining wall location? Johna pointed out where the retaining wall would be. She checked on the color, which she referred to as red hatch, for slopes disturbed over 25%. She showed the areas of 25% and a small area inside the driveway that should have been hatched 'purple'.

Steve moved to the location drawing in attachment 1. Places were shown where a road or driveway crossed the property. Robert explained that the intent of attachment 1 was to show the property location. It was hard to say what these roads were, and what their legality was, so that might not be a good focus. Steve confirmed with Johna that Tarrs Lane crossed the property. .

*Public comment opened:*

Dean Morris: He was the closest property owner to this building on Tarrs Lane. The property owner told him the building was being constructed to restore cars. The owner had a car collection. It was going to be a large, industrial building where the owner would be doing auto repair work. He didn't think that was conducive to this neighborhood, which was in a quiet recreational area. There were future clients for more garages along this road. They could wake up one day with a light industrial area right in the heart of Finley Point. He thought that would have a negative impact on property values as well as being able to utilize and enjoy their property without hearing car repair, such as sanding and compressors. The runoff was the other thing. If automotive repair work was being done, fuel and chemicals as well as water could potentially run off onto this property and the other properties. He thought it was a huge industrial metal building for constant auto repair work. It was his second home. Other people had lived there for 40 years and lived there year-round. They would have to listen to this whenever the homeowner felt like working on his cars.

Gehrand Bechard: He was also an adjacent property owner and thought the runoff was a great issue. From the county road almost to the applicant's property, Tarrs Lane was currently receiving significant erosion. The runoff from this building would be a major amount. It was an alluvial plain out there. Damage could occur in a short period of time. Some sort of retention basin needed to be put there to keep the water from crossing Tarrs Lane. The applicant's home was below the building so the applicant himself might be inundated with water. He spoke about the roads. For almost 90 years, Tarrs Lane was

the only road shown on the Finley Point map. Most of those roads had been there in excess of 90 years. There was no question on the legality of the roads; they were where they were. He talked about John Adams and property rights. The owner could do what he wanted as long as he stayed within the boundaries of the zoning and development laws. It was hard for him to say the owner couldn't do this but he shared the previous speaker's concerns on the size of the shop. It was a major construction and structure in a very tightly knit little community. To do car repair and restoration there concerned him. He didn't want to see a commercial entity there and was concerned that the owner would work his way up to that. Restoring cars wasn't a simple thing. It was loud. This was a quiet neighborhood. His objection would be that this didn't turn into a commercial entity

*Public comment closed.*

Don referred to pg. 13 where it indicated that the garage was intended to store boats, cars and jet skis. It didn't talk about repairing or restoring cars except through conversations that the individual had. This apparently didn't say what intent was. He was concerned about that. Sue was also concerned. A garage for storage was one thing. If it was intended for some sort of industrial use, that would concern her. Without it being in writing, it was hearsay. Paul asked how staff would respond to that. This was his concern also. Robert said this didn't sound like a commercial use, which was an activity where someone could pull up into that shop, pay money and get a car serviced. The application didn't mention whether or not there would be a hobby car use here. The conditional use was for disturbance of slopes. It was a very large structure. If they were talking about someone's private property and he was maintaining it, there wasn't much they could do if the use complied. It seemed to be an accessory use to the main use of the property which was residential. With the exception of how much impervious surface coverage the property was allowed, there wasn't much he could do to restrict the size. This fit with the impervious surface allowed.

Sue checked that this district currently had no industrial or commercial uses without a conditional use. Robert said there were certain areas where you had to obtain a conditional use for commercial activity. Sue asked about industrial activity. She thought that while it didn't fall under the definition of commercial, like with any hobby, if it brought in things like flammable materials, it could be more hazardous. LaDana said people did that regularly. She had gas in her garage. The applicant said what he was going to use this for. He said it was a shop for residential use. They didn't have anything in writing that said he was proposing something else. She reiterated that they were looking at the slope disturbance.

Steve thought there might be regulations in the zoning district that limited noise or lighting or other kinds of activities. If this owner used this facility in violation of those rules, the neighbors would have to take him to task on that. As far as whether he could build a building, that was the issue here. Robert said the building was about 3000 square feet, in response to Steve's question. Steve continued that there were a lot of houses built on 125-foot wide lots around the lake that were a lot bigger than this. Looking at the plan, it didn't stand out to him. There were a lot of bigger buildings on smaller lots. This

was well under the impervious surface limit. He didn't see where they could limit this proposed use.

Frank agreed with Gehrand Bechard on private property. He also agreed with the zoning regulations. They were established as they were. It had been a painful process to get them where they were. He'd been involved with that since the beginning. It was reasonable for people to have knowledge of their rights and limits. He was in favor of getting along with neighbors. He assumed the garage was probably insulated. Most people worked inside a garage with doors closed. He didn't think noise was the big issue. He saw it as a hobbyist who would work on one car and maybe store his collection. Frank had a Model A he'd been working on since 1956 as his form of recreation. He sometimes made a lot of noise. Sometimes when his neighbors were there, he toned it down. In terms of noise, they had fireworks in the summer, boats with boom boxes and other noise he didn't like. He would rather err on the side of freedom for the property owner, and work out issues as neighbors and friends. He didn't see anything in the Finley Point regulations that would prohibit this. Mitigating factors that defined use were lengthy and restrictive. There was remedy if it became an industrial use. Industrial uses were prohibited. This could be a problem for neighbor relations. He didn't see something in the rules that would restrict it. Regarding the road, that wasn't a zoning issue. If there was an intrusion on the road, that also could be remedied but it was not an issue for this Board.

Sue verified with Robert that the building was understood to be dry. Johna noted there was a well outside. They might haul in a bucket of water.

On condition #5, pg. 20, Steve suggested a change in the second line. Where it said 'incorporates', he would *replace 'incorporates' with 'better demonstrates how the plan manages stormwater, possibly by including'*.

**Motion made by Paul Grinde, and seconded by Frank Mutch, to approve the conditional use with staff findings of fact and recommendations and the amendment to condition #5. Motion carried, all in favor.**

**WYRICK DENSITY VARIANCE (4:35 pm)**

Robert Costa presented the staff report. (See attachments to minutes in the Oct. 2014 meeting file for staff report.)

Sue asked for clarification on the number of units if there were two structures with piped water. Robert clarified that a house and guest house were considered one unit even though each might be piped with water. If the guest house became a main residence, this became two units. Sue asked if a house stopped being used as a guest house, how did it become an accessory building if it was already a guest house. Robert said that in a sense, a guest house was an accessory building.

Steve thought they were looking at a variance to allow more dwellings than a house and a guest house. In the end, there would be three places: two dwellings and one guest house.

Based on the wording of the affidavit, it sounded like you couldn't have someone living full-time in both the cabin by the lake and in the new house. Robert said full time use would be restricted to one of the piped structures. He clarified by considering the three structures with piped water supply. During use of the property at any one time, one had to be used as a house, one had to be used as a guest house and one had to be used as an accessory outbuilding. For the structure they'd been calling an accessory outbuilding with guest quarters, as long as they didn't use the living quarters, they could still use the building. LaDana compared this to Board approvals for someone's parent to live on the property so they could care for them. This one was a little different. Under those, these conditions were put on, especially the deed restriction that limited the use of it. The same kind of situation was set up here.

Steve asked about the wording in #5 on pg. 8 of the staff report. Robert explained that he was presenting information to the Board rather than reading straight from the staff report when he talked about that. Steve thought it was important to make a distinction that the rule on which this was based was the historical interpretation rather than a quote from the regulations. LaDana added it was a grey area; this has been the interpretation for 10 years. This Board had made decisions based on that. Robert noted that [the historical interpretation] was part of the record. Steve wondered if they could add the historical interpretation or if this was described in the conditions; he just wanted to point that out.

Frank asked what happened to the deed restriction if the density regulations changed to become more lenient. Robert referred to attachment 3. The agreement could be amended or removed. It allowed for flexibility there.

Ken GaleWyrick spoke on behalf of his application. He explained his family's situation. They decided they needed someone there year-round. The lake place wasn't accessible in the winter. The lot went over the top of White Swan. It was level and the road went up there. It was an easy place to develop a structure. The subdividing rules were too onerous to divide so this was the next option.

Sue asked why they needed another guest house if the lake house was going to be designated as such. Ken replied they could do that now without a variance. It didn't seem quite honest. In the summer the lake house had a lot of traffic. They'd also like to have a shop building near the house. They would like that to be a guest house so guests could stay on top of the hill with them since it was quite a hike down to the lake.

Robert confirmed with Ken that he'd had a chance to read through the second dwelling compliance affidavit and that he didn't have concerns.

*Public comment opened:*

David Graham: He didn't know how he could make a road that would get to existing house in winter. It was really steep.

*Public comment closed.*

Steve said the property had 4.5 acres. The density was 1.5 acre per unit. He thought this was a proper use. The density would be less than the limits. He didn't see an issue.

Paul was familiar with the property and had worked on White Swan over the years. If they wanted to live out there during the winter, [the proposed spot] was the only place to be. Sue said it made sense to her. Her only question was about having two guest houses piped with water. The affidavit might solve her issues with it. Steve thought the cabin water would not be running in winter.

**Motion made by Paul Grinde, and seconded by Don Patterson, to approve the variance with staff recommendations and findings of fact. Motion carried, all in favor.**

Robert checked with the applicants that they would work with Environmental Health to get their wastewater treatment permit.

**OTHER BUSINESS (4:54 pm)**

At least one item had come in so far for next month.

**Sue Laverty, chair, adjourned the meeting at 4:55 pm.**