

TOWN OF SCOTT, BROWN COUNTY, WISCONSIN
MINUTES OF May 3, 2011 TOWN BOARD MEETING

1. Call To Order: The May 3, 2011 Town Board Meeting was called to order at 7:00 P.M. on Tuesday, May 3, 2011 in the Town Hall by Chairman Mike Van Lanen. Present were Chairman Mike Van Lanen, Supervisor Ken Jacobs, Supervisor Colleen Harris, Supervisor Jeffrey Zlatohlavek, Clerk/Treasurer John Roth, Economic Development Coordinator Dave Cerny, Town Building Inspector Brett Jensen. Excused absence: Supervisor Cyril Van Laanen. Approximately six people were present.

2. Affidavit of Posting: The Affidavit of Posting indicating that the public notice of the Town Board Meeting was posted on April 30, 2011 was presented by the Clerk.

MOTION JEFF ZLATOHLAVEK /KEN JACOBS to accept the Posting Affidavit. Vote: Aye-4. No-0. Carried.

3. Public Comment:

MOTION MIKE VAN LANEN/KEN JACOBS to suspend the rules of order for public comment. Vote: Aye-4. No-0. Carried. No one spoke

MOTION KEN JACOBS/JEFF ZLATOHLAVEK to go back to the agenda. Vote: Aye-4. No-0. Carried.

4. Specific matters for discussion and possible action by Town Board.

A. Amendment to the Town of Scott Zoning Ordinance “Fireworks, Retail Sales” under Article X – B-1 Community Business District, Section B – Conditional Uses. The following is the language from the Public Hearing Notice (see public hearing notice and minutes): The Hearing will be to gather public input concerning a proposed amendment to the Town of Scott Zoning Ordinance. The proposed amendment would permit: “fireworks, retail sales” under Article X – B-1 Community Business District, Sect. B – Conditional Uses. **Discussion:**

- The zoning ordinance change should be for B-1 zoning, then it automatically would be allowed in B-2 zoning.
- Cerny: The Town already “allows” the Shell Station to sell for outdoor sales. The Shell Station also already has the incidental sale of fireworks inside their main building.
- Chairman Mike Van Lanen asked the Town Board if the Town wants to be in the business of regulating the sale of fireworks.
- Supervisor Jeff Zlatohlavek: if it is incidental sales, what if someone wants to rent a B-2 zoned property to sell fireworks as a primary business (like purchasing Griftons building)? Cerny said that they would have to come to the Town Board for a Conditional Use permit. If the Conditional Use is violated, the Town Board can revoke the Conditional Use permit.
- Supervisor Colleen Harris: I not concerned about inside sales of fireworks, but I am concerned about outside sales. We do not want a bunch of fireworks stands.
- Cerny: “incidental sales” is defined as up to 49% of sales.
- Cerny: all sales of fireworks, inside or outside, would require a Conditional Use permit. Cerny explained the “list” of Conditional Uses.
- Chairman Mike Van Lanen: then the Shell Station would have to apply for a Conditional Use permit for the Shell station’s sale of fireworks. The Town is not “regulating”, we are “allowing” as a Conditional Use to our zoning ordinance. The Town could require to see their seller’s license as part of the condition.

MOTION JEFF ZLATOHLAVEK /KEN JACOBS to approve an amendment to the zoning ordinance to exempt incidental indoor sales of fireworks and to require a Conditional Use permit for the outside sales of fireworks outside of the primary structure under B-1 zoning. Discussion: Cerny: would you allow the sale of fireworks on a vacant lot? NO. Fireworks as a Cond. Use or not at all. **Motion was rescinded.**

MOTION JEFF ZLATOHLAVEK/COLLEEN HARRIS to approve the amendment to the zoning ordinance as proposed under B-1 zoning (amendment to the Town of Scott Zoning Ordinance “Fireworks, Retail Sales” under Article X – B-1 Community Business District, Section B – Conditional Uses). Vote: Aye-3. No-1. Carried (Chairman Van Lanen voted no.).

B. Amendment to the Town of Scott Zoning Ordinance Article X – B-1 Community Business District, Section E – Building Setbacks, par. 2b – Exceptions . . . and from Article XI – B-2 General Commercial District, Section E – Building Setbacks, par. 2b – Exceptions . . .

The following is the language from the Public Hearing Notice: The proposed amendment would delete the following from Article X- B-1 Community Business District, Sect. E – Building Setbacks, par. 2b - Exceptions, and from Article XI – B-2 General Commercial District, Sect. E – Building Setbacks, par. 2b - Exceptions: “Seasonal displays of merchandise may be displayed outside of the primary or accessory structures and may be displayed

within the required setback, provided that a permit for outdoor displays is first obtained.” The amendment would add the following as a Conditional Use to Article X – B-1 Community Business District, Sect. B – Conditional Uses: “Seasonal displays of merchandise, displayed outside of the primary or accessory structures and may be displayed within the required setbacks.”

Chairman Mike Van Lanen read the agenda item: It will now be under the Town Board’s authority to approve under Conditional Use. Cerny discussed the very short seasonal sales of 45 or less days (like selling Christmas trees, fall pumpkins, etc.). The fee for these short term sales could be waived. Farmers are exempt from a fee for the sale of agricultural products on their property. This current request is still under business zoning.

MOTION COLLEEN HARRIS/JEFF ZLATOHLAVEK to do the amendment as proposed (Amendment to the Town of Scott Zoning Ordinance Article X – B-1 Community Business District, Section E – Building Setbacks, par. 2b – Exceptions . . . and from Article XI – B-2 General Commercial District, Section E – Building Setbacks, par. 2b – Exceptions . . .). Vote: Aye-4. No-0. Carried.

C. Amendment the Conditional Use Permit for KURT BOULANGER – HWY 57 BP Gas Station, Parcel SC-316, property located at the corner of State Highway 57 and County K. The following is the language from the Public Hearing Notice: The Hearing will be to gather public input concerning the request of Kurt Boulanger, on behalf of the Hwy 57 BP Gas Station, for an amendment to the Conditional Use Permit. The property under consideration is located on the northeast corner STH 57 and CTH K, being the southern portion of parcel number SC-316, currently zoned B-1 Community Business District.

In accordance with Article X – B-1 Community Business District, Sect. B – Conditional Uses, of the Town of Scott Zoning Ordinance the request is to amend the Conditional Use Permit for the purposes of: Seasonal outdoor sales of: flowers, fruit and vegetables, Christmas trees, sculptures, retail sale of fireworks, and the outdoor storage of a trailer for the purpose of selling fireworks. **LEGAL DESCRIPTION:** Parcel SC-316, consisting of approximately 5.24 acres.

Discussion:

- Cerny also read into the record a written statement from the Town Attorney: **Re: Zoning Amendment/Conditional Use Permit** “In follow up to our extended phone conversation regarding the process for the Town Board to consider in amending the Town Zoning Code and also addressing the request of Mr. Kurt Boulanger for an amendment to the conditional use permit for the 57 BP Gas Station, I would recommend the following: Mr. Boulanger’s application for an amended conditional use permit should specify all proposed outdoor sales in detail. For each proposed seasonal outdoor sale there should be specific language as to duration and an exact map as to the location for the outdoor sales items. There should be a very detailed Site Map for the Board to consider for amending the conditional use. If the Board decides to approve the request for an amended conditional use permit, an amended conditional use permit should be issued with full and complete details as to all of the permitted uses and all stipulations and restrictions imposed by the Town Board including an attached Site Map. The ultimate objective is to eliminate any debate or confusion over what was or was not approved as part of the conditional use amendment.”

Cerny asked for this agenda item to be broken into two issues: fireworks and outdoor sales:

- Outdoor sales: these outdoor sales have been going on a number of years. Cerny asked for specific items and locations. We do not want to see this as an outdoor flea market. The consensus of the Board is that they support outdoor seasonal sales. Some will be year round and some will be seasonal.

MOTION JEFF ZLATOHLAVEK/KEN JACOBS to accept the amendment of the Conditional Use permit application for Kurt Boulanger – Hwy 57 BP Gas Station, Parcel SC-316, property located at the corner of State Highway 57 and County K: for seasonal sales as presented in the site plan areas #1,# 2,#3 and #6 (see site plan) ending December 31. Vote: Aye-4. No-0. Carried.

- Discussion of site plan area #4 and #5. This is the area where the fireworks “trailer” is. What does the Town Board want to do with the trailer? Chairman Mike Van Lanen stated that he is not in favor of the trailer. Do we want to make them take the trailer off each year? Or are we opening up the proverbial “can of worms” by allowing the trailer at all? Can we say no to other trailers?
- The trailer is hard-wired. There were no permits taken out for the electrical service.
- Jensen: are we going to fine them for the placement of the trailer? Are we going to require a “Memorandum of Understanding”? How long do we allow the trailer to stay on the property? Kurt Boulanger is asking for the trailer to stay for two more seasons (through October 2012). We could let it stay, and then it must be removed. It is up to the Board to fine them in regard to the placement of the trailer.
- The Town does not allow trailers.
- Supervisor Colleen Harris stated that the “trailer” looks better without the wheels and the skirt. And it looks

better than the Shell Station “tent” for the Schroeder flowers.

- Cerny defined “trailer”/“motor vehicle”. The Town would have to grant a Conditional Use for the trailer to stay more than 24 hours. The Town would be giving special permission for it to stay more than 24 hours.
- Cerny: A building permit would allow the trailer to stay there forever. We do not want that either.
- Cerny: Boulanger’s written request is to allow the trailer to stay there until October 2012.

MOTION KEN JACOBS/ to allow the trailer to stay until Oct.1, 2011 then it must be moved off the property, that the “Uncle Sams” sign to be removed when the trailer is removed, lighting to be “dark sky compliant, the trailer to inspected by the New Franken Fire Dept. **Motion fails for a lack of a second.**

MOTION COLLEEN HARRIS/ to allow the trailer to stay until Oct. 1, 2012, then it must be moved off the property, that the “Uncle Sams” sign to be removed when the trailer is removed, lighting to be “dark sky compliant, the trailer to inspected by the New Franken Fire Dept. **Motion fails for a lack of a second.**

- Discussion of “temporary”: A trailer is defined under a “motor vehicle”.
- The Board could approve the trailer for one season, then Boulanger could come back to request the trailer to stay for another year.
- Supervisor Colleen Harris: the trailer looks better without wheels and with the skirting.

MOTION JEFF/ to allow the trailer to stay until October 1, 2012, the trailer to be closed up and the sign be removed October 1, 2011, then allowed to re-open May 1, 2012 , then the trailer to be completely removed October 1, 2012, lighting to be “dark sky compliant, the trailer to inspected by the New Franken Fire Department. **Motion fails for a lack of a second.**

MOTION KEN JACOBS/JEFF ZLATOHLAVEK to require the trailer to be removed by June 1, 2011.
Discussion: Jeff: go back to Ken’s original motion. **Motion was rescinded.**

MOTION KEN JACOBS/MIKE VAN LANEN that in regard to the amendment to the Conditional Use permit for KURT BOULANGER – HWY 57 BP Gas Station, Parcel SC-316, property located at the corner of State Highway 57 and County K: to allow to allow the trailer to stay until October 1, 2011 then it must be moved off the property, that the “Uncle Sams” sign to be removed when the trailer is removed, lighting to be “dark sky compliant, the trailer to inspected by the New Franken Fire Department. Vote: Aye-3. No-1. Carried (Supervisor Harris voted no as she thought the trailer could stay until 2012).

- Discussion as to when this request could be heard for allowing the trailer to stay until 2012. They can come back any time. If they want this request to be heard again, they should come back in August.

4. Meetings/Adjournment:

MOTION KEN JACOBS/JEFF ZLATOHLAVEK to adjourn Vote: Aye-4, No-0. Carried. Meeting Adjourned at 9:00 P.M.

John Roth, Clerk/Treasurer