

**LAKE COUNTY BOARD of ADJUSTMENT**  
**April 9, 2008**  
**Meeting Minutes**

**MEMBERS PRESENT:** Jack Meuli, Tim McGinnis, Mike Marchetti, Sue Laverty

**STAFF PRESENT:** Sue Shannon, Joel Nelson, LaDana Hintz, Lita Fonda

Tim McGinnis called the meeting to order at 4:00 pm.

**Motion made by Jack Meuli and seconded by Mike Marchetti to approve the March 12, 2008 meeting minutes as written. Motion carried, 3 in favor (Jack Meuli, Tim McGinnis, Mike Marchetti) and one abstention (Sue Laverty).**

**SMITH CONDITIONAL USE**

Joel Nelson presented the staff report.

Tim asked if ground composition was usually considered. Joel replied the soil type would be looked at for stormwater management plans.

The applicants had no comment.

**Motion made by Jack Meuli, and seconded by Mike Marchetti to approve the application with the staff recommendations. Motion carried, all in favor.**

**SLACK/FISHER APPEAL**

Sue Shannon presented the staff report. She noted the notification of violation was issued on February 13, 2008. She noted the additional public comment received since the staff report was completed. Two of the letters had already been forwarded to the Board on Friday, April 4, and nine more had been received since, 6 of which arrived with sufficient time to read prior to the meeting. Five of the 6 supported reinstatement of the permit. The 6<sup>th</sup> opposed reinstatement. She noted that the Slacks requested that the letters submitted by their attorney, which were included in the packet, be recognized on the record as public comment. Sue L confirmed with Sue S that the items listed on pg. 6 for the Board to decide should each be addressed individually.

Bob Long spoke on behalf of those appealing. He respectfully disagreed with the zoning administrator's conclusions regarding the application of section 3C of the zoning regulations. He said she interpreted this to mean the preexisting use was destroyed or terminated as a result of the destruction of the wood in the building in the remodel. This was a building decision made because of the deteriorating condition of the wood, and brought no advantage to the applicants. He thought the application of section 3C was unfair and unreasonable. At the very least, section 3C contains language that requires a reasonable variance for preexisting uses and sites. The remedy proposed was extremely harsh without room to consider that this Board has granted a building permit to do what the Slacks were doing when shut down. The only issue that arose was that existing wood on a 60-year old structure was removed because it wasn't usable. He

prompted Jeff Fisher, the general contractor, about specifics. Jeff said the wood was removed on Saturday, not Sunday. The building was lifted to add the new foundation. Three walls remained. They looked at photos. Tim asked about the timeline, and when they decided to totally dismantle the building. Jeff thought this was Sat, Feb 8. Tim asked if this was what it looked like on 1/14. Jeff thought it probably looked like that on Feb. 7. He said the old foundation was crumbled. The building was lifted to put in the new foundation sometime in December. They were approved for a two-story building so they took the roof off. The north end was expanded so those walls wouldn't fit it. They lifted the house up and put in the basement and new floor. The walls were to be set to the new line, a foot from the original location. As they took the walls apart, there was nothing left. The carpenter ants had eaten the studs. They either stopped and shut the project down and that's where they were. Bob L showed wood to the Board. Jeff said the house would not have stood without the siding. He responded to Bob that it was probably impossible to incorporate the wood into the house. The majority of the good wood was saved, and they could put some of that into the new structure, if that accomplished something. He said it was the footprint and height approved, and that they were following the guidelines required by the Board.

Tim asked about the photographs. There was snow cover and blue tarps in the photos. Jeff said there were materials stored in there that come out of the house. The photos were further discussed at the desk. Tim confirmed with Jeff that this was 1/14, but Jeff did not decide it was unsalvageable until February.

Jack asked if in the permit, 60% was required to stay up or not. Jeff said when they talked to Sue, she said 'We would like you to keep 51%...' not that they had to. He said she stated in the letter that they had to keep 60% or 40%. Jack remembered the permit given, as with the permit normally given on these rebuildings that aren't right to start with, because you're grandfathered in, you are supposed to keep a percentage. When they came to this deal where the structure was non-doable, they were in violation of their permit to tear it down. Shouldn't they have done something else other than just tear it down? Jeff thought that was why they were going to save some of the wood and put it back. Jeff asked how to keep the old structure and still maintain a foot back on a good portion of it that was required by the permit. To do so they had to take the walls apart and move them, and when they got to that point, they weren't usable. On that Saturday, their goal was to take the 3 remaining walls off the floor and stand them to the side so they could incorporate them into the plan.

Mike asked if they made an attempt to talk with Planning once they knew the walls weren't sound to rebuild with. Jeff said it was Saturday at noon, snowing hard and the walls literally fell over when the siding was removed. Mike said then they made no attempt to talk to Planning. Jeff said this happened on Saturday afternoon, and they were shut down on Monday morning. Jack pointed out someone called Planning. Jeff said in his opinion, it would have been probably 6 weeks to 2 months if he'd come back to do the thing. Jack pointed out it might have been quicker than going through a violation.

Tim asked what the purpose of the letter from Complete Pest Services. It was not about this particular property; it's just carpenter ants in general. Bob said they wanted the Board to understand the wood was in poor condition. Sue L also thought it was general. Tim read

portions of the letter, which defined what carpenter ants do. Bob affirmed the point was one cannot tell how damaged the structure was until the walls are torn open or a beam cut. He offered for the Slacks to explain the history of 36 years with the ant problem. Tim said they couldn't really say they didn't know there was an ant problem. Another letter from Jill Adams says the infestation was so severe they were able to hear the ants in the walls. If you know that's happening and that there is an infestation, why would you not bring that up with your contractor and with the Planning Department as a potential problem, instead of suddenly after it's been up, and totally exposed, on a Saturday to say there's an ant problem and it has to be torn down?

Bob said the money spent to elevate the structure should indicate they had no intent to just get rid of it, until it became a serious problem. He guessed that everyone had gotten an education on their end about when you hear ants, it's not a small matter and you've got some serious problems. He didn't think the connection was made, to anticipate the damage and this problem. He reiterated his point that they had terrible wood, it was a surprise and Jeff Fisher made his decision, and that he wanted them to consider section 3C. There was no intent to terminate or jeopardize the use, and there was no attempt to hide something. He asked Anne Rees, the Slack's daughter-in-law, to comment.

Anne Rees said it's been uncontested the wood was in terrible shape. The Slacks spent a lot of time and money battling the ants. They made serious efforts to use the original structure. The home under construction conformed to the Board's prior approval and also Planning's prior approval of November. They didn't try to frame around the unusable wood. They'd already improved the foundation and constructed floor area, and done some framing. She thought the construction provision was a vague provision that talks about destruction of floor area, and she wasn't sure what that translated to. She mentioned housekeeping issues, which were not directly an issue here. They talked with Valley Landscaping about restoring disturbed areas, and with architect Ken Williams who was willing to serve as a 3<sup>rd</sup> party monitor to make sure the project conforms to the conditions placed on the permit and to the regulations. The letters of support to the Board reflect the Slacks have been good neighbors, and they intend to repair relationships that have been affected by this as the project moves forward.

*Other public comment:*

Gale Lewis: He worked on the planning and development of the Upper West Shore zoning regulations. They made sure with the rules that nonconforming structures would not become larger or drastically changed. He's watched the construction and listened to the meeting today. He saw no deceit intended. He'd been in building, and you know when you look at a building if the carpenter ants have been in there, without removing the siding. The neighbor to the Slack's south applied for a permit to remodel a cabin and incorporate it into a building, which was a nice little place. He thought maybe the architect didn't do a good job in this case. He opposed letting them go ahead with the structure. They broke the law. They knew what they were required to do. To tear it down on a Saturday, of course the office was closed. The people of Rollins were watching, and that's why Planning knew immediately on Monday. He thought the work done should be removed.

Denise Peterson: She and her siblings own an adjoining property, and she spoke on their behalf. She thought the Slacks had been there 38 years. She was appalled at what happened. She

thought the Slacks should have come before the Board immediately and worked with them to revise the plans. When they put in the daylight basement, that wasn't just pouring the foundation. She verified the Board had her comments and accompanying materials, which she overviewed. The garage across the road was not what was approved a year ago. It now has huge picture windows and has 1064 square feet on the second floor. They were told the Slacks didn't want to finish this, that they want to go up a third floor. They were told a year ago this project wouldn't impair the view. With the elevation done so far, if the house has the same kind of roof as the garage, views will be impeded. She asked the Board to uphold the zoning administrator's revocation of the permit and the order for activity to cease. She did want the Slacks to come back to the Board and apply for a new permit, with the structures that were in place, with the instruction that they would be limited in their remodel in their reconstruction to the 2 floors, which would be 2300 square feet right there, which exceeded the square footage they applied for in their initial remodel. She asked to suspend the decision to remove all of this until they've had an opportunity to apply and demonstrate they will satisfy federal, state and county regulations. She thought it was obvious from the pictures that this was a new construction rather than a remodel that they probably would not be able to do if they hadn't started out with plans to remodel. They wanted the Slacks to have their house. They thought a 3<sup>rd</sup> story would be excessive. She noted the grandchildren have a parcel down the road. The Slacks have 9 parcels in Lake County, including 2 places south of her, with 184' of frontage.

Tim: He asked about the other signatures on her letter.

Denise: Her sister, Kathryn Hyde is here. Robert Peterson is her brother, and Mary Karen Giuliani is her sister.

George Orcheveck (sp?): He rented property from the Slacks. They never tried to deceive him, and always gave him more than he expected. He vouched for their character and their ability to aesthetically improve and environment.

Lynn Weaver: If you had a structure like the Slacks, and were unlucky enough for it to burn down, you would have to rebuild it under current zoning regulations. He thought construction done at this point should have to meet the current regulations, since they intentionally removed the house.

Joyce Funda: She thought major consideration should be given to the point that when the permit was issued last year, the staff report stated the residence was a non-conforming building. The submitted plans were scaled back and modified before the conditional permit was granted. Since then, the work exceeded what the permit allowed. She felt people should utilize their homes or land to their best benefit so long as it complied with the regulations of Lake County, the Lake County Growth Policy and the zoning in Rollins. She's seen frequent situations where builders, owners, residents or developers will agree to or be granted conditional uses or conditions to get something, and then resort to 'self-help'. It is a vexing problem. Enforcement is difficult. She asked that the Slacks be afforded the opportunity to build on their property, but in conformity with a conditional permit, the permit regulations, the zoning, the lake, etc, and not to resort to 'self-help' and take it upon themselves to rebuild in a manner that was not approved by the Board.

Sue S: She corrected an earlier statement by Bob Long. He said she told them to incorporate the wood into the new house. This is not a true statement. That was part of their proposed plan and application to utilize the existing structure. Also, Jeff Fisher said the permit required that they move the structure one foot. This also was not a true statement. That was something they proposed in their application, that they were going to utilize that existing structure. It was not a requirement of the Planning Dept or the Board of Adjustment approval.

Bob Long: He apologized if that was incorrect. His point was if they had incorporated it, this wouldn't be under discussion today. He wanted to avoid form over substance. What's the difference between incorporating it and moving it? There wasn't evidence the house that was going up deviated from the footprint or size of what was approved. The foundation was as approved. They made improvements from the road setback. It would be an improvement to the neighborhood. He showed the Board pictures that were taken today to address Denise Peterson's concerns. There was no evidence of a deviation from the plan, other than the wood being removed. He thought the house involved a modest expansion from 870 to 1126 square feet. The only buildable spot on the lot is the one the house is being built upon. If the house burned down, they'd get this house, because this Board already approved this house. He read portions from the regulations. If you want to look at this as a variance situation, the Board has already found this house is acceptable. If this house was destroyed, they'd just have to refer to the Board's prior approval as evidence of what was reasonable. He reiterated his earlier comments.

Anne Rees: She pointed out in the staff report on the variance/conditional use approval, it first noted a recommended condition that the remodeled/expanded residential structure shall be 15' or more from the current driving surface of Rollins-Lakeshore Drive. The report also notes the structure comes as close as 14' to the road. They understood it to be that pushing that back was part of the conditions placed on the project. The plans approved by the Planning Dept. in the fall show the unfinished basement plan with the walls and doors in place, and do show the 3 floors of the structure. It was consistent with what was approved.

Kathy Hyde: It bothered her that the 3/07 plans were not the plans submitted in 11/07. They were given a chance to comment on the March plans but not the November plans. She understood the septic system was for a 3-bedroom house. The unfinished basement with plumbing is 1174, as is the main floor, and the upper story is 650 for 3000 square feet. It would block their view somewhat from their cabin built in 1954. A couple feet made a difference in this case. She understood in March this was a modest remodel. This did not seem modest to her. The storage room over the garage was another 1064 square feet with large windows and to her this was another living area, for a total to 4000 square feet.

Gale Lewis: He asked if the Slacks were willing to put on paper that they would not finish that basement and put a bathroom there. He thought the basement would be finished before the house.

Jerry Slack: The drainfield is predicated on the number of bedrooms, not the square footage. He could sign something if it would make Gale Lewis happy. The basement was originally designed to put in the water purifier, hot water tank, pressure tank, and to store different water toys. This

was not an architectural committee. The footprint was already approved once, and so was the height.

Karen Slack: They don't plan to finish the basement. They were willing to sign something saying the basement will stay as it is. The house was their dream. They weren't deceptive. Other people have only kept a fireplace. They tried to utilize some of the house. She was willing to put the lumber back piece by piece if they have to do that. They didn't know the house came down until it was down. She offered to read a letter from her son.

Tim: The letter was in the packet.

Sue S: The November plans show a basement. They also show a different side elevation. When you compare the March and November plans, it appears there was potentially a lot of excavation that occurred to dig the basement. The zoning regulations do require a conditional use for excavation of slopes greater than 25% within 300 feet of the lake, if it's over 500 square feet. She didn't know if this occurred or not, but it wasn't in the permit.

Mike: The garage looked like it has changed significantly in the drawings. He wasn't sure about the elevation, but there were no windows placed in there. Was the upper space of the garage intended now for a living area? Was there plumbing?

Jerry: They have a garage, car and boat storage below. He wanted a storage room and a shop, and intended to put in a bathroom.

Joyce: She was concerned about the precedential value in a decision by this Board to endorse 'self-help'. One issue in Lake County is that development is happening quickly. There were regulations and policies carefully considered to balance the rights of the people and the communities. The County had an obligation for oversight. She asked why people who were experienced landowners and landlords would resort to a drastic remedy such as obtaining a conditional use permit and then deliberately doing something contrary to the terms without coming back to the Planning Dept to ascertain if they were doing it correctly. She was concerned that permitting what had occurred to go forward would set a precedent. She suggested that if Jerry and Karen were going to build this, they had an obligation as homeowners living in a zoned district to do things in the proper way and not resort to 'self-help'. She took issue with the comments made on the house burning down. If it were to burn down, they would be obligated to build according to the current regulations. This was a compliance issue. When something was issued, compliance should be expected. If there were not compliance, then there would be consequences. She was concerned about precedence. She also inquired if the house was 1 foot further from the road, if it were then one foot closer to the lake.

Bob: The comments made were well taken, and the rules ought to be followed. If this were a case where a clear rule was broken, those points would be valid. A clear rule had not been broken, looking at the zoning conformance permit. The zoning administrator would have sited a rule broken. The only rule sited was the structure was destroyed. He reiterated this was a misreading of the section, and it was extremely harsh.

Mike: On 10/25/07, did not Planning meet with the Slacks and Jeff Fisher, and talked about what a non-conforming structure was and talked about what remodeling was, and the amounts and percentages involved in this? It's in the documentation.

Jeff Fisher: He said Sue's exact words were 'we would like you to keep 50%' of the old structure. Alex, their first planner, said to move the building in one foot from the road. They were now one foot further from the lake than the old house was. They fit within the footprint that Alex requested. He was saying they couldn't remodel if they had a nonconforming structure. He reiterated his earlier comments. On that Saturday, they were going to keep the project moving and adjust those walls in the 1' required by Alex in the first meeting, which was in the requirement. Sue wouldn't give them a permit until the elevations in the drawings matched the 1'. It took awhile to get the drawing.

Sue S: She did not say 'we would like'. She enforces the regulations, and does not impose what she would like on people's property. Regarding the 1', in her mind, that was going to be a portion of the structure removed.

Mike: He kept looking at this project. Why would they lift up the building on a 70-year old structure? Any builder would have said to rebuild, unless there was a legitimate cause and reason. He thought on 10/25, staff or Board made it perfectly clear that a remodel meant certain specifications and you had to do this and you had to save the structure. That's why the structure was lifted and the foundation rebuilt. That's very clear. What happened in February is another story. He thought there was a violation to the permit given. Whoever did that act caused that violation. That's what the Board was dealing with today.

John Gordon: He looked at the permit. It said nothing about maintaining the existing building. Maybe that was part of the discussion. He also didn't see that if the existing building could not be maintained to 51%, you must come back in and get someone to say you can do this. The regulations didn't say that either. If there was a violation, he'd like to know where it said that.

*Public comment closed.*

Sue L said property owners came to the Board and asked for a conditional use and variance for a permit for one thing. Things changed. Permission was given to build a garage with storage space, which now appeared to be a garage with very nice storage space above it, which is irrelevant to square footage and septic. It seemed like things really changed since the Board was asked for items, which they discussed at length. The Board granted the request. She had been concerned about setting a precedent at the time, and was told these remodels were typical for that area. It seemed like now everything was totally different than what came to this Board in the first place. The actual plans were not before the Board. Those were up to the Planning Dept, and those were approved. What was presented to the Board seems like it wasn't happening now. A remodel is not happening. A tear-down and rebuild is what's happening.

Jack agreed with Sue. The big difference in here was if you remodel on a grandfathered use, you could expand a little. If you rebuild on it, you can't. He thought that was why the Board went for the remodel. Suddenly, they changed it. Sue said it was too bad the wood was rotted, but

one would think that would be known at some point along the road to be able to contact the Planning Department. Even the day it was torn down, they could have waited 48 hours to contact the Planning Dept. about what to do now. This was not what was presented to the Board last year.

Tim read the points for Board action listed on pg. 6 of the staff report.

**Motion made by Jack Meuli, and seconded by Sue Lavery to agree to uphold 1-a, the Zoning Administrator's decision to order that all construction activity on the subject property must cease and desist. Motion carried, all in favor.**

**Motion made by Jack Meuli, and seconded by Mike Marchetti to agree to uphold 1-b, the Zoning Administrator's decision to revoke UWS permit #07-04b. Motion carried, all in favor.**

Regarding the removal of the improvements associated with the permit within 30 days, Sue L asked if they could get a permit to build a home there. Sue S explained they could apply. It would be the Board's jurisdiction as a variance/conditional use situation. She needed to set a deadline there, so she'd put 30 days. Jack asked what a reasonable amount of time for them to reapply and go through the process would be. Mike noted that item e is for resubmission. If the Board approved a permit, there's no issue with that. If the Board disapproved a permit or variance, they could set a time for when the improvements would have to be removed from the property then. Item c could be reworded to talk about a date after the Board revisits the variance. Sue S suggested wording such as unless an application to construct in the same location is submitted to the Planning Dept within 6 months, the improvements associated with the permit shall be removed within 7 months.

**Motion made by Jack Meuli, and seconded by Mike Marchetti, to modify the Zoning Administrator's decision of 1-c such that unless an application to construct in the same location is submitted to the Planning Dept within 6 months, the improvements associated with the permit shall be removed within 7 months. Motion carried, all in favor.**

**Motion made by Sue Lavery, and seconded by Jack Meuli to agree to uphold 1-d, the Zoning Administrator's decision to order payment of an administrative penalty of \$500. Motion carried, all in favor.**

**Motion made by Mike Marchetti, and seconded by Jack Meuli to agree to uphold 1-e, the Zoning Administrator's decision to order that the landowner, and the designated agent performing the work, apply for and receive a zoning conformance permit from the Lake County Planning Dept prior to additional work on the subject property. Motion carried, all in favor.**

#### **JOHNSON VARIANCE**

Sue Shannon presented the staff report. She corrected the amount of outdoor area listed on page 1 in the 'Proposal' section to 280 square feet of outdoor area. Additional public comment was received after the staff report was completed. One letter was sent to the Board on April 4. Six

additional letters were received since and were provided for the Board. She summarized those that arrived with sufficient time to read. A phone call was also received. The caller asked the applicant be required to define the bar, as beer and wine or a full liquor license, and also asked that the applicant speak about whether or not gaming machines would be allowed in the restaurant. Sue emphasized the 12 additional seats were proposed for the restaurant, not gaming machines. She updated the recommended condition #4 (pg. 13) so its last sentence would read, "The expansion of use is limited to 12 additional table seats, one restroom and one bar with no seating." She noted on #17 (pg. 14) the 3-year timeframe was an arbitrary number. She felt it would give them adequate timeframe to submit to DEQ. Sometimes it can take a while to get the DEQ stuff together.

Tim confirmed with Sue S that the Upper West Shore zoning district didn't discuss businesses that serve alcohol other than discussion of general compatibility. He asked why seats were not at the bar. Sue S replied that this was not what was proposed. She wanted to make sure that what's proposed is what's approved. Sue L asked for a clarification of 'bar'. Sue explained the applicants said it was a bar and they indicated they intended to serve alcohol. She also shared some photos of the property, and the RV park design with the Board. The home and restaurant weren't on the approved layout.

Sandy Johnson spoke on behalf of her application. She agreed with the staff proposals except for 2 things. When they bought the RV park in 2004, the house, restaurant and RV park were there, as well as the restroom/shower house. Now she's being told the house and restaurant are not associated with the RV park. She was being required to put this together, and she agreed it should be together. Originally the drive-in was built around 1987 and was only run in the summertime. In 1997, the Barnes (the owners at the time) added on the seating. They would have gone through the Planning Board and Environmental Health, but there's no record of the seating being added in 1997. With the DEQ, she'd have to review the water and septic for the entire RV park in order to get the permit to add to the restaurant. The RV park and restaurant weren't tied. She knew she had to redo the septic for the restaurant and have that engineered. She didn't understand why she had to look at the whole RV park to add a 672 square foot addition to her restaurant.

They did intend to apply for a liquor/gaming permit. They did not intend to have a bar, other than an area to walk behind to mix a beverage or grab a beer for someone who's eating. She didn't want the bar scene or people who sit around in a bar all afternoon. She wanted people to come into her family restaurant, eat a meal and have a drink in the evening with their meal if they choose to have one. Gaming and liquor permits go hand-in-hand with the state, and they'd probably have gaming. The approval of the restaurant addition didn't have anything to do with the gaming/alcohol permit because that's a state issue. There are 12 rural licenses available in Lake County, where you have to be 6 miles away from an incorporated city.

Tim asked if they'd applied for the liquor/gaming permit. Sandy replied that they were very close to sending it in. Tim asked if she was comfortable calling the bar a service bar, which has the connotation of not having patrons at it, more like a wait station. Sandy agreed. The bar would be built in, but no seating, and 'service bar' would be great.

Jack asked if the Johnsons bought the RV park, restaurant and everything together. Sandy affirmed. She reiterated that it wasn't put together in the file, which she had been through. It should have been put together a few owners ago. Jack knew there was a change of business there because a prior owner had to get a permit to put in the miniature golf course. He remembered that coming before the Board. Sandy hadn't seen paperwork on that either. She thought it would take time to get everything together, and didn't want it to hold up the permit. Sue S said it was difficult when requests come in and the information wasn't together.

Sue S mentioned the gaming was not addressed in terms of parking or DEQ. Sandy said they would increase the seating by 12 seats. If 6 were for gaming, the 6 would be for the restaurant. Tim said the gambling division required that there be a floor plan map. Sue S said she didn't have that. Tables and seating are not shown. Sandy said they might come back and ask her for that. She didn't have that.

Sue S touched on conditions # 10 and #11. #10 is the DEQ approval and #11 is the subdivision approval. Sandy J read a portion of #10. She felt is pushed towards subdivision review-type things.

Jack confirmed with Sandy that the RV park was on a separate sewage system from the restaurant. Sandy thought in 1981, every 6 sites had to have a septic tank so there were 8 or 9 tanks on the property. Jack thought they'd have to come up with a septic system for the restaurant. Sue S said the DEQ approval for the property didn't recognize or address the restaurant or the house on the property. They're trying to get DEQ to address this, probably with the drainfield expansion for restaurant expansion. Sue S referred to the letter from Susan Brueggeman's letter, attached to the report.

*Public comment opened:*

Christine Cook: She's a Rollins resident, and thought to apply to extend the dining facility and hours was a great idea. A bar was mentioned in the application but wasn't defined. Now it's included gaming, which is about more for the community. She's on the Fire Dept and heads traffic control for Rollins Fire. The approach there is a 70 mph stretch of highway. In Lakeside where the bars are, the speed limit is 35 mph. At Lake Mary Ronan, it's 15 or 20 mph. In Dayton at the Idle Spur, she thought the speed limit was 35 mph. This was looking at a lot of serious entering onto the highway, which is at 70 mph. There's a left turn lane coming from the south, which is protected. Going south, there's room to pull over to exit, but entering is a concern. Alcohol and gaming weren't hand-in-hand. She talked to the Dept of Revenue. You could apply for just a liquor license. If you also applied for a gaming license, the liquor and gaming would work hand-in-hand in approving that licensing, but applying for one doesn't mean you automatically apply for the other. From the application, they thought it was just a liquor license, since there was no seating for a bar, but now they have seats for the gaming machines, since people won't play standing. If you took away the 6 seats for the dining, how much was the dining room really expanding? She thought this was a conflict of permit language and what was really being sought. She felt they needed to be up front and know what was being approved for their community. She said the Sheriff's office doesn't regularly patrol up to Rollins. If gaming and a bar were installed, they would patrol on a more regular basis, which was an additional

expense to the County. The business was changing. It was originally a mobile home park, then an RV park with a drive-in food thing, then eatery, which had now become an application for liquor and gaming. She felt the community needed to evaluate that this could make a major change in the environment of the community. She checked with Sue S whether the additional parking would be paved, given a requirement for striping.

Sue S: Gravel was proposed. She thanked Christine for pointing that out.

Christine C: She thought gravel was okay.

Dean Conklin: He understood that property grandfathered when the 1994 zoning regulations went into the district said that you were being allowed to do something that you wouldn't be allowed to do if you were starting from scratch after the zoning regulations were imposed. This eatery and the RV park have grandfathered status. He felt the request expanded beyond what was grandfathered. He didn't understand the whole scheme with the current application. He felt there would be one slice of expansion done at a time. The first slice was the expansion of the restaurant, to which he had no objection. Sandy had done a great job of customer service, which he appreciated. He was concerned about a precedence being set with impervious areas. As president of the Shelter Bay Landowners, he was here for the Cicon variance. Cicon was required to put in an area where runoff could accumulate on his property, and wasn't allowed to use land in the setbacks or the barrow pit along the edge of the road. He saw this application as wanting to use not only the setback but of the state's barrow pit as a runoff place. There was one reference to a bar in the application. Sandy had said their intent was to get a bar license and gaming. He termed the second slice was to have a bar, and the third to have gaming. He didn't know what would come next, down by the marina, where there was discussion about a clubhouse in an earlier application. He repeated his support for the expansion of the restaurant. He opposed the bar or gaming machines. If those required variances or conditional use permits, he was opposed to those.

Sue S: She pointed out that under this zoning sub-unit, highway commercial use was a conditional use permit, and so was a recreational vehicle park. Tim confirmed with Sue S there was no distinction between a commercial use and a bar.

Steve Roling: He's an adjacent owner and is in opposition to this project, since he sees a bar/casino as a new business rather than an expansion of an existing one. It was already a non-conforming business in the first place. He didn't understand why issuing a permit now would be considered, when so many other things are already in non-compliance. He thought changing a quaint little eatery and ice cream stop into a bar and casino was a significant change.

Sue S: She clarified that this was not a non-conforming property.

Joyce Funda: She and Sandy spoke in November about the previous application. Her concern was if something was going to be done, to do it properly and balance the various interests of the community. She was struck by the tortured history of the property with respect to Lake County. The Johnsons have made an extremely important contribution to the community, and are well-respected, well-liked and run a good business. Part of the opposition to the prior project

stemmed from secrecy. She felt that was happening here, and the fourth slice pertained to a brochure distributed at the restaurant about Park model homes or vacation homes. Apparently they were going to lease their property to people who would buy Park models, which are technically RV's. She liked Park models and thought it was a great idea, but based on what she's heard, the application here seemed like a small part of a bigger project. Based on the regulations, if the plan would be to put in gaming machines, that did constitute a change in business and was contrary to the regulations, as she understood. She'd love to have a restaurant in Rollins that serves dinner and where she could have a drink with dinner. If the gaming permit were granted, where would they fit in the small interior expansion proposed, and what about additional parking? There's not much space there. She pointed out #14 of the conditions. An opinion was expressed to her that subdivision review or further review by the County would not be necessary if the mobile home or RV park continued. Although the Park models are RV's, she thought if there was a configuration change it needed to be faced. She thought this was the beginning of a larger project, which wasn't necessarily a bad thing, but in the interest of the residents, they should be informed up front rather than granting the permit based on what is presented here, that's already been changed by Sandy's commentary. She was in favor of the restaurant expansion, and the Johnsons in general, but would like to see the project in mind revealed up front.

Mimi London: She owns property surrounding the RV park. It seems to her that this is a way of avoiding planning. A much more complete view of what's being done there is needed. She has 140 acres behind the Johnsons that has a conservation easement on it, and 16 acres on the lake next to their property that also has a conservation easement on it. She's concerned about the policing, and alcohol late a night. She thought a casino would have a very negative impact on Rollins.

*Public comment closed.*

Jack commented that much of the testimony was irrelevant. What's before the Board was a conditional use for expanding an existing business. Anything that happened with the RV park would have to come up again.

Sue L asked about condition #14 on change of use. By expanding the eatery and allowing them a [bar] service station, would bringing in gaming constitute a change of use of the existing business and therefore they would have to come back before the Board, or by approving this expansion, does it leave it open? Sue S explained the recommendation as proposed was to expand the restaurant to be able to serve dinner and to serve more people. The way it was proposed in the application, it wasn't about providing gaming machines. She made it specifically for table seating in the approval. If the Board approves this as recommended, and they put in gaming machines and seats associated with the gaming machines, it would be non-complying with the approval and a violation of the approval.

Jack asked about the liquor license and bar. Sue S replied they said they were going to have a bar and were applying for a liquor license. It was proposed to her that they wanted to serve alcohol drinks during dinner. Sue L commented that her concern was that to bring in other revenue-generating things would violate what the Board may or may not approve here. Mike

didn't have a problem with the permit as written. He did have a problem with the gaming. He couldn't support the application if it included the gaming. He felt this was no longer a family establishment. Sue L agreed. She didn't want to change the conditions, and felt conditions #10 and #11 should remain.

Tim asked if the Board would be comfortable adding a condition #18 to allow this to pass without gaming. A liquor license can be obtained without a gaming license. It wasn't part of this proposal. Sue S said that would make it very specific and appropriate.

*Tim touched on condition #4. The last sentence could say the expansion of the use is limited to 12 additional table seats, 1 restroom and one service bar with no seating. He returned to a possible condition #18. Sue S suggested it could say this approval does not include allowance for gaming.*

Mike suggested the Board hear Sandy Johnson speak. Sandy asked if she didn't put on the expansion, and applied for a liquor/gaming permit, and put it in the existing building, would the County shut her down. Sue S replied that she thought this would be a change of use and an expansion of the business and would constitute a requirement for a permit. Jack asked if a downtown restaurant made parallel changes, would that go to this Board, the Polson Zoning Commission or the Liquor Board. Sue thought it was an expansion of the existing business to change it to that degree. She didn't know what the Polson Development Code said about this. This was in Upper West Shore zoning, and she knew what they said. He asked if he had a grocery store and wanted to sell overalls, would he need a special permit. Sue S thought selling overalls was a decrease in the use, not an increase. Her decision could be appealed. Joel noted the Polson Development Code also used the Standard Land Use Code.

Mimi London asked why 25 more parking spaces were required for 6 additional seats. Sue explained that this was 25 spaces total, not 25 more. This was based on the square footage of the interior of the building.

*Sue S referred to the striping in #7. It may be where there's asphalt, striping could be put in, but not where it's gravel.*

Sue L was comfortable with the changes discussed to #4 and #18.

**Motion made by Sue Laverty, and seconded by Mike Marchetti, to approve this with the staff recommendation with the changes discussed for conditions #4, #7 and #18. Motion carried, all in favor.**

**OTHER BUSINESS:**

None.

**Motion by Mike Marchetti, and seconded by Sue Laverty, to adjourn. Meeting adjourned by general acclaim at 6:50.**