

LAKE COUNTY BOARD of ADJUSTMENT
November 9, 2011
Meeting Minutes

MEMBERS PRESENT: Sue Laverty, Mike Marchetti, Tim McGinnis, Paul Grinde

STAFF PRESENT: Joel Nelson, LaDana Hintz, Karl Smithback, Robert Costa, Lita Fonda

Mike Marchetti called the meeting to order at 4:00 pm. He pointed out several corrections: ‘know’ should be ‘known’ in the 5th line from the top on pg. 2; ‘build’ should be ‘built’ in the 3rd line of the last paragraph on pg. 2; at the end of the first line on pg. 4, ‘it’ should be ‘if’.

Motion made by Tim McGinnis, and seconded by Paul Grinde, to approve the August 10, 2011 meeting minutes as amended. Vote unanimous to approve the minutes.

NINEPIPES LODGE LLC DENSITY VARIANCE

Karl Smithback presented the staff report. (See attachments to minutes in the November 2011 meeting file for staff report.) Mike asked for clarification regarding variances that could be granted in the case of hardship as described on pg. 5 in section V, in the second paragraph from the bottom. Karl explained that a variance could be possible by showing hardship or by meeting criteria listed in the density regulations for existence prior to the adoption of the regulations. Joel clarified that Section V applied, since they were proposing to do creation of parcels through subdivision review, although the paragraph in question dealt with hardship and variances in regards to family transfer situations.

Jack Duffey was available as the agent for the applicant and offered to answer questions.

Public comment opened: None offered. *Public comment closed.*

Motion made by Paul Grinde, and seconded by Mike Marchetti, to grant the variance with findings of fact and conditions as proposed by staff. Motion carried, all in favor.

IRWIN CONDITIONAL USE—FINLEY POINT

LaDana Hintz presented the staff report. (See attachments to minutes in the November 2011 meeting file for staff report.)

Jeff Gallatin spoke as the agent for the applicant and offered to answer questions.

Public comment opened: None offered. *Public comment closed.*

Motion made by Tim McGinnis, and seconded by Paul Grinde, to grant the conditional use with findings of fact and conditions as proposed by staff. Motion carried, all in favor.

KAMURA CONDITIONAL USE—FINLEY POINT

Karl Smithback presented the staff report. (See attachments to minutes in the November 2011 meeting file for staff report.) He noted that Tom Abel, an engineer, was also overseeing the project. He described the geotextile project. It involved the placement of a geotextile material and a combination of native and engineered fill. He referred to diagrams in the staff report, where it appeared almost like a terraced slope. Then it compacted and a new layer was added. You basically had a web of the geotextile and native fill. It was in lieu of a retaining wall. It was a more natural way to allow a substrate to form where vegetation could take off. He gave an update on the water pipe mentioned in condition #2. He found out today this pipe was not on the Kamura property. They might be able to strike that condition. Mike checked if the pipe needed to be cut off and moved back by the other property owner. Karl didn't think so. Russ Kamura detailed that the state put the pipe in about 60 years ago. The pipe started across the Goldes property, went through the Kamura property and ended up on Pete Nazelrod's property. It dumped into the lake. Karl added that staff had discussed it, and didn't see an issue.

Mike asked if the type of fill was common in other areas. Karl reported that Tom Abel had done it elsewhere, including on the Beartooth Highway to keep the slopes at the grade they were at. [At the Kamuras] they were bringing these slopes to their angles of repose. Mike asked about the material. Karl highlighted some of the materials submitted by Tom. It sounded like a variety of matting, and also hexagonal like a soccer ball, maybe 2 or 3 inches thick, that would lie in the ground and keep the soil from sliding. He thought it was that type of matrix.

Sue checked that it would be revegetated. Karl noted that attachment 2 in the staff report was the initial proposal from a prior application. This final project would have, as stated in the conditions, a variety of grasses, shrubs and trees with the majority being shrubs and trees. It gave the landowner some aesthetic license. Staff wanted to make sure there was just as much woody vegetation as there were sedges. Sue checked that they didn't have a landscape plan for that particular vegetation. It would be up to the owners to plant it. Russ K said it was wild grasses before it slid. They were going to re-shrub it and put in trees. Mike mentioned they had noxious weeds in there. Sue checked if Planning staff had requirements [for the vegetation]. Karl read that the area shall be revegetated with a majority of native shrubs and trees, as well as a mixture of native sedges. Staff were concerned that it not be a lawn and that there be a majority of the woody vegetation. He spoke with Tom, and these things could be planted in the [geotextile] material.

Sue asked about the fuel delivery system mentioned with the boathouse. Karl replied there was a tank near the house. The way it had been done was out of the purview of the permit. He asked Russ if it was inside the pipe until the terminus. Russ said it was inside another pipe. Karl described that it was double-walled piping that went to the end section

helical pier wall. The owner had a hose reel hooked up on the wall for filling gas cans and taking them to the boats. Russ said he had a permit back around 2005 for the boathouse, water line and so forth. Then they had a mudslide and everything came to a halt. He hired Montana Helical Pier to put this wall in. They've been cleaning the mess up for years. This spring, it slid at the end of the wall. Tom from Abel Engineering suggested that they didn't need another wall and should go to the geotextile, a new system that worked better. That was where they were.

Mike returned to the fuel delivery system. Did that go all the way down to the boathouse, or was it up by the house? Karl said it was at the rear of the proposed boathouse location, furthest landward. He estimated about 51 feet from the high water mark. The line traveled a long ways.

Russ Kamura spoke on behalf of his application. He thought his builder and engineer would be attending the meeting. Sue noted this meeting had gone very quickly on the first two items. Karl affirmed that both Rande and Tom mentioned to him that they were going to be here. Russ said the east shore had experienced numerous mudslides. He was looking forward to cleaning it up and being done with it.

No public present for public comment.

Mike was interested in the geotextile material. Paul agreed. It sounded more environmentally friendly.

Sue was disturbed there was no landscaping plan. When it was previously left up to the owner, he didn't do what he was supposed to. This bothered her. The property kept sliding. Karl referred to condition #5. It spoke to the grade as well. He thought this covered it by saying that it shouldn't flat or utilized for recreational activities, facilities, structures or improvements, with a majority of native shrubs and trees. The area itself wasn't that large, either, relative to previous ones.

Tim asked if adding language would help. Sue thought she'd be more comfortable. She wasn't sure what to add. Tim asked about the size of the area. Russ and Karl thought it was 40 feet by maybe 10 or 20 feet. Russ said the area that slid was maybe 15 or 20 feet wide. It was just grass. There was nothing in the plans for that area back in 2005. They were talking about the front of the boathouse. Back then, he spent \$3648 with Delaney's Landscaping. He took copies of the plan and did things accordingly. He explained that Karl said he was missing a few shrubs down below, so he spoke to Wes Delaney, who told him that in a conversation with County Planning, the concern was raised with the dogwood not planted in front of the steel wall. Knowing soil conditions were so poor at that location, they took the liberty to move the plants to another location on the lot where they had a possibility of establishing and growing. The shrubs that he moved were covered by the new mudslide. That whole area was deeply vegetated. The slide was on a different area.

Karl referred to a list he'd received with the engineering plans of vegetation they intended to use, which conformed to what the conditions stated. This was not listed in the staff report. Sue checked that in effect, there was sort of a landscape plan, in that there were as-builts that they needed to go by. Karl said they listed 6 plant species. He thought it would be better to have more than 6, and do the majority [inaudible]. Sue mentioned the willow tree carried down [by the mud] so obviously it had some vegetation there. She had misread and thought that [the attachment] was a vegetation plan that would be attached with the new conditions. Russ said there was just the one tree.

Sue said as far as conforming to the new plan, there were supposed to be as-builts that were to be adhered to the first time around and weren't. Karl said this would be certified by a new engineering firm and a new engineer. They couldn't impose the same presumptions on this engineer as on the previous engineer. He included a condition that if anything didn't look right, Tom (the engineer) had to contact Planning and Russ immediately. It was up to the landowner to follow the conditions.

Mike asked if Sue had language to propose. She didn't know what to add. Karl said language could certainly be added. He wasn't sure how specific she wanted to get, without trying to design the property. Sue thought they'd have to leave it like it was, and hope that they did the right thing. It did speak to native shrubs and trees. She wanted to express her disappointment that in the first time around, those things weren't adhered to. Hopefully this time, it will be taken care of for the last time. This property seemed to continually have a sliding/ sloughing problem. Russ said to keep in mind that this was a different area and slide, and away from the other one. Wes Delaney has just moved [the vegetation] around to where they had a better chance of growing. Karl thought this involved 4 bushes. Sue had no further comment.

Motion made by Tim McGinnis, and seconded by Paul Grinde, to approve the conditional use with findings of facts and conditions as proposed by staff. Joel asked about the pipe in condition #2. Motion amended by Tim McGinnis to remove proposed condition #2, and amended motion seconded by Paul Grinde. Motion carried, 3 in favor (Paul Grinde, Tim McGinnis, Mike Marchetti) and one abstention (Sue Laverty).

OTHER BUSINESS

Lita touched base on renewal requests and December activities.

Mike Marchetti adjourned the meeting at 4:47 pm.