

Becker County Planning Commission
July 18, 2006
Public Hearing for the intent to amend the Zoning Ordinance

Present: Members Jim Bruflodt, Harry Johnston, John McGovern, Waldo Johnson, Jeff Moritz, Jim Kovala, John Lien, Mary Seaberg, Ken Christianson, Ray Thorkildson, Don Skarie; Zoning Administrator Patty Johnson and Zoning Staff Debi Moltzan.

Chairman Bruflodt called the meeting to order at 6:00 p.m. The purpose of the meeting was to review, discuss and act upon proposals to change the Zoning Ordinance. Bruflodt stated that the Planning Commission is an advisory board and the recommendations of the Planning Commission would be forwarded to the County Board of Commissioners for final action.

P. Johnson explained that this meeting was the official public hearing on eleven (11) issues. An advisory committee has been working on different areas of the Zoning Ordinance, resulting in the proposal presented at this meeting. P. Johnson stated that each proposal would be presented, discussed and acted on.

Proposal 1. Accessory structure. Current language: on property used primarily for residential purposes, a detached accessory building or structure shall not be more than one (1) story and shall not exceed eighteen and one-half feet in height. A detached accessory building or structure shall occupy not more than 30% of the area located within the setback lines. Detached accessory buildings or structures that exceed these standards and are used for other than Agricultural purposes shall be allowed only by Conditional Use. Accessory buildings or structures may not contain living or sleeping quarters.

Proposed language, Section 11, G:

Accessory Structure Use: If any portion of the floor space is equipped with these three key elements: 1) cooking/kitchen facilities; 2) water supply and/or sanitary disposal facilities; 3) sleeping accommodations; providing the capability of independent, continuous human habitation, the building or structure is considered equivalent to a guest cottage and must be located on a property that meets or exceeds duplex lot area and width dimensions as listed in Section 6, Subdivision 4 of the ordinance.

Accessory Structure Height: The height of an accessory structure shall be limited to 22 feet to the peak and not more than 1 and one-half (1.5) stories in height.

Accessory Height: Accessory structures on a lake frontage lot or within 200 feet of a lake are allowed to be 480 sq ft or 5% of that portion of the lot (within 200 feet) whichever is least restrictive. In all cases, the accessory structures must be located within the setback lines and cannot exceed 1200 sq feet in size.

Accessory structures located over 200 feet from a lake and accessory structures located across the road from the lakeshore tract are allowed to be 2400 sq ft in size if it does not exceed 15% of the buildable area. This is applicable in a residential use area. Impervious surface standards must also be met.

Accessory Building Setback: Accessory structures located within the shoreland district may be permitted 20 feet from the right of way of a township dedicated road or 53 feet from the centerline of a non-dedicated township road. This setback does not apply to County or State Highway.

Amend Section 6 to reflect road setbacks for accessory structures within the shoreland district and on township roads.

Amend Section 4 definition Guest Cottage to read: A structure having floor space equipped with cooking/kitchen facilities, water supply and/or sanitary disposal facilities, sleeping accommodations with any other amenities capable of providing independent human habitation. A structure that is capable of being used as a dwelling unit in addition to the primary dwelling on a lot.

Add definition: Guest Quarters: A structure having floor space capable of providing for temporary human occupation, such as sleeping accommodations for short term guest use. The incidental use of guest quarters is supplementary to occupancy of the main dwelling unit.

P. Johnson stated that a representative from Foltz Buildings worked with the committee on this issue. P. Johnson stated that more people want to build structures with overhead doors rather than shed-type doors and additional height is required for construction. P. Johnson stated that there was one error in the proposal, which was the third heading, should be accessory structure area, not height.

Speaking in favor of the proposal was Bob Bristlin. Speaking in opposition of the proposal was Rolf Christianson, whom thought the proposed height should be 23 feet.

Kovala stated that 22 ft high would accommodate a 14 ft door for RV's to be placed inside. Johnston stated that Otter Tail County has changed their height limit to 22 ft. Johnston also stated that the Foltz representative felt that a 22 ft height limitation would accommodate approximately 90% of the buildings that Foltz constructs.

Discussion was held regarding the definition of a half story. P. Johnson stated that is would be one-half the cubic area of the first floor.

Motion: Lien made a motion to approve the following proposal based on the fact that the change would allow better use of property: **Section 11, G: Accessory Structure Use:** If any portion of the floor space is equipped with these three key elements: 1) cooking/kitchen facilities; 2) water supply and/or sanitary disposal facilities; 3) sleeping accommodations; providing the capability of independent, continuous human habitation, the building or structure is considered equivalent to a guest cottage and must be located on a property that meets or exceeds duplex lot area and width dimensions as listed in Section 6, Subdivision 4 of the ordinance.

Accessory Structure Height: The height of an accessory structure shall be limited to 22 feet to the peak and not more than 1 and one-half (1.5) stories in height.

Accessory Structure Area: Accessory structures on a lake frontage lot or within 200 feet of a lake are allowed to be 480 sq ft or 5% of that portion of the lot (within 200 feet) whichever is least restrictive. In all cases, the accessory structures must be located within the setback lines and cannot exceed 1200 sq feet in size.

Accessory structures located over 200 feet from a lake and accessory structures located across the road from the lakeshore tract are allowed to be 2400 sq ft in size if it does not exceed 15% of the buildable area. This is applicable in a residential use area. Impervious surface standards must also be met.

Accessory Building Setback: Accessory structures located within the shoreland district may be permitted 20 feet from the right of way of a township dedicated road or 53 feet from the centerline of a non-dedicated township road. This setback does not apply to County or State Highway.

Amend Section 6 to reflect road setbacks for accessory structures within the shoreland district and on township roads.

Amend Section 4 definition Guest Cottage to read: A structure having floor space equipped with cooking/kitchen facilities, water supply and/or sanitary disposal facilities, sleeping accommodations with any other amenities capable of providing independent human habitation. A structure that is capable of being used as a dwelling unit in addition to the primary dwelling on a lot.

Add definition: Guest Quarters: A structure having floor space capable of providing for temporary human occupation, such as sleeping accommodations for short term guest use. The incidental use of guest quarters is supplementary to occupancy of the main dwelling unit.

Kovala second. All in favor. Motion carried.

Proposal 2. Pervious Decks. Proposed Language: Decks shall be considered as pervious if the following conditions are met: Maximum material (board) width is 8 inches; Minimum spacing between materials (boards) is ¼ inch; Area under deck is pervious material. Decks not meeting these requirements shall be considered as impervious.

P. Johnson stated that there is no current definition for a pervious deck.

Bob Bristlin stated that he felt that something should be changed to address removal of impervious surface on nonconforming lots so the owner does not have to go through the complete mitigation process. Brufloft stated that maybe that issue could be addressed with Proposal 3 or go back to the committee. P. Johnson stated that the nonconforming lot mitigation is a new regulation and that there will be instances that maybe do not fit with the new regulation. P. Johnson stated that she would look into the situation and try to find a solution to the problem.

Motion: Kovala made a motion to approve the following proposal based on the fact that it provides a needed definition: Decks shall be considered as pervious if the following conditions are met: Maximum material (board) width is 8 inches; Minimum spacing between materials (boards) is ¼ inch; Area under deck is pervious material. Decks not meeting these requirements shall be considered as impervious.

W. Johnson second. All in favor. Motion carried.

Proposal 3. Impervious Surface. Proposed Language: Impervious surface is limited to 25% of the total lot area. However, impervious surface within the first tier of development will be limited to 25% of lot area located within the first tier.

P. Johnson explained that this would eliminate someone from putting all 25% of the coverage close to the lake. Maximum lot coverage would still be 25%, but within the first tier, maximum coverage would be limited to 25% of the area located within that tier, the remainder of the entire 25% would have to be located outside the first tier. This would also eliminate someone buying a back lot and using that area to increase coverage on the lakeside.

Christianson questioned why the first tier was used rather than the road as a divider. P. Johnson stated that the first tier was used for two reasons, one, tier depth is already spelled out in the ordinance and secondly, this would apply to lots which are extremely long and not separated by a road.

Chris Heyer felt that this would not give an incentive for creation of deeper lots.

Lien felt that this should be looked at more closely. Lien felt that some issues are passed in too much of a hurry and don't get analyzed enough. Lien felt that Bristlin's suggestion on the impervious for nonconforming lots could also be addressed with this issue.

Motion: Lien made a motion to send this proposal back to the committee for further review. Thorkildson second. All in favor.

Proposal 4. Water Oriented Accessory Structures. Current ordinance provision states: Each lot having a minimum of seventy-five feet of frontage on a General Development Lake and a minimum of one hundred feet on a Recreational Development Lake or Natural Environment Lake may have one water-oriented accessory structure not meeting the normal structure setback in section 6 of this Ordinance. The water oriented accessory structure shall comply with the following provisions:

- A. The structure exclusive of safety rails must not exceed in height the elevation of the lot measured at the building setback line from the ordinary high water level must not be more than twelve feet above grade in height and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;

- B. The minimum setback of the structure shall be twenty feet from the ordinary high water level or the ice ridge, whichever is greater;
- C. The structure shall be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
- D. The roof may be used as a deck with safety rails not exceeding three feet, but shall not be enclosed or used as a storage area;
- E. The structure shall not be designed or used for human habitation and shall not contain a potable water supply or sewage disposal facilities.
- F. The structure shall be placed within the center twenty-five feet of the lot as measured along the setback from the ordinary high water level.

Proposed changes: Each lot having a minimum of 100 feet of frontage on a General Development Lake and a minimum of 150 feet on a Recreational Development Lake or 200 feet Natural Environment Lake may have one water-oriented accessory structure not meeting the normal structure setback in section 6 of this Ordinance. The water oriented accessory structure shall comply with the following provisions:

- A. The structure must not exceed in height the elevation of the lot measured at the building setback line from the ordinary high water level, must not be more than ten feet above grade in height and cannot occupy an area greater than 120 square feet;
- B. The minimum setback of the structure shall be twenty feet from the ordinary high water level or the ice ridge, whichever is greater;
- C. The structure shall be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
- D. The structure shall not be designed or used for human habitation and shall not contain a potable water supply or sewage disposal facilities. The structure will be used for storage only; and
- E. The structure shall be placed within the center twenty-five feet of the lot as measured along the setback from the ordinary high water level.

P. Johnson stated that the changes made to this portion would coincide with the nonconforming lot mitigation, which was adopted in November 2005. The changes include: width of lake lot before qualifying for a water oriented structure; size of the structure allowed; height of the structure allowed and the top of the structure cannot be used as a deck.

Rolf Christianson questioned why the structure needed to be in the center of the lot. P. Johnson explained that these structures were only allowed by conditional use permit and this terminology eliminated this process and coincides with the DNR regulations. If the placement of the structure does not work on the lot, the owner can apply for a variance.

Bob Bristlin felt the setback should be from the property line, not center of lot.

Thorkildson stated that the center of the lot placement does not make sense. Kovala stated that the placement of the structure is not part of the change. Moritz explained the history of water oriented structures and the reasoning for past changes.

Motion: Lien made a motion to approve the following proposal to coincide with the nonconforming lot mitigation to read as follows: Each lot having a minimum of 100 feet of frontage on a General Development Lake and a minimum of 150 feet on a Recreational Development Lake or 200 feet Natural Environment Lake may have one water-oriented accessory structure not meeting the normal structure setback in section 6 of this Ordinance. The water oriented accessory structure shall comply with the following provisions:

- A. The structure must not exceed in height the elevation of the lot measured at the building setback line from the ordinary high water level, must not be more than ten feet above grade in height and cannot occupy an area greater than 120 square feet;
- B. The minimum setback of the structure shall be twenty feet from the ordinary high water level or the ice ridge, whichever is greater;
- C. The structure shall be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
- D. The structure shall not be designed or used for human habitation and shall not contain a potable water supply or sewage disposal facilities. The structure will be used for storage only; and
- E. The structure shall be placed within the center twenty-five feet of the lot as measured along the setback from the ordinary high water level.

Moritz second. All in favor except Christianson. Majority in favor. Motion carried.

Proposal 5. Conditional Use Permits. Currently there are no expiration dates. The CUP stays with the property whether or not is it being used.

Proposal: Add to the conditional use permit section: If two years after the date that the conditional use permit is granted, the use has not been implemented; the conditional use permit shall be null and void. If the permitted use is discontinued for a period of two years, the conditional use permit shall be null and void.

P. Johnson stated that this proposal was before the Planning Commission earlier with a one year expiration and sent back to the committee. P. Johnson explained that there are many conditional use permits have been granted and either never implemented or discontinued. Since a conditional use permit stays with the property, an old conditional use permit can be re-enacted without being reviewed and in many cases, regulations have changed and the old permit would not have been granted under current regulations.

Bob Bristlin felt that a one year expiration date should be placed on the permits because most people applying for the permit will use it right away. Lien felt that the permit

should not continue forever. Bristlin felt that the expiration dates will not be policed. P. Johnson stated that the enforcement would be administratively and would not be difficult to track.

Motion: W. Johnson made a motion to approve the following proposal based on the fact that it would keep issues closer into compliance with current and changing zoning regulations:

Add to the conditional use permit section: If two years after the date that the conditional use permit is granted, the use has not been implemented; the conditional use permit shall be null and void. If the permitted use is discontinued for a period of two years, the conditional use permit shall be null and void.

Christianson second. All in favor. Motion carried.

Proposal 6. Variances. Currently there are no expiration dates. The Variance stays with the property whether or not the variance has been executed.

Proposal: If two years after the date of the variance was granted, a zoning permit was not obtained and construction did not begin, the variance shall become null and void, unless a request for extension of time in which to complete the work has been granted by the Board of Adjustment. The request must be placed on the Board of Adjustment agenda prior to the expiration of the variance. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance.

P. Johnson explained that variances do not have expiration dates and stay with the property forever. This would dissolve future variance if they are not enacted within two years of issuance.

Paul Renner questioned the variance that he just received. He does not plan on building all the storage units allowed in two years; it may take three or four years. P. Johnson stated that his variance would be grandfathered in, but future variances could be addressed by the Board to allow for staging or if multiple structures were being built, the construction of one structure does enact the variance and it would not expire.

Knutson questioned if there would be a fee for applying for an extension. P. Johnson stated that portion would have to be figured out administratively with the Commissioners.

Motion: Johnston made a motion to approve the following proposal based on the fact that it would keep issues closer into compliance with current and changing zoning regulations: If two years after the date of the variance was granted, a zoning permit was not obtained and construction did not begin, the variance shall become null and void, unless a request for extension of time in which to complete the work has been granted by the Board of Adjustment. The request must be placed on the Board of Adjustment agenda prior to the expiration of the variance. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance.

Seaberg second. All in favor. Motion carried.

At this time, Chairman Bruflodt recessed the special meeting until after the regular monthly meeting of the Planning Commission.

The meeting was reconvened at 9:15 p.m.

P. Johnson stated that the following proposals were left to discuss: nonconforming deck additions; patio definition; rear yard setback; lake setbacks; and string line.

Knutson made a motion to continue the public hearing for Proposals 7-11 (nonconforming deck additions; patio definition; rear yard setback; lake setbacks; and string line) until August 15, 2006. Lien second. All in favor.

Since there was no further business to come before the Board, Thorkildson made a motion to recess the meeting until August 15, 2006. Kovala second. All in favor. Motion carried.

Jim Bruflodt, Chairman

Jeff Moritz, Secretary

ATTEST

Patricia Johnson, Zoning Administrator