

Town of Bass Lake Board of Supervisors  
Town of Bass Lake, Sawyer County  
14412W County Highway K  
Hayward, WI 54843

As property owners within the Town of Bass Lake, Sawyer County with property boundaries abutting the unsurveyed strip between our properties and the Ordinary High Water Mark (OHWM) owned by the Town of Bass Lake, we have concerns. Before we address those concerns and offer suggestions/solutions, we wish to thank the Board for their sincere efforts to reach out to us and establish dialogue. We hope the onerous, unacceptable, and threatening terms in the suggested ordinance as proposed by the Town of Bass Lake Planning Committee in April 2015 without input from affected property owners is a thing of the past.

We wholeheartedly support, "The intent of the Town [...] to protect the shoreline and the public interest in these sensitive areas through the management of vegetative cover and man-made alterations. The management of trees and vegetative cover is extremely important in anchoring the slope to protect the natural repose. The management of any man-made alterations to the natural environment shall provide additional protection against the decline of the shorelines, lakes, and vegetative cover" (Section 2, Intent of proposed Ordinance July 31, 2015).

We, the vast majority of full time and seasonal residents/property owners, reside where we do because of the environmental setting and often family history. We appreciate a clean, semi-natural to natural environment. We recognize the sensitivity of the slopes (some of which approach or exceed 100%) and the need for vegetative cover to minimize erosion and nutrient runoff into the lakes and streams. We recognize the need and enjoy the clear and clean water. Basically, what we want is good stewardship of all lands whether we do it on our property and or the unsurveyed strip between our property and the OHWM. In many cases, we do the maintenance of the land where the Town of Bass Lake or its predecessor, the Town of Hayward has not. This includes planting of trees, shrubs, groundcover, removal of noxious weeds such as poison ivy and ragweed, and invasive species, removal of small dead trees and shrubs and branches; rip-rap shoreline to reduce or stop erosion due to high water and wave action.

At the Special August meeting, three categories items/structures (privately owned), were identified. Many of us were given permission verbally in the distant past for our structures/items to be placed within the unsurveyed strip. In the past, a verbal agreement/handshake was acceptable. We know of several efforts that were blocked verbally or in writing from being placed on the unsurveyed strip. To suggest this late, after the fact, that any items currently on the unsurveyed strip must have written permission or be removed goes against common law. The use of the word "infringement" which refers to a violation of a law or a right is thus incorrect if permission was given. Can we change the wording to something like "existing items"? Incidentally, persons attending the meeting have different understandings of what was actually said.

All property owners bought property with the understanding that they had reasonable access through the unsurveyed strip (path, stairs and railing) to the lakeshore, to have a dock, a place to pull boats out and store them and the dock for the winter. These are traditional, agreed upon uses for more than 85 years.

With respect to the categories:

- Category 1: includes commercial items, (e.g., car or trailer, for sale, building materials), personal items (e.g., vehicle, trailer, annual wood pile, propane tanks, fuel oil tanks, septic systems, gasoline tanks greater than 5 or 5ix gallon capacity) scrap material, leaves and yard waste, garbage containers: unused items or items in disrepair, burn barrels).
- Category 2: includes easily movable items (e.g., picnic table, fire ring, seasonal wood supply [considerably less than ½ of a face cord], lawn chairs; and minor erosion control efforts, handicapped items).
- Category 3: includes existing non-movable items (e.g., decks attached to house, home or garage foundations, boat houses, wells, sheds [permanent and non-permanent], electric lighting); fences.

Grandfathered items: include paths, steps, boat pull-out and dock storage areas near the lakeshore, and non-moveable items. Grandfathered or the "the Law of Nonconforming Uses and Vested Rights" protects the property (not merely real estate) rights that precedes a more recent ordinance. Past use of land may create vested rights for the owner and thus the Town of Bass Lake (or any Town) may not unreasonably require the

discontinuance of the nonconforming use. Since, in many cases, the Town of Bass Lake verbally gave permission for a use on the unsurveyed strip, the use should be considered grandfathered. If the Town persists with the removal argument in the ordinance, the removal can be considered a constitutional unlawful taking.

To protect the riparian environment in perpetuity, we, the seasonal and annual residents propose the creation of a “conservation easement”. Purposes of the unsurveyed riparian conservation easement include:

- Maintain and improve water quality;
- Maintain slope stability and minimize soil erosion and nutrient runoff to the water;
- Perpetuate and foster growth of healthy, riparian zone natural vegetation (forest/natural open space);
- Maintain and improve wildlife habitat (small mammals, birds);
- Reduce fire hazard through judicious pruning and raking of vegetation litter;
- Protect and maintain scenic vistas visible from the lake and ,where appropriate, from roads;
- Limit future development within the easement.

In establishing the conservation easement, the grandfathered rights are accepted. Revegetation efforts should emphasize native trees, shrubs, and herbs.

Stewardship: We, the majority of property owners (private and public lands), desire good stewardship—the management or care of riparian lands that ensure the long-term maintenance of the landscape, biota, and ecological processes. This includes reasonable development for human use. Thus we concur with the current setbacks as now written. Many property owners adjacent to the unsurveyed strip have been the stewards of the strip. The Town of Bass Lake’s stewardship effort has been limited and sporadic. We see a vast improvement in the Town’s stewardship effort—the Town is to be complemented. However, that effort cannot trample on the rights of the adjacent private lands where written or oral permission was given in the past.

Property ownership of the unsurveyed strip is currently the people of the Town and the Town of Bass Lake manages those lands for the people (i.e., the “public”). We believe ownership options exist:

- Town retain ownership and grandfather private, existing interests/rights and assume liabilities and full stewardship responsibilities;
- Town retain ownership and lease unsurveyed strip to adjacent property owners who will assume stewardship (except purchase of items [tree and shrub seedlings, rip-rap and placement]) with Town oversight including live tree cutting, shrub removal, removal of large dead danger trees, and property owner assumes liability without non-emergency public use;
- Town sell unsurveyed property strip to adjacent landowners who assume all stewardship responsibilities. Selling of Town of Bass Lake property owners has occurred in the past.

We believe these options are doable and can be done in combination and all three can be done depending upon the individual property owners involved. It may be difficult, but remember the World War II movie statement, “Damn the torpedoes, full speed ahead.” Regardless of ownership the Town will require a conservation easement and have caveats as to what can and cannot be done in terms management.

We believe strongly that surveyed roads and the unsurveyed strip must be treated separately—Keep it simple. Surveyed road right-of-ways are legal entities recognized as such by the state and federal governments. In the minutes of the August 25, 2015 special meeting, it is stated, Chairman “Hall also stated that he would like to get away from using Public Reserve Strip because there are public accesses, public access strips and access roads.”—this recognizes roads as a separate entity. In the May 11, 2015 Town of Bass Lake Board of Supervisors’ Meeting minutes refers to “road-right-of-way [...] have been looked at differently than the public reserve strip setbacks and public shoreline enforcement.” We believe also that all Town of Bass Lake access roads should be cataloged and reported as such that describe location, width, and length before any further action be carried out.

Concerns of private property owners adjoining the unsurveyed strip if public use is encouraged include:

- Increased erosion on slope and top of slope,
- Steep slopes with potential for people falling and injuring themselves,
- Increased risk of human caused wildland fire (smoking, cooking fire)
- Increased litter,
- Increased pet litter especially onto private property,
- Trespass onto private property,
- Peeping Toms,

- Casing of dwellings/property for robbery intent (this has occurred—one person with outstanding warrant(s) was arrested doing just that),
- Liability (both Town and private property owners).

Many of us feel that rushing a resolution will cause many private property owners to feel disenfranchised. Our property values are an issue. At the August 25 meeting, which was well attended (standing room only) but not acknowledged in the minutes as is the case for the May Planning Committee turnout. At the June meeting of the Town Board, we were told Board member(s) wanted to meet with individual property owners before the ordinance was finalized. Many property owners have not had that opportunity. Thus, we suggest drafting a penultimate draft of the ordinance and Board member meet with people between when they are here with final adoption of the ordinance at the September 2016 meeting of the Town Board of Supervisors.

Recently passed legislation/regulation authorizes the Wisconsin Department of Natural Resources to develop statewide guidelines concerning lake and stream riparian zones. We request a delay in finalizing until the new guidelines/regulations have been published and the Town and property owners have had a chance to review and understand them and so that the Town of Bass Lake can be in compliance with the revised guidelines without further amendments.

So that we can fully understand the 1967 court decision regarding “unsurveyed strip”, we request the Town to provide the stipulations referred to in the summary document. Without the stipulations, except to establish ownership, what is meant about use is unknown.

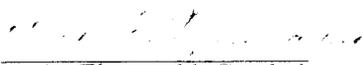
Because of the above and many property owners wish to discuss on a one-on-one basis, as promised by Chairman Hall, we wish that finalization be done for public review in August 2016 and be acted upon by the Town of Bass Lake Board of Supervisors in September 2016.

We wish this report be included as part of the minutes of October 12, 2015 meeting of the Town Of Bass Lake Board of Supervisors.

We wish to establish positive dialogue and work with the Town. We look forward to hearing from you.

Respectfully,

Conservation Strip Committee

  
Kathy Fitzgerald, Co-chair

  
Edmond C. Packee, Co-chair