

DRAFT
Minutes of PUBLIC HEARING December 6, 2012 on adopting:
TOWN OF HARTLAND, ZONING ORDINANCE

The Public Hearing was opened by the Chairman of the Town of Hartland at 7pm.

Attendees: Rick Fink, Jane Watermolen, Bob Woldt, Marlin Noffke, Bill Dittman, Scott Schara, and Ken Jaworski.

The clerk read the following legal notice advertising this hearing. The notice was published in the Shawano Leader on November 22 and 29, 2012. It was also posted at the Hartland Town Hall, Bonduel State Bank, and Premier Bank in Bonduel.

PLEASE TAKE NOTICE that on December 6, 2012, at 7:00 p.m. at the Town of Hartland Town Hall, located at W3504 CTH BE, Bonduel, Wisconsin, the Town of Hartland Town Board will be conducting a public hearing on the adoption of a Zoning Ordinance (including map).

The hearing is open to the public and all interested persons are encouraged to attend. Members of the Town Plan Commission may also be present. Copies of the proposed ordinance and map are available at the Village of Bonduel Library during regular business hours or by making arrangements with Town Clerk (Marlin Noffke) at 715-758-2384 or townofhartland@ymail.com.

Dated this 15th day of November 2012.
Town Clerk

Marlin Noffke,

Ken Jaworski then gave a history of the process from April 19, 2011 to December 6, 2012, and projections through December 19, County Board approval.

**Town of Hartland Zoning Ordinance Public Hearing
The Journey to Today's Public Hearing**

- April 19, 2011. Shawano County adopts a comprehensive rewrite of the county zoning ordinance giving towns one year to decide on the choice of three options:
 1. Stay under county zoning and utilize the newly developed county zoning ordinance
 2. Develop a town zoning ordinance
 3. No zoning at all.
- Town of Hartland Town Board decides to further investigate option 2: Develop a town-zoning ordinance.
- November 2, 2011. Town of Hartland holds public meeting on town zoning options. Also presents components of farmland preservation program. Vote taken was basically 2 to 1 to pursue the town zoning option.
- February 2012. Town Board decides to amend their comprehensive plan and write the town's first zoning ordinance. The zoning ordinance will contain a farmland preservation zoning district to allow farmers the opportunity to claim continuous farmland preservation tax credits. Given the outdated condition of the

Shawano County Farmland Preservation Plan, the location of the Farmland Preservation Zoning District will be driven by the comprehensive plan update process, specifically the development of the Future Land Use Plan Map. The Future Land Use Map should help guide the Shawano County Farmland Preservation Plan update process as it is a more accurate representation of future agricultural activity within the town.

- March, 2012. Town of Hartland adopts a moratorium on land divisions and building permits for a 12 month period to allow time to update the comprehensive plan and write the town's first zoning ordinance.
- April 25, 2012. Public Meeting held on development of comprehensive plan and ordinance.
- May 9 and 23, 2012. Public Open Houses on comprehensive plan and zoning ordinance.
- September 19, 2012. Town Board adopts amendment to comprehensive plan and Future Land Use Map.
- November 14, 2012. Planning Commission recommends zoning ordinance and map for public hearing.
- November 15, 2012. Planning Commission Recommended Ordinance is submitted to DATCP for review.
- December 6, 2012. Scheduled Public Hearing.
- December 14, 2012. Shawano County P&Z Meeting on amendment to Shawano County Farmland Preservation Plan for Hartland.
- December 18, 2012. DATCP Certification.
- December 18, 2012. Target date for Town Board adoption.
- December 19, 2012. Shawano County Board of Directors meeting to approve Shawano County Farmland Preservation Plan.

Ken explained that having a Farmland Preservation zoning district included, required DATCP certification and County Approval, but that it gave the farmers in that district the opportunity to take State tax credits.

Ken handed out, and explained page by page, copies of a 15-page guide that contained the important elements of the 58 page zoning code.

Because the Town was under County Zoning, which expired, at present Hartland has no zoning in effect.

Before the Town zoning could be implemented, the Hartland Comprehensive Plan adopted in 2005, had to be updated. The Town Board did that on November 19, 2012.

Then the Zoning code and map were developed to reflect the amended Comprehensive Plan.

Ken then went into specifics of the zoning districts, and explained each one.

Scott Shara addressed the comments on the Zoning Code received to date.

Bob Jacobson, Shawano County Zoning Administrator's comments:

Good Morning Ken:

I had meant to discuss a couple of items with you regarding the Town's zoning ordinance before you left yesterday. My comments are as follows: 1) Section 2.6 (2); Here the ordinance gives an exemption from obtaining a zoning permit if an improvement or alteration occurs to an existing building which would be less than 200 sq. ft. in area, and does not affect a change in use. Scenario: A home is currently served by a 3 bedroom septic system. The property owner, by virtue of an expanding family, needs to add an additional bedroom to the existing dwelling. They construct a 4th bedroom less than 200 sq. ft. in area which exempts them from a Town Zoning Permit. What mechanism will be in place (currently I see nothing) for the Town to alert the property owner that compliance with the County Sanitary Ordinance is necessary. In a scenario like this we would require an update to the septic system as septic systems are sized by the number of bedrooms. Additionally, uses the Town may exempt from permitting may require a County permit if in the shoreland zone, 2) Section 3.5 (2) A (1) and B (2); I see the Town is permitting agricultural operations up to 500 animal units and over that amount require a conditional use permit. The County has an Animal Waste Management Ordinance. Should there be some sort of reference in those sections to the County AWMO regulations. 3) Section 5.2 (3) Building setbacks from the water; Good luck getting the WIDNR to determine the OHWM for you. The WIDNR no longer provides this service as they now defer to the County to establish this. Furthermore, I am unaware of any OHWM having been previously established and marked as such in the field. The Town may need to defer to the County for this assistance, 4) Section 5.2 (5); This is not permitted based on NR 115 and needs to be struck from the ordinance. Setback averaging is only allowed for principle structures. A detached garage is an accessory use/structure. Otherwise, in my review of the ordinance I thought it was well written with quite a bit of detail.

As a side note, I need a copy of the Town Resolution adopting Village Powers as well as the signed resolution of the Town Board adoption of their zoning ordinance as soon as is practicable, but clearly before County Board action on December 19, 2012.

If you have any questions on my comments please give me a call or we can correspond through e-mail.

Robert W. Jacobson
Zoning Administrator
Shawano County Zoning and Land Use Control

DATCP comments dealt with the Farmland Preservation Section:

From: Hess, Lynne P - DATCP [<mailto:Lynne.Hess@Wisconsin.gov>]
Sent: Thursday, December 06, 2012 2:44 PM
To: Ken Jaworski
Cc: Foye, Keith W - DATCP; Volk, Alison M - DATCP
Subject: Hartland Zoning Ordinance

Hi Ken,

We will get final comments on the zoning ordinance text to you by December 12, but we will likely not have the certifications done by then. We can't certify until we've received signed applications. First we must receive the signed application for the plan map and we

certify that and then we'll need signed application for the zoning ordinance to certify that. If the application for the plan map amendment is timely, we could probably have the certifications through staff by the December 19 date, and possibly have the Secretary signed order possibly by the 19th, but by the end of the year if there are no problems. Remember, the amended FP plan map must be titled and have a legend consistent with the currently certified County FP Plan. Keith previously sent an email with an example of this.

Following are the preliminary comments on the text.

p. 49, strike prior nonconforming uses from under permitted use. It isn't really a permitted use.

p. 52, sec. 14.2, Rezones, Add: The political subdivision must make finding *after a public hearing*.

p. 52-53, Add a paragraph about submitting a rezone report (s.91.48(3&2)) Wis. Stats.

p. 57. Nonfarm residence should be "Any residence" rather than "A single family residence"...

Did you intend to omit nonmetallic mineral extraction in the farmland district as a conditional use?

You might include the following to prior nonconforming uses to clarify that if a use is discontinued for 12 months, future use must conform to the ordinance: 60.61(5)(am) (am)

An ordinance adopted under this section may not prohibit the continued use of any building, premises, structure, or fixture for any trade or industry for which the building, premises, structure, or fixture is used when the ordinance takes effect. An ordinance adopted under this section may prohibit the alteration of, or addition to, any existing building, premises, structure, or fixture used to carry on an otherwise prohibited trade or industry within the district. If a use that does not conform to an ordinance adopted under this section is discontinued for a period of 12 months, any future use of the land, building, premises, structure, or fixture shall conform to the ordinance.

Talk to you later,

Lynne

Carol Nawrocki, Wis Towns Associations's comments: email Nov 13, 2012.

From: Carol Nawrocki [<mailto:wtowns3@frontiernet.net>]

Sent: Tuesday, November 13, 2012 2:58 PM

To: Ken Jaworski

Subject: Re: Fwd: RE: Zoning Committee vs. Plan Commission

Ken,

Section 60.61 only applies to towns that adopt general town zoning *before their county has a county zoning ordinance in place*. Very few towns adopt zoning under s. 60.61 Wis. Stat. Towns that adopt *zoning with village powers under s. 60.62, Wis. Stat.* (much more common scenario) have plan commissions and fall under s. 62.23 whereby the zoning ordinance and changes thereto are referred to the plan commission. You can have either a 7 member commission or the option of going down to a 5 member if your population is under 2,500. See s. 60.62(4), Wis. Stat. I agree that at least two hearings are required under s. 60.61(4)(b), Wis. Stat. But only one hearing is required under s. 62.23(7)(d) unless the board wants to make changes in the plan commission's recommendations before they are adopted. In other words, if the board adopts whatever is recommended, only one hearing is needed. If the board wants to change anything they have to send it back to the pc for another hearing and recommendation on the proposed changes.

If you have a town that is really needing to adopt general town zoning under s. 60.61, Wis. Stat. (as opposed to town zoning with village powers under s. 60.62, Wis. Stat.) I believe members of the pc could be made members of the zoning committee, but it would

have to be a 5 member committee and must comply with the requirements of s.
60.61(4), Wis. Stat. -Carol, WTA Legal Counsel

Scott commented that under 2.1 Jurisdiction we should add a reference to other Town ordinances such as the Driveway Ordinance and Building Permits under the Uniform Dwelling Code.

Marlin thanked DATCP and the Shawano County Planning Administrator (Bob Jakobson) for the extra effort they put into this process. They are both key players and their support made getting it done on a very tight schedule possible.

The floor was opened to questions and comments from the public.

Jane Watermolen stated that while their land along Hwy 29, is zoned commercial on the proposed map, the land is being farmed, and with their residence on the remainder, it might be better to zone it general agriculture, since that would be more consistent with the area parcels. Ken agreed that might be more consistent with reality and the neighborhood, but that the Town should not try and change the map at this late date. His suggestion was to ask the town to waive the rezoning fee for a one-year period if they want to correct the map error by rezoning. Hartland officials present all seemed agreeable to this proposal.

Rick Fink asked, "If the DNR will not be responsible for determining the OHWM, who would"? Ken indicated we would have to work that out with the County. It is likely that the applicant would have to hire some outside firm to make this determination. Rick indicated that he would like to have had more time to review the document. Ken gave Rick a copy of the code. Comments will be accepted, until the Town Board acts on the ordinance. Comments may be left with any town officials and given at the meeting when action is taken on Ordinance 2012-2.

All of the change suggestions and comments will be summarized and taken into consideration by the Town Board when they meet to approve Ordinance **2012-2 TOWN OF HARTLAND ZONING ORDINANCE.**

There being no further questions the Chairman closed the Public Hearing.

Next Meeting,

If we do not have all outside approvals done by the next regularly scheduled Town Board meeting on December 11, 2012, we will schedule a special meeting of the Town Board for December 26, 2012, at 6pm.

Minutes submitted by Marlin Noffke