

**BOARD OF ADJUSTMENT/PLANNING COMMISSION  
CITY OF LAKE SHORE  
CITY HALL  
MINUTES  
APRIL 11, 2016  
9:00 AM**

Chairman John Ingleman called the meeting to order at 9:00 a.m. Members of the Commission present: John Ingleman, Kevin Egan and Glen Gustafson; Alternate Wayne Anderson; Council Liaison Earl North; City Engineer Dave Reese; City Zoning Administrator Teri Hastings and City Clerk Patti McDonald. Roger Smeby, Tom Diemert Alternate Pat Hastings were absent. There were 8 people in the audience. A quorum was present and the Commission was competent to conduct business.

Approval of the February 8, 2016 Regular Meeting Minutes – MOTION BY WAYNE ANDERSON TO APPROVE THE MINUTES FOR FEBRUARY 8, 2016 BOARD OF ADJUSTMENT/PLANNING COMMISSION AS PRESENTED. GLEN GUSTAFSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

**PUBLIC HEARING**

Variance - John Allen – John Allen requested a variance to construct a 20’x20’ screen porch above an existing structure at a setback of 52 feet from Gull Lake. The property is described as Part of Government Lot 10, Section 16, Township 135, Range 29 (site address is 8138 Interlachen Road). The property is zoned Medium Density Residential.

The following documents became part of the record – Notice of mailing, notice of publication, signed application and attachments and staff report. There were no written comments regarding this application.

Teri’s staff report indicated the following: The applicant requested a variance to construct a 20’x20’ screen porch over an existing building projection at a setback of less than 75 feet from Gull Lake. The projection of the building is part of the walkout portion of the basement. The projection has a flat roof that is currently used as deck. There is a large awning covering a portion of the deck area.

The property does have 4.3 acres of land; however, it is a uniquely shaped property (peninsula). The current amount of impervious surface is 23.7%. It appears that the property description runs to the centerline of CSAH 77 and the surveyor has included the bituminous area of the highway into the impervious surface calculation. The lot area within the ROW should be excluded along with bituminous area of the highway for a more accurate picture of the impervious surface. Teri would estimate if this was done then the impervious surface would be in the 10-15% area.

It should be noted the property does have some wetland areas, these areas have not been delineated and are not shown on the survey. The wetlands are not in the vicinity of the proposed screen porch and do not impact this particular application.

The proposed porch will not go any closer to the lake than the existing basement portion of the structure. The porch will not alter the essential character of the lot. The foot print of the nonconformity (the house) will not be enlarged with the proposed porch.

The applicant does have reasonable use of the property without the porch and there are areas on the property that a porch could be constructed; however, it does not necessarily make sense

(carport or roadside of home). The home was constructed prior to current setbacks (early 1970's).

The property is served by city sewer and a private well. The private well is shown on the survey.

There are some mature trees in front of the area for the screen porch.

The applicant has state that gutters will be added to the proposed porch along with small French drains for the gutters.

#### STAFF RECOMMENDATION

Recommend approval of the variance as the proposed porch will not increase the impervious surface and will not encroach any closer to the lake than the existing structure. Typically, decks at a setback of less than 75' from the lake are not granted approval to be converted into porches; however, in this case, there is an actual structure that the porch will be built upon. The proposed roof line will tie into the existing roofline. The property is unique in its shape (peninsula) which creates a difficult building envelope. The variance will not alter the essential character of the land and the use is allowed within the R-2 district. A condition of approval would be that the proposed screen porch remains a seasonal structure unless a variance is obtained to make it a year round structure.

**Sean Harguth**, John Allen's contractor said the applicant would like to put a porch with a roof over the existing deck. John Ingleman asked if it will be screened in and seasonal. Sean said it will be screened in and seasonal.

MOTION BY GLEN GUSTAFSON TO APPROVE THE VARIANCE PER TERI'S RECOMMENDATION; THE VARIANCE WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE LAND AND THE USE IS ALLOWED WITHIN THE R-2 DISTRICT. A CONDITION OF THIS APPROVAL WOULD BE THAT THE PROPOSED SCREEN PORCH REMAINS A SEASONAL STRUCTURE UNLESS A VARIANCE IS OBTAINED TO MAKE IT A YEAR ROUND STRUCTURE. KEVIN EGAN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Variance/Conditional Use Permit - Bar Harbor Hospitality – Bar Harbor Hospitality (Timberstone Investors LLLP) requested a variance and conditional use permit to incorporate a gas tank and pump on the property (considered a marina). The gas tank will be located 50 feet from the Ordinary High Water Mark versus the required 75' setback; also included is a conditional use permit request for the gas tank and the additional dock which would constitute a marina. The property is described as part of Government Lot 10, Section 16, Township 135, Range 29 and Lot 31 Gullwood. (8164 Interlachen Road) and is zoned Waterfront Commercial

The following documents became part of the record – Notice of mailing, notice of publication, signed application and attachments and staff report. There were no written comments regarding this application; however, there were two phone calls with inquiries regarding the application and didn't express any concerns.

Teri's staff report indicated the following:

1. The applicant submitted a variance and conditional use permit request for the construction/placement of a gas tank/pump along with an additional dock for the gas dispensing. Upon initial review, the DNR considered this a Marina. The applicant's attorney contends this will not be a marina (see email dated 3-30-16). A marina requires a permit from the DNR. A marina is a conditional use within waterfront commercial district (more than 7 dock slips per the city definition). The addition of the gas sales will require amending

the conditional use permit for Bar Harbor. A variance is needed for the setback of the gas tank from the Ordinary Highwater Mark and the Right of Way of CSAH 77. The state setback for above ground storage tanks is 50 feet from the lake and 5' from the right of way. The structure setback is 75 feet according to the Lake Shore ordinance. A setback of 50 is required from CSAH 77. Teri's report will address the variance, the conditional use permit for the gas tank/pump (gas sales) and the conditional use for the marina. The city's approval or denial of the marina does not constitute approval for the DNR.

2. The property is zoned Waterfront Commercial. The lot size for a Waterfront Commercial property is 2.5 acres with 300 feet of shoreline on a General Development Lake. The Bar Harbor property contains four acres of land and over 300 feet of shoreline. It should be noted that the survey submitted does not include Lot 31 Gullwood into the lot area calculations not the impervious surface calculations.
3. The applicant is proposing an above ground storage tank for the gasoline with the dimensions of 5'x18' (capacity of 5000 gallons). Aboveground storage tanks (gasoline tanks) must comply with multiple agency requirements in addition to the city. These agencies include the MPCA and the State Fire Marshall's office (fire code).
4. The MPCA does not require a permit for a tank of this size but they must meet the regulatory requirements and installation must be done by certified personnel. The tanks must be registered with the MPCA.
5. Requirements of the Fire Code must be adhered to as well; it is my understanding for this type of tank a setback of 5 feet from the Right of Way is required.
6. The applicant has reasonable use of the property as a restaurant facility. The addition of gas sales may enhance the use of the property. It is the location of the proposed gasoline tank that presents a safety concern. The proposed location has a 0 foot setback from the Right of Way of highly traveled section of roadway. The applicant has submitted a drawing showing some plantings around the tank for aesthetics. The drawing submitted does indicate there will be vehicle collision protection which will consist of 4" diameter 7' steel posts. It is unclear of where these posts will be located. Due to the location of the tank, the posts will then be located within the ROW. The Cass County Highway Department should be contacted if anything would be allowed to be constructed within the ROW. Initially, Dave Enblom stated a clear zone of 42 is required from the centerline but would prefer a clear area of 60 feet in this vicinity.
7. The applicant has indicated some of the safety features that will be on the tank which include emergency shut-off for the pump, fire extinguisher, double walled tank and pipe, sumps by the tank and pump for spillage along with bollards surrounding the tank.

**Conditional Use Permit:**

8. In permitting new conditional use permits; the Planning Commission may impose, in addition; to the standards and requirements expressly specified by the ordinance, additional conditions that the Planning Commission considers necessary to protect the best interest of the surrounding area or the city as a whole. This may include the following:
  - Increasing the required lot size or yard dimension.
  - Limiting the height, size or location of buildings.
  - Controlling the location and number of vehicle access points.
  - Increasing the street width.
  - Increasing or decreasing the number of required off-street parking spaces.

- Limiting the number, size, location or lighting of signs.
  - Requiring berming, fencing screening, landscaping or other facilities to protect adjacent or nearby property.
9. The following should be met for the conditional use to be approved: the use must be appropriate for the zoning district (waterfront commercial). The use with conditions would be compatible with the city's Comprehensive Plan. The use with conditions would be compatible to neighborhood. *This area of the community is considered to be the central commercial area of the city. The proposed gas sales along with the additional dock (marina) would not detract from the character of the area and would be consistent with the City's Comprehensive Plan.*
10. The proposed use would not be injurious to the public health, safety, welfare, decency, order and comfort, convenience, appearance or prosperity of the city. *The proposed location of the gas tank is very concerning from a public safety standpoint and therefore it may injurious to the community from a public health safety and welfare point of view. The appearance and convenience are not an issue with the tank nor the additional dock (marina).*
11. The proposed use (gas sales and marina) would be consistent with the Comprehensive plan as they promote businesses and would be used for other community events that take place in this area such as boat shows, charity fishing contests, and the allowing the public to use the docks for fishing platforms.
12. In addition the Planning Commission should consider the following :
- The Conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair values in the immediate vicinity. *This area of the city is a commercialized area already and both the gas sales and marina are uses within this area already.*
  - The Conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area. *This gas sales and marina would not prevent the development of surrounding vacant land which is minimal. The area is highly developed with higher than normal density with residential development along with a public boat access.*
  - The Conditional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community. *The proposed uses should not be a detriment to the economic welfare or require additional public costs.*
  - The Conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or indifference with traffic on surrounding public thoroughfares. *Traffic should not be impacted as both the gas sales and marinas are water based.*
  - Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use. *Again both uses are water based and should not require any additional off street parking.*
  - Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner, that no disturbance to neighboring properties

will result. *This is a commercial area and the applicant should address this.*

- The Conditional use will not result in the destruction, loss or damage of a natural, scenic or historical feature of major significance. *There are no known historical sites or natural scenic areas in the vicinity of the proposed improvements (gas tank and dock).*
- The Conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients. *The applicant will need to clearly demonstrate the safety measures for the gas tank and pump to address potential pollution issues. The marina (one additional dock) should not have an adverse on the waters provided navigation is not disrupted.*

13. The proposed uses will not require additional parking areas.
14. The applicant is combining Lots 23-29, previously the property was divided as Lots 23-26 and Lots 27-29. When the pole barn on Lots 23 and 24 was constructed the impervious coverage limit was 50% for the commercial district. Currently the Neighborhood Commercial District allows 40% impervious surface. The amount of proposed impervious surface for this site plan is 39.96% which does not include the pervious paving area.
15. The applicant has submitted a landscape plan for the area around the gas tank. Some of these plantings will be within the Right of Way. The Cass County Highway Department should be contacted.
16. Trash handling equipment: The site does have an area in the parking lot for trash but will other trash receptacles be placed on the docks? It is my recollection there are some during the summer months. The applicant should address this further. Teri doesn't see this as an issue for the proposed uses.
17. Mechanical Equipment: Teri doesn't believe there should be any additional mechanical equipment issues; however, it is unclear by the submission where the gas pump/dispenser will be located. This should be verified by the applicant.
18. Exterior Lighting: The applicant should be prepared to discuss lighting for the proposed uses. Is there any additional lighting planned? Lighting should be downcast and prevent glare. Lighting levels will need to meet the ordinance requirement.
19. Signage: The applicant has not submitted a plan for signage. Will additional signage be needed? What type of informational signage will be needed?
20. Appearance: The applicant has submitted a drawing of the gas tank. Is there screening/fencing around the tank?
21. Outdoor Storage: The applicant should address if any outdoor storage is planned. Would there gas sales require anything additional to be located on the docks or lakeside?
22. Drainage. A drainage/stormwater plan has been submitted; I am not sure how much runoff will be produced from the tank area. There is some erosion already in this area from previous work that should be addressed.

**STAFF RECOMMENDATION:**

Recommend denial of the variance for the location of the gasoline tank as the proposed location would be a safety issue given the close proximity to CSAH 77 (a zero setback from the Right of

Way). The tank would need to have vehicle impact protection (proposed bollards) and these would then need to be located within the ROW. The applicant does have reasonable use of the property as restaurant facility therefore the denial of the variance would not deny the property owner reasonable use. It is noted the property does have a large area that is considered a bluff which causes limitations to the property.

Recommend denial of the conditional use permit for the gasoline tank/pump (sales) based on the location of the proposed placement of the tank. The proposed location would be injurious to the public health and safety due to the inadequate setback of CSAH 77, a highly traveled roadway through the community. Adequate safety measures to protect the tank from vehicle collisions cannot be installed on the applicant's property but rather in the ROW. If a new location could be found that addressed the safety concerns due to the proximity of the highway, then approval could be considered.

Recommend approval of the conditional use permit for the Marina. The proposed use will not be injurious to the use and enjoyment of other property in the immediate vicinity. the use will not require public cost for additional public facilities and services. The use would be similar to those in the vicinity already (Causeway, Zorbaz and the public access). The dock system (marina) is used for public events (boat shows, and charity fishing contests) which enhances the community. The approval from the city does not constitute approval from the DNR for a Marina.

The Planning Commission may want to consider allowing a resubmission at no additional cost to the applicant for the gas tank/pump (gas sales).

**Sean Harguth**, John Allen's contractor came before the Commission to explain the project. Bar Harbor would like to put in a gas dock and the proposed location for the tank fits best on the property. There is a plan for screening the tank.

Kevin Egan understands that the tank is no longer in the right of way and moved back 5 feet. Orris Rodahl from Independent Petroleum Services Inc. was here to answer questions. He said the tank is a double wall and filled with fire retardant foam; it is bullet proof steel. The bollards are all double walled piping would be 4 foot. The proposed system is totally enclosed. It will be installed in accordance to EPA specifications, MPCA specifications and Fire Marshall's specifications. Orris explained all the fail safe capabilities of the 2085 tank (the premiere fire safety tank within the fire code); the type 2085 tank allows it to be in the proposed location.

Wayne Anderson asked if it will be self-serve or if there will be an attendant on duty at all times. Orris said self-serve means that the customer will be able to use a credit card. Teri quoted from statute for an attendant on duty. Sean said the intent is to keep it open during business hours. He also asked about signage. There has been no discussion of added signage for advertisement, but safety signage is required. Kevin asked if this needs a variance. Teri said that this is considered an accessory structure so a variance is required. Kevin asked if this is going to be open 24 hours a day. Sean said John Allen's intentions are to have it open during business hours of the establishment. Wayne asked if there is any special training for the attendant for the gas pump. Their thought there could be some training required.

Earl North asked what type of hose will be used on the gas pump. Orris said it is a 65 foot marina hose; he said virtually indestructible. Earl said that he would be more comfortable if the tank was moved closer to the lake to allow for a shorter hose and more distance between the right of way from the county highway and the tank. He also doesn't think that the 4 x 7 foot bollard would stop a vehicle moving 40 MPH. John Ingleman agrees with Earl that there should be more space between the road right of way and the tank. Teri said she spoke with Cass County Engineer Dave Enblom; he indicated to her that the tank should be 42 feet from the centerline (which it is) off the

road but, in his opinion, he would be more comfortable moving 10 feet closer to the lake. There were concerns with the type of reel for the hose. Orris said there are different mechanisms. The Commission would be more comfortable if it was an electrical powered reel system. Orris commented that he didn't want it to close to the water table/lake as they have to put the electrical and a submersible pump underground.

Glen Gustufson asked if the DNR has to approve the application. Teri said they don't; however, they do receive the application requests in the shoreland zone for comment. Darrin Hoverson made no formal comments regarding the application. The Commission is more comfortable moving 10 feet closer to the lake.

Dave Reese, WSN asked if it is just one fuel; one dispenser. Orris said it is a dual line dispenser so two boats can fill at a time. It would need two hoses and dual reel mechanisms. Dave said that WSN's comments would be a 35 foot set back from the lake. They would like to see a larger diameter bollard (six inch steel bollard) set in concrete in the ground for safety issues. Orris said the bollard will be the entire perimeter of the tank. The benefit of moving closer to the lake is a shorter run of pipe to the dispenser. Dave asked if there will be lighting for the evening hours. Sean said there could be a security light. Teri said the light should be down cast lighting. Will the system be locked up at night? The main breaker to the dispenser will be shut down, but not the power to the machine mechanisms.

Earl North asked if it will be a 4,000 – (requested size 5' X 18'), (actual size 5' X 28') or 5,000 – (6.6' X 24') gallon tank. The application says 5,000 and the dimensions describe a 4,000 tank. Orris said they can shorten the tank up to 7' X 14', 4,000 gallons and build steps for the bulk driver to fill the tank. Wayne asked if there are any problems with the weight. Orris said they usually set it on an 8" slab with rebar, two foot on center, both directions. They check the soil and fill if needed before the concrete is poured.

Earl asked if the hose is 70 to 80 feet long he thinks there should be a bladder underneath to catch spills. Orris said there is a leak detector on the line and shuts it down. Wayne asked if it is inspected every year. The owner should have required annual inspection sheets on hand and filed for the tank and the two sump pumps.

There were no comments from the audience.

MOTION BY KEVIN EGAN TO APPROVE THE VARIANCE REQUEST AT (8164 INTERLACHEN ROAD) TO PLACE A GASOLINE TANK/PUMP AT A SETBACK OF 52 FEET FROM THE CENTERLINE OF CSAH 77 AND 35 FEET FROM THE OHW OF GULL LAKE. WAYNE ANDERSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

MOTION BY KEVIN EGAN TO APPROVE THE CONDITIONAL USE PERMIT AT (8164 INTERLACHEN ROAD) FOR A GASOLINE TANK/PUMP (SALES) WITH THE FOLLOWING CONDITIONS: THE OPERATION OF THE PUMP WILL ONLY BE IN THE PRESENCE OF AN ATTENDENT AND ONLY DURING THE BUSINESS HOURS OF THE RESTAURANT; SIGNAGE WILL BE ACCEPTABLE TO THE ZONING ADMINISTRATOR; APPROVE A 35' TANK LOCATION FROM THE LAKE; APPROVE A SET OF BOLLARDS ACCEPTABLE TO THE CITY ENGINEER; APPROVE A 4,000 TANK WHICH IS 7' X 14' IN DIMENSION; REQUIRE APPROPRIATE WRITTEN INSPECTIONS OF THE OWNER'S OF THE FACILITY; PRIOR TO INSTALLATION (AT LEAST 7 DAYS) THAT THE MPCE (TANK DIVISION) BE NOTIFIED OF THE DATE OF INSTALLATION; REQUEST TANK INSPECTION WITHIN 30 DAYS OF COMPLETION OF THE INSTALLATION BY THE

MPCA; TANK MUST CONSIST OF DOUBLE WALL CONSTRUCTION WITH THE UI RATING OF 2085 (FIRE GUARD) TANK; PIPING MUST BE DOUBLE WALLED; INSTALLATION BE DONE BY A CERTIFIED CONTRACTOR; THERE SHALL BE AN INSPECTABLE TRANSITION SUMP AT THE JUNCTION WHERE THE PIPE ENTERS THE GROUND;. TANK SHALL HAVE AN ANTI-SIPHON VALVE; THE HOSE REELS SHALL BE KEPT REELED UP WHILE NOT IN USE; EMERGENCY INFORMATION SHALL BE LOCATED NEAR THE TANK WITH THE SIZE, GALLONAGE, A 24 HOUR EMERGENCY CONTACT NUMBER; SIGN SHALL USE REFLECTORIZED LETTERING AND NUMBERING SO IT IS PLAINLY VISIBLE; THE PROPERTY OWNER SHALL HAVE A SPILL KIT AVAILABLE NEAR THE TANK AND DISPENSER (KIT SHOULD INCLUDE ABSORBENTS/FLOOR DRY, ETC.); THE AREA EAST OF THE PARKING LOT WHERE THE TANK IS LOCATED SHALL BE REVEGETATED (CURRENTLY IT IS NOT) TO PREVENT FURTHER RUNOFF INTO THE LAKE AND AN ADEQUATE BUFFER AT THE SHORELINE; THE PROPOSED TANK SHALL BE SCREENED AS ACCEPTED BY THE PLANNING COMMISSION (FENCING AND/OR VEGETATION); THE FACILITY IS DEEMED A 'MARINE MOTOR FUEL-DISPENSING FACILITY' AND THEREFORE THERE SHALL BE AN ATTENDANT ON DUTY WHENEVER OPEN FOR BUSINESS; A COMPLETE SET OF PLANS AND SPECIFICATIONS SHOULD BE FILED WITH THE CITY AND REVIEW OF SUCH DONE BY THE STATE FIRE MARSHALL'S OFFICE OR FIRE CHIEF. WAYNE ANDERSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

MOTION BY KEVIN EGAN TO APPROVE THE CONDITIONAL USE PERMIT AT (8164 INTERLACHEN ROAD) THAT WITH THE CONSTRUCTION OF AN ADDITIONAL DOCK THE OPERATION WILL BE RECOGNIZED AS A MARINA. GLEN GUSTAFSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Teri said for the record that the approval from the city does not constitute approval from the DNR for a Marina.

Ordinance Amendment - Land Use Matrix – The purpose and intent of this Ordinance is to amend the City of Lake Shore City Code, Chapter IV, Land Use Matrix. It is proposed to amend the land use matrix to add Wedding Venue as a conditional use within the Rural Residential/Agricultural and Wooded Residential District.

Teri said previously at the workshop to discuss 'wedding venues' and where they can be located, it was decided to make it an interim use; however, the city attorney stated the end date of 'when the property ceases to be used as a wedding venue' was too vague and not definite. An interim use needs a specific end date; therefore, the wedding venue was added as conditional use rather than interim use. Both the conditional use and interim use are the same process.

There were no comments from the audience.

MOTION BY KEVIN EGAN TO MOVE FORWARD WITH A RECOMMENDATION FROM THE PLANNING COMMISSION TO THE CITY COUNCIL THE APPROVAL OF THE ORDINANCE AMENDMENT OF ORDINANCE NO. 2016-03, FIRST SERIES, AS IT RELATES TO THE LAND USE AND SUBDIVISION ORDINANCE LAND USE MATRIX OF THE CITY OF LAKE SHORE AS PRESENTED. GLEN GUSTAFSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

## **NEW BUSINESS**

Site Plan Review – Zorbaz – The applicant is seeking a site plan review for possibly adding additional decking on the property. The proposed decking would be in the south west corner of the building where there is a quasi-screened porch.

The building is setback over a 100' from the lake (old site conditions survey were attached). There is a 50' setback from CSAH 77 which the proposed deck would not meet. Impervious surface and parking are issues with this property. Currently the impervious surface is at 46%. The city has been lenient on decks being considered impervious depending on the construction. The proposed decking would add additional seating which requires additional parking. The applicant would like the use of shuttles to be considered for parking. The property is served by city sewer. The additional seating may trigger an adjustment to the number of ERC's (Equivalent Residential Connections) charged. Seating is used to calculate the ERC's for a restaurant/bar.

If the applicant were to proceed with an application an updated survey would be required along with a detailed parking lot layout.

**Lee Johnson** and Tony Nelson from Zorbaz came before the Commission to explain the proposed deck expansion of 10' X 28' – 12' X 34' (L) shaped to the east side of the existing deck. Teri said it is too close to the road right-of-way; have they considered putting the new deck to the north end of the building; it would take the variance out of that portion of the request.

Wayne asked if there has been an analysis done on exiting the facility; is there adequate exiting. Lee J said it will have a wide open entry. Tony said with the points of egress on the current deck they followed code and are compliant. Wayne asked if there is a restroom concern adding (40 occupants) and are they ADA compliant. Teri said the City hasn't adopted State Code, but because they are a business there are still rules they need to meet. Tony said there are 5 adequate restrooms and the building was constructed before ADA rules were required.

Glen asked how much of the proposed deck is within the 50' setback from the road. Teri said the drawing isn't to scale and couldn't determine an exact amount, but showed the Commission that right now it's at about 30'. Lee J suggested cutting the corner of the proposed deck or possibly moving it as suggested to the north end. John Ingleman hears there is an issue with the setback from the road right-of-way and it could be avoided by moving the deck to the north end of the building; or cut the corner off the proposed deck to meet the setback.

Teri went back and said that by adding 40 seats would probably impact the number of ERC's for city sewer usage.

Lee J addressed the parking and said 80% of the business is on weekends and some of their traffic is buses dropping off people. Teri said this site plan is existing conditions from 1985; if this moves forward she suggests bringing in an updated site plan with a parking design along with the rationale that would justify the off pavement parking. Lee J doesn't ever remember there being a parking complaint. People do use the public access across the street; however, that can't be taken into a formal parking plan.

Kevin reiterated that if they move forward with a formal plan he hears they may want to avoid the variance by shifting the location of the deck or cutting of the corner portion of the deck to meet the setback requirement. Justify in a more formal way the reasons why they don't need any more parking than they have right now. Have the survey updated including how many parking spaces are there. Wayne asked if a determination needs to be made for how many code required there are or are needed for a starting point. Tony said the asphalt portion of the parking lot is stripped

and there is plenty of parking off the asphalt. Teri suggested that it's important to clearly demonstrate what is used for parking area, especially on a busy night, so there is that justification.

Signed drawings for commercial projects - Letter from Wayne Anderson – Wayne submitted a letter sharing his thoughts on the requirement to provide complete drawings that are stamped by a registered architect and engineers stamp of approval on commercial construction projects. He said he thinks the city owes the community a safe place in its commercial building construction. Earl said years ago the city reviewed whether they should require inspection services on construction projects and the city council voted it down. He would like to see a formal inspection process because some of the homes built in the city are valued more than some commercial projects. The last time a determining factor for rejecting the proposal was the added expense to the project.

Kevin asked what the other communities regionally are doing. Teri will gather information into what's done in surrounding communities. Teri said that in the interim for commercial projects the inspection could always be made a condition of the approval.

**OLD BUSINESS** – There was no old business.

### **REPORTS**

City Engineer – Dave Reese said that the wastewater reconstruction project for lift stations 4 & 5 are moving forward and the construction will start after the first of May and is scheduled to be complete before Memorial Day weekend. Kevin Egan asked when the County 77 project will start. Teri said the project will start in the spring of 2017 and completion is scheduled for 2018.

Chairman – John Ingleman commended Tom Diemert for his years of service to the Commission and community as Tom has submitted a letter of resignation from the Planning Commission.

Council Liaison – Earl North had nothing to report.

Zoning Administrator – Teri Hastings had nothing to report.

**PUBLIC FORUM** – There was no public forum.

MOTION BY WAYNE ANDERSON TO ADJOURN THE BOARD OF ADJUSTMENT/PLANNING COMMISSION MEETING OF APRIL 11, 2016 @ 10:28 AM. GLEN GUSTAFSON SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Transcribed by Patti McDonald  
Lake Shore City Clerk