

Becker County Zoning Ordinance Review Committee (BCZORC)
November 19, 2015

Present: Harry Johnston, Dave Knoff, Larry Knutson, Jim Kaiser, Rodger Hemphill, Jerome Flottemesch, Mandy Erickson, Brian McDonald, Ray Vlasak, Tera Guetter, John Postovit, Peter Mead, Julene Hodgson, Debi Moltzan, and Eric Evenson-Marden

Chairman Johnston called the meeting to order at 9:00 am. Dave Knoff moved to approve the agenda, seconded by Ray Vlasak, passed unanimously.

October 15, 2015 Minutes: Dave Knoff moved to approve the agenda, seconded by Ray Vlasak, passed unanimously.

Unfinished business:

Proposed zoning ordinance change utilizing the “Natural Environment Lake Analysis” to determine lot frontages on Natural Environment Lakes and add a definition of “Buffer”: Mr. Evenson-Marden reminded the Committee on October 15th they recommended a change to the Zoning ordinance adopting the “Natural Environment Lake Analysis” for determining lake frontage requirements on natural environment lakes. At that time the Committee also asked staff to return with a definition of “Buffer.” Mr. Evenson-Marden presented a recommended definition and an alternative definition recommended by Tera Guetter of the Pelican River Watershed District. Jerome Flottemesch cautioned that native buffers may not be applicable in all situations such as in agricultural areas where alfalfa and other cover crops are often used as buffers. Dave Knoff asked if the ordinance could contain both a definition of “buffer” and “native buffer.” Larry Knutson agreed that there should be a distinction between buffers on agricultural land and those on natural environment lakes. Mr. Flottemesch added that there are times when the state requires certain specs and design. Mr. Evenson-Marden said the definitions would add clarity to the ordinance.

After discussion, the Committee recommended that the following definitions be added to the County Zoning Ordinance:

Chapter 10, Section 2, Definitions

Buffer: An area of land consisting of established perennial vegetation, excluding invasive plants and noxious weeds, designed to intercept stormwater runoff, stabilize of soils, shores, and banks.

Buffer, Natural: An unmown, undisturbed natural or enhanced native perennial vegetation area, excluding invasive plants and noxious weeds, that is managed to stabilize and maintain the integrity of upland, shorelines, and stream channels, to reduce the impact of upland sources of water pollution by trapping, filtering, and converting sediments, nutrients, and other chemicals, and to supply food, cover, and thermal protection to fish and other wildlife.

Moved by Ray Vlasak, seconded by Dave Knoff, passed unanimously.

Mr. Flottemesch indicated it may be necessary to review the Zoning ordinance to determine if other rule changes would be needed as a result of these definitions.

Proposed zoning ordinance change to add a definition of “expansion.” As a follow-up to the October 15th meeting, Mr. Evenson-Marden presented a revised definition of “expansion.” Mr. Evenson-Marden explained the definition will help provide consistency in how the rule is applied and clarity on what sort of expansions are allowed. The new definition would not allow for more intensive use in shoreland areas; however, it would allow homeowners to change the roof pitch and height. Dan Petric with the DNR has reviewed the proposed definition and recommended minor clarifications. After discussion, the Committee agreed with revisions and recommended that the following definition be added to the County Zoning Ordinance:

Chapter 10, Section 2, Definitions

Expansions of non-conforming structures: Enlargement or any increase in a dimension, size, or area resulting in an increase in the livable area, any placement of a structure or part thereof where none existed before. Changes in roof pitch or structure height are not expansions as long as they do not increase livable space.

Moved by Dave Knoff, seconded by Jerome Flottemesch, passed unanimously.

Setback requirements from shoreline (stringline+20). Harry Johnston recommended the committee reconsider the “stringline + 20” requirement for shoreland setback. He suggested the committee could (1) leave it alone, (2) revert to the old definition of stringline, or (3) use a different amount. Mr. Johnston said he would support “stringline + 10.”

John Postovit responded that he has reviewed the Board of Adjustment meetings since 2012 when the ordinance was changed to the current standard. In the past four years a total of 23 variances were requested from the setback average +20 requirement from people that wished to expand existing structures. Of these, 13 were approved and 10 were denied. He stated according to the meeting minutes, all of the properties denied could comply with the setback but did not want to; those approved were granted due to site constrictions. Mr. Postovit said the changes made in 2012 have been successful in moving buildings back from the shoreline. Larry Knutson suggested if variances are routinely granted for the same thing, the ordinance should be changed so staff could issue the permits administratively. Mr. Flottemesch agreed, if the BOA is continually giving variances for the same thing, the zoning ordinance may need to be changed. People should not have to bear the additional costs or time of going through the variance process. He felt this was something the Committee should look into further and asked staff to return with a recommendation. Ms. Moltzan stated she did not know how many people wanted to build close to the shore that decided not to because of the variance process. She surmised some chose not to expand and rebuilt on the same footprint and others did nothing.

John Postovit expressed concern that changing the current Ordinance language may not be consistent with MN Statutes 394.36, subd. 51. Mr. Flottemesch expressed a concern that on small lots, moving back 20 feet could be a hardship. Mr. Johnston stated the rules were changed

in 2012 because the county wanted to be consistent with the proposed changes to state law but the state did not adopt the changes they proposed.

Mr. Knutson questioned if we should be using the “technical Panel” to look at difficult lots. Moved by Dave Knoff to change the County Zoning Ordinance to setback average [sic, stringline] +10 with mitigation to make up the difference, seconded by Jerome Flottesmesch. Mr. Knutson said he would support retuning to “stringline” – which is the state standard. Tera Guetter encouraged the committee to look into the science that supports moving structures further away from the shoreline. She stated that increasing the setback would allow greater infiltration and filtration of stormwater runoff and would help reduce pollutants from entering a lake. Mr. Flottesmesch questioned how much of a difference a 20 foot setback would make. Mr. Postovit said we may be losing sight of what matters - once a small cabin is replaced with a large house, we will lose the opportunity to move them further from the lake. Mr. Johnston responded that we were proactive in 2012 thinking that the DNR was going to change the statute, but they did not.

The question was called and passed unanimously.

Staff recommendation to amend the Becker County Zoning Ordinance to be consistent with approved fees for mass gathering (Chapter 8, Section 22). Mr. Evenson-Marden presented recommended changes to the County Zoning Ordinance. Upon review, the following language was moved by Dave Knoff, seconded by Ray Vlasak, and passed unanimously.

C. Fees. The application shall be accompanied by a license fee ~~in the amount of \$500.00 and together with a bond in penal sum of \$25,000.00 in an amount set by the County Board of Commissioners~~ with sureties to be approved by the County of Becker conditioned that the licenses (a) carries out all of the plans and keeps and performs all of the conditions of the application and license, (b) maintain order on the premises, (c) leave the premises in neat and respectable condition, (d) pay, when due, to the person or persons entitled thereto, all debts and obligations incurred in promoting, advertising, and conducting and operating the assembly, and (e) indemnify and hold harmless the County of Becker, its officers, agents, and employees, from any liability or causes of action arising in any way from the conduct of the assembly. The bond shall run for a period of one (1) year. If the applicant has made application for a like assembly at the same location for four (4) consecutive years immediately preceding the application under consideration, the Becker County Board of Commissioners may, in its sole discretion, waive the license fee and/or the bond referred to above.

Staff recommendation on Chapter 7, Section 6B relating to the exception of a CUP for gravel mining projects. Julene Hodgeson provided an overview of issues related to the gravel mining exemption from CUP requirements when the gravel is used for public roads. With the exception of gravel mining operations used for public roads, all other gravel mines require a CUP. Gravel mining operations used for public roads are generally small and operate for a short time. What once were small gravel pits are now operating similar to larger, commercial operations and may include asphalt plants, crushers, and other types of auxiliary operations. Gravel mines operating under the “public road exception” are not allowed to sell gravel for any

other purposes. Enforcement of this provision is difficult and it is believed to be routinely violated.

There was general discussion about challenges with monitoring small gravel mines and gravel mine restoration. Mr. Knutson agreed that this provision is often violated.

Jerome Flottemesch moved that staff return to the Committee in December with a recommendation to remove the exemption and come up with new language with the possibility for small exceptions, seconded by Ray Vlasak, passed unanimously.

Dave Knoff recommended when someone is selling gravel a surety should be required to assure restoration. Harry asked that this be brought back to the Committee for further discussion.

Discussion on adding provision to the Zoning Ordinance related to “dog kennels.” Mr. Evenson-Marden indicated a Commissioner requested the Committee to look into the possibility of adding language to the County Zoning Ordinance to address commercial dog kennels. He said he looked into how other counties address kennels and found that county ordinances range from detailed, standalone ordinances such as Sherburne County but most commonly, county zoning ordinances require Conditional or Interim Use Permits for kennels that reference state law. He added, that there are at least 4-5 commercial kennels in the county; however, it is believed there may be several undocumented and unpermitted, smaller kennel operations throughout the county. Two of the larger, known dog kennels are grandfathered in; others may have received CUP’s under a “general commercial” operation. The grandfathered kennels have received negative attention for their treatment of dogs.

Kennels are most often defined as “any structure or premises on which four (4) or more dogs over four (4) months of age are kept for sale, breeding, profit, etc. for six (6) or more months. Some ordinances expand the definition to include “pets.” Other specifies dogs, cats, birds and similar animals commonly kept in a residence.

Natural Environment Lakes. The Committee discussed relooking at the weighting criteria used to determine frontages on natural environment lakes. Rodger Hemphill indicated that state is very interested in the approach Becker County is taking and would need to review and approve any changes before they are adopted by the County Board. Larry Knutson suggested this is something that the Technical Advisory Committee may want to review. Harry Johnston said that the Committee voted last month to forward their recommendation to the Planning Commission.

Moved by Ray Vlasak to bring the topic back to the Committee to reevaluate the weighting criteria, seconded by Jerome Flottemesch. A vote was called, Harry Johnston and Dave Knoff opposed, Ray Vlasak and Jerome Flottemesch in favor. Motion failed because of a tie.

The meeting was adjourned at 11:15 am.

Respectfully submitted,
Julene Hodgson and Eric Evenson-Marden

184 **Upcoming agenda items:**

- 185 - Recommended ordinance change regarding dog kennels
- 186 - Recommendation ordinance change to Chapter 7, section 6B relating to the exception of a
- 187 CUP for gravel mining projects.
- 188 - Changes related to requirements on “lots of record”
- 189 - Policy on resurfacing roads.
- 190 - Discussion of “Interim Use Permits.”