

**Official Lake County Planning Commission  
Minutes  
Two Harbors Law Enforcement Center  
April 15, 2019**

Approved as  
submitted  
5/20/19

The Lake County Planning Commission sat in session at 6:00 p.m. on this date and conducted hearings & other business.

**Members Present:** Chair Joe Skala, Jim Wienzierl, John Bathke, Simbre Fosness, Dan Zeimet, and Mike Hoops.

**Members Absent:** Mabel Tarlton, Commissioner Rich Sve (arrived at 7:30)

**Planning and Zoning Staff Present:** Christine McCarthy (Environmental Services Director), Neva Maxwell (Land Use Specialist), Jill Paron (Environmental Services Specialist).

Joe Skala called the meeting to order at 6:00 P.M.

The first hearing, **I-19-004**, was an initial Interim Use application filed by **Craig Anshus**, which if approved, would allow a vacation rental home at 2406 Hwy 61, Two Harbors, on property described as: Lots 3 & 4 of F.M. Olson Crow Creek Plat, Section 1, Township 53, Range 10, 1.78 acres, zoned R-4/Residential two-acre minimum, Silver Creek Township. (PID:29-5362-21130)

Joe Skala introduced the application and McCarthy read the legal requirements. There was no correspondence for this application.

Craig Anshus represented the application along with his property manager Janelle Jones. Anshus stated he believes he has met all of the conditions set at last year's hearing and addressed all of the neighbors' concerns.

Maxwell agreed. She saw the signs at the beach and recommended Anshus check on them after storms. She also asked if saplings had been removed from septic treatment area. Anshus stated they had.

McCarthy asked if hot tub was kept locked. Anshus stated it was drained.

Maxwell stated he has been approved for 8-guests per 2013 findings, however, the septic system is sized for 3-bedrooms, which is typically a 6-guest

limit. Paron asked Jones if the flow meter was read at regular intervals. Jones stated it is, it is scheduled on their calendar every month. McCarthy stated she would like to see more frequent monitoring of the septic system flows than just every 5 years. Maxwell stated as long as Anshus monitors the flow meter there shouldn't be a problem. Also, Planning and Zoning can request those readings annually. Zeimet asked if the hot tub added to the flow on the septic. McCarthy explained that guests could not use the hot tub per the Lake County Health License.

Motion by Hoops supported by Zeimet to recommend County Board approval for the interim use application for five (5) years with the following findings & conditions:

Findings:

1. Safe access from Hwy 61 and off-street parking exists.
2. The lot meets impervious requirements.
3. The property is well vegetated.
4. There will be no impact to public waters or wetlands from the proposed use.
5. The septic system passed a compliance inspection on 4/13/2018 for 3-bedrooms.
6. Vacation rental activity has not proven harmful on neighboring properties if conditions are met.
7. Vacation rentals have not proven to be detrimental to neighboring properties.
8. Vacation rentals are permitted though section 6.16 of the Lake County Land Use Ordinance.

Conditions:

1. Allow three (3) cars to be parked on the lower area and one (1) on the upper area (per 2013 condition).
2. Quiet hours from 10 P.M. to 7 A.M.
3. No discharge of firearms or fireworks.
4. All ATV's and snowmobiles must be trailered while on the property.
5. Occupancy limited to 8 guests (per 2013 findings).
6. Property boundaries must be marked, including on the beach.
7. No use of hot tub by rental guests.

Motion passed by unanimous vote. **(PCR-19-005)**

Motion by Hoops supported by Bathke to approve the March 18, 2019 minutes as submitted. Motion passed by unanimous vote.

The second hearing, **I-19-005** was a renewal of an Interim Use application, filed by **Blacklock Nature Sanctuary** which if approved, would allow a vacation rental home at 4252 Hwy 61, Two Harbors, on property described as: Lot 2 less that part Nly &Wly of Hwy 61 as Desc. in Bk 130 of Deeds pg 450 & Exc. .93 AC & 1.16 AC for Hwy ROW Parcel 1117 as Desc. in Bk 16 of Misc pg 798 & Exc. S 30ft in Section 28, Township 55, Range 8, 6.73 acres, zoned R-4/Residential, two-acre minimum, Beaver Bay Township. (PID: 26-5508-28790)

Joe Skala introduced the application and McCarthy read the legal requirements. There was one (1) item of correspondence from a neighbor in favor of the application.

Craig Blacklock represented the application. McCarthy asked what occupancy is advertised. She explained that the septic system is sized for 3-bedrooms, which is for 6 people. The previous permits did not set an occupancy limit. Blacklock stated that would be acceptable.

Maxwell explained that applications that received a 5-year renewal when Interim Use permits were new are just starting to come before the Planning Commission for a second 5-year renewal. She explained that many of the early approvals didn't have many conditions set, such as quiet hours, so the Planning Commission should be sure to point out the conditions.

Blacklock stated that rentals are going good and Cove Point does a good job of managing the property. They have no complaints.

Skala read the list of conditions. Blacklock did not object. He stated someone would have to be pretty loud to disturb neighbors as no one is near.

Maxwell stated a compliance inspection on the septic system needs to be completed by June 1, 2019. She also recommended findings that are in line with current standards.

Motion by Weinzierl supported by Hoops to recommend County Board approval for the renewal

of the interim use application for five (5) years with the following findings & conditions:

Findings:

1. Safe access exists from Hwy 61 and there is appropriate parking space available.
2. The property meets impervious surface requirements.
3. The property is well vegetated.
4. There will be no impact to public waters or wetlands from the proposed activity.
5. The septic system requires a new compliance inspection.
6. Vacation Rental activity has not proven to be harmful to neighboring properties if conditions are met.
7. Vacation Rentals have not proven to be detrimental to neighboring properties.
8. Vacation Rentals are permitted through Sections 6.16 of the Lake County Land Use Ordinance.

Conditions:

1. Occupancy limited to 6 guests maximum (number of bedrooms on septic system design times 2).
2. SSTS compliance inspection required prior to June 1, 2019.
3. Quiet hours 10 PM to 7 AM.
4. No discharge of firearms or fireworks.
5. All ATV's/snowmobiles must be trailered while on the property.
6. All outdoor fires must be limited to use at a designated fire ring.

Motion passed by unanimous vote (**PCR-19-006**).

The third hearing, **I-19-006** was a renewal of an Interim Use application, filed by **Thomas Berscheid**, which if approved, would allow a vacation rental home at 1788 Hwy 61, Two Harbors, on property described as: Outlot 12-18 of Auditor's Plat 7 in Section 21, Township 53, Range 10, 3.23 acres, zoned R-4/Residential, two-acre minimum, Silver Creek Township. (PID: 29-5362-21130)

Joe Skala introduced the application and McCarthy read the legal requirements. There was one item of correspondence from Derrick Passe, Lake County Soil and Water Conservation District. McCarthy stated that she is concerned with about rental at this site and especially concerned with the tipped footing under the deck. She requests that a condition be set that a structural engineer determine that the deck and house are safe for

occupancy.

Thomas Berscheid represented the application. He stated the deck was installed in 2016 and is a floating deck. The footings haven't moved since 2012. He stated the deck is not attached to the house. McCarthy stated Berscheid is not a structural engineer and her concern is whether or not the deck is safe to be used.

Skala asked about his response to the written comment from Derrick Passe. Berscheid stated he has attempted to have the erosion issued repaired and the repair was substandard.

Derrick Passe from Lake County Soil and Water Conservation District stated that the retaining wall has failed and is causing erosion into the lake. McCarthy stated for the record that Passe is a licensed Engineer. Passe asked Berscheid what alternative exist if the retaining wall fails completely. Berscheid stated that many homes along the lake are also in danger. Berscheid also thought the County should not have allowed the house to be built in an area with an eroding clay bank. McCarthy stated buildings have been there dating back to the Grey Gull Motel.

McCarthy explained to Berscheid that the hearing only relates to his property because he wants to do short-term rental. She stated the purpose of the Interim Use process is to evaluate each property. She stated that no one present at the hearing has the credentials to determine the safety of the structure. Berscheid responded that a Planning Commission member, who does not have those credentials was at the house today and "scuttled" the sale that was supposed to happen today. McCarthy explained that, while she understands he is upset, by signing the application [for Interim Use], the applicant is consenting to site visits by County representatives prior to the hearing. Berscheid stated the Planning Commission members should not have spoken to the buyer and should have to give advance notice that they will be there.

Zeimet responded that he is a new Planning Commission member, so he was not going to say anything. He was asked [by the buyer] what he thought, if this would affect the sale, and he only said that if she would like to learn more she could be at the hearing. Zeimet stated two gentlemen heard what he said to her, and he called Planning and Zoning immediately and reported what

happened. Hoops stated he did talk to the buyers. They asked him why he was there and he said he was there to determine if there was additional damage after last week's storm. He thought the buyers were surprised to see the damage [to the retaining wall], they didn't know the damage to the wall was there. They told Hoops they saw the property when it was snow covered.

McCarthy explained to the Planning Commission that if they denied the permit tonight, no one could bring a new application for vacation rental forward for this property for one year. She requested that conditions be set if they recommend approval.

Maxwell asked Berscheid about the construction of the wall. She stated that it didn't appear to be built according to what was shown on the Land Use Permit application, the application seems to show 6 or 7 tiers of wall. She asked if there was an As-Built, or if the wall hadn't been completed. She referred to the statement he made earlier regarding substandard repairs. Maxwell asked if the contractor has been out to see the damage. Berscheid said he hadn't. She asked if he had contacted the contractor, he said he hadn't. There was further discussion about the construction materials and exposed cables. Maxwell asked if he plans to repair the wall. Berscheid stated the cost would be exorbitant.

Maxwell asked if he had renters only once in the last year. He said that was correct.

Skala asked about the problem with the septic tank. Maxwell stated that she found that the septic tank covers had not been screwed down and it appeared as if they never had been. Berscheid stated he wanted to be able to see if ice was building up inside as it had been a problem the previous winter. Maxwell explained that this is a major safety issue. She asked if they had been screwed down when he had renters. Berscheid said his renters were adults. Maxwell stated she is a septic inspector and this is a violation. He needs to secure the tanks as soon as possible.

Skala asked Berscheid what he planned to do with the retaining wall and erosion issues. Berscheid answered fixing it would be expensive and he doesn't know if there is a good solution. Skala asked about repairing the exposed drainage pipes. Passe agreed much of the erosion is slope failure, but the drainage pipes are also causing erosion on

the bluff. The pipes need to be extended all the way to the toe of the slope, or else they are causing erosion from the top down.

Zeimet asked Berscheid what his options are other than vacation rental. He said it looks bad, and there is the risk of renters climbing on the wall. He thought the rest of the property was great, but this is a problem.

Lavonne Christensen [Berscheid's real estate agent] stated they did have a buyer that wanted to work on the shoreline. She expressed concern over how this hearing would affect other vacation rentals on Lake Superior. Skala explained this decision does not affect other properties.

Skala stated his concern is what is the Planning Commission's responsibility. They know septic system is good, the water is good, and the structure appears to be stable. McCarthy asked if we know the house is stable. Skala said "we don't", but is that the Planning Commission's responsibility? Skala stated if someone gets hurt, that is Berscheid's responsibility. Berscheid stated if the structure was unstable there would be evidence such as doors and windows that don't open or shut and cracks in the walls, but he doesn't have those problems.

Maxwell stated that the findings can state that this is a grandfathered non-conforming structure because it no longer meets the bluff setback. She stated the County has other non-conforming structures that are rentals, it is not a minimum requirement. Also, findings should address health and safety, which is one of the standards for findings.

Christensen asked if now all interim uses would require a structural evaluation. McCarthy explained this property has potential concerns due to the failing retaining wall. Renters climbing on the wall can be fixed with a fence, the question is whether or not the structure is safe. McCarthy stated the Health Inspector may have to look at it. Paron stated the issue has been brought to his attention and he is waiting on the outcome of this hearing. Berscheid stated John Weidner did his inspection in November.

Maxwell recommended a one-year renewal due to lack of rental history as he has only had one renter and the initial approval hearing did have concerns

from neighbors. She stated this is something that has been done with other rentals that didn't get started right away.

Skala requested they determine the findings [listed below] before making a motion.

There was general discussion during the determination of the findings regarding fences in the Shore Impact Zone and determining what standards should be met for a fence.

Motion by Bathke supported by Weinzierl to recommend County Board approval for the renewal of the interim use application for one (1) year (due to lack of rental history) with the following findings & conditions:

Findings:

1. Safe access from Hwy 61 and off-street parking exists.
2. Problems exist in regard to hydrology and non-stabilized soils.
3. The vegetation and soil conditions are adequate for proposed use if renters stay off the bluff.
4. There will be no impact to public waters or wetlands from the proposed activities.
5. The septic passed a compliance inspection on 7/9/2018 for 3 bedrooms. The septic tank covers have not been screwed down. The drainage pipes need to be extended to the toe of the bluff.
6. Potential safety issue for renters with the eroding bluff in close proximity to the deck and house.
7. Vacation rentals have not proven to be detrimental to neighboring properties.
8. Vacation rentals are permitted through Sections 6.16 of the Lake County Land Use Ordinance.

Conditions:

1. Covers to septic tanks must be screwed down.
2. A 3-½ foot high fence must be erected along the bluff, starting at the end of the fence for the retaining wall and continuing 100ft.
3. Signage must be placed on fence "No Lake Access"
4. Renters must be informed that the property does not have lake access.
5. Quiet hours from 10 PM to 7 AM

6. All recreational vehicles must be trailered while on the property.
7. No discharge of firearms or fireworks on the property.
8. All outdoor fires must be limited to use at a designated fire ring.
9. Maximum occupancy of 4 guests.
10. No rental of the 2 guest quarters.
11. Property lines must be marked and guests may not trespass on adjoining properties.  
The garage will serve as the property line to the east.

Motion passed by unanimous vote **(PCR-19-007)**.

Other Business:

[Commissioner Rich Sve joined the meeting at 7:30]

McCarthy gave a brief update on the plans for updating the Lake County Comprehensive Plan. She explained the process and that it can take a couple of years to complete. She stated that this is several years overdue.

Skala asked about the purpose of the update. McCarthy explained that the Comprehensive Plan is the guiding document for County Ordinances.

Hoops asked when the last update was. McCarthy stated 2000. Sve commented that the update involves public hearings and meetings with stake holders. He also stated that a review of the plan is recommended every ten years.

McCarthy also gave a brief update on the Moratorium on Vacation Rental of Non-Traditional Structures. The committee has met with the Department of Labor and Industry, MN Department of Health, and staff in Aitken County.

Motion by Bathke supported by Hoops to adjourn the meeting. Motion passed by unanimous vote.

Respectfully Submitted,

Christine McCarthy  
Environmental Services Director