

Buffalo County Minutes

Committee/Board: Zoning Committee

Date of Meeting: October 6, 2016

Electronic and Hardcopy Filing Date: October 14, 2016

The meeting was called to order at 5:30 p.m. by Lou Anne Roby, chairperson. Roll Call showed that Lou Anne Roby, John Kriesel, Bernard Brunkow were in attendance.

Others present for all or part of the public meeting include Mike Owecke, Zoning Administrator, Adam Adank and Julie Lindstrom, Zoning Department staff, Peter Fletcher-Mississippi River Regional Planning Commission (MRRPC). Others may have been in attendance that did not sign in.

Minutes are summarized as follows:

Public Comments Relating to the Agenda: There were no public comments.

Meeting Minutes. Motion by Mr. Kriesel, seconded by Mr. Brunkow to approve the minutes from the August 31, 2016 Zoning Committee meetings as printed. All in favor. Carried.

Zoning Ordinance Revision. Mr. Owecke provided an edited version of the Zoning Ordinance, Chapter on Zoning Committee and Zoning Administration that was handed out at the August 31, 2016 meeting for review. Mr. Owecke explained that he separated Zoning Administrator and Zoning Committee into two separate sections. Mr. Kriesel questioned and Mr. Owecke explained that the changes in the draft did not come from a template, that he reviewed and kept good language from the existing Buffalo County Zoning Ordinance and deleted what is not so good and then reviewed other county ordinances, especially counties who had their ordinance revised in the last two to three years. Mr. Kriesel questioned and Mr. Owecke stated he did not think there was anything controversial in the draft language; a lot of the language is standard for now that was not included when the ordinance was first written, such as temporary accommodations for handicapped persons, where handicap facilities would not otherwise meet specific ordinance requirements and stop work order is not something that we have in our current ordinance. Mr. Fletcher stated that conflict of interest is something that definitely needs to be addressed and Mr. Owecke stated that this language is not in our current ordinance; that language will apply equally well to the Board of Adjustment when we get to that section of the ordinance revision. Mr. Owecke explained that he put the procedures and requirements for a rezone in the Zoning Committee section; the Zoning Committee is responsible for the process to hear a rezone and make the recommendation to the county board; we currently do not have any language in the ordinance that addresses rezone applications; general outline of what the requirements are for the committee and what they are required to consider when they make their decision. It was the consensus of the committee to review Mr. Owecke's edited copy for discussion at the next Zoning Committee meeting.

Mr. Fletcher handed out a draft Zoning Ordinance chapter on Board of Adjustment provision, appeals, variance and conditional use permits for discussion at the next meeting. Mr. Fletcher explained that he added in this draft chapter some additional things to consider when approving a conditional use permit.

Discussion of the Zoning map update from the Towns; still looking for maps from three Towns. Brief discussion was held on the need for a Town to prepare a map even if they are considering opting out of county-wide zoning at the conclusion of the ordinance revision. Mr. Kriesel questioned and Mr. Owecke stated that the state will require a Town to have Shoreland, Floodplain and Sanitary Zoning; it would be a cost to the Town if they do their own zoning.

Mr. Fletcher stated that Mr. Boniface would be meeting with Jason Poser, (Buffalo County GIS) next Tuesday (10/11) to start putting together the first draft of the Towns zoning maps. Ms. Roby questioned and Mr. Owecke stated that if a Town chooses not to submit a draft zoning map, the Zoning Department would complete a map for them. Mr. Fletcher recommended that when a Town does not want to do their own map, the Zoning Department/Committee request that the Town pass a Town resolution for it to be OK for the Zoning Department to put together a map for them; this will ensure that there was some kind of communication that the Town knows who prepared their map. Ms. Roby questioned what would happen if the Town does not pass a resolution. Mr. Fletcher stated that thru this process of the Zoning Ordinance Revision there is an opportunity for a Town to opt out of County-wide Zoning. Ms. Roby suggested that the Zoning Committee could say that the lack of a resolution on the part of the Town applies consent for the county to create a zoning map for the Town. Mr. Fletcher stated that you could certainly do that, he also suggested that you need something in place for a Town that chooses not to submit a map or the Town could use that against the county when the map of the town is finalized. Mr. Fletcher continued by saying that it is early in the process and at this time, there is nothing for a Town to reject. Mr. Fletcher also stated that for seventeen Towns in the county, it is going very well as far as input from the Towns and their progress.

Mr. Fletcher stated that he would not be able to attend a meeting in November; it was the consensus of the committee to have Mr. Boniface attend the meeting to keep moving forward.

The next meeting of the Zoning Committee was scheduled for Wednesday, November 9, 2016 at 5:30 p.m.

Rezone Application for Quality Propane. Mr. Owecke stated that Quality Propane had a tank near the site of Garden Valley Coop in Alma and was asked to remove it, so they are looking for another place to locate their tanks. Mr. Owecke continued by saying that the site in the proposed rezone application is the fourth site that he has worked with Quality Propose on for various reasons. Mr. Owecke provided photos for the committee to review in a slide show format, showing the site from many views; up and down County Road N, some from Rose Valley Road and some from the Flury farmstead. From the photos you could see the four staked corners of the parcel. Mr. Owecke pointed out that the power line that bisects the parcel; which made it a little difficult to locate the tanks at the site because of a fifteen foot setback on either side of the power line. Mr. Owecke stated that there are three dwellings that could have a visual impact of the tanks. The location where the tanks would sit was also flagged out and located on the photos. Mr. Kriesel questioned and Mr. Owecke explained they want to have 30,000 gallons; they will put in a 12,000 and an 18,000 gallon tank. Mr. Kriesel questioned what they currently have in Cochrane and Mr. Owecke stated they don't have one in Cochrane, they are hauling from Wabasha. Mr. Owecke pointed out in the photo and stated that the Town of Belvidere has a building near this site. An additional home was identified in the photos as the old Flury farm house. Mr. Brunkow questioned whether they have talked with the adjacent home owners and Mr. Owecke stated no, not that he was aware of; they will all get notices for the public hearing; what the county is planning to do there.

Mr. Owecke handed out to the committee, the material that he has so far for the re-zone application. Mr. Owecke referenced the 2nd page of the handout, the site plan and pointed out on an aerial photo, the parcels, the location of the power line, the area that is mapped out that is going to be fenced and the square where the tanks will be located. Mr. Owecke explained that Quality Propane is currently getting the survey done, they need to take their plan to the Town of Belvidere so the Town can provide input to the proposed project as a requirement with the Zoning Department. Mr. Owecke continued by saying that Quality Propane is also required to get a state permit from the Department of Safety and Professional Services and provide a copy of the permit to the Zoning Department to show they have state approval. Mr. Owecke pointed out on the third page of the handout they have a brief statement about their project and stated that there will be approximately two transport trucks per week that will enter the parcel refilling and the smaller trucks will make about ten truck trips per week to give an idea about how much traffic it will create in the area. Mr. Owecke stated that Quality Propane is planning to present their proposal to the Town of Belvidere on October 11th. Mr. Owecke suggested that the public hearing be combined with the regular zoning committee meeting rather than schedule a separate meeting. Mr. Kriesel questioned and Mr. Owecke stated that he would assume the Town of Belvidere will make a decision on the re-zone application by the next Zoning Committee meeting date. Mr. Owecke continued by saying that Towns response and any other applicable information, such as a staff report will be mailed to the committee at least a week prior to the hearing for their review. Motion by Ms. Roby, seconded by Mr. Kriesel to forward the Quality Propane re-zone application to a public hearing. Mr. Owecke informed the committee that if there is any additional information that the committee would like to have for review they should let him know and the Zoning Department will get it to them. Mr. Owecke explained that the Zoning Committee will need to take action on the re-zone and from there it will go to the County Board of Supervisors for action with the Zoning Committee's recommendations; the full County Board has the final say. All in favor. Carried.

Agenda Item #6 was not reviewed and no action was taken.

Zoning Administrator Comments/Report. A report on permit applications received for the year was handed out to the committee to review. Mr. Owecke stated that in 2015 total permits for the year was 305 and already are ahead of that with 308 total permits. Mr. Owecke talked about the workload with the Sanitary program and the enforcement process for pumping notices. There have been three court days for landowners delinquent getting their septic systems pumped. Ms. Roby questioned what happens in the enforcement process of pumping notices if the landowner still does not comply. Mr. Adank informed the committee that the landowners that are willing to work the with Zoning Department receive an extended deadline date; if Mr. Adank has not heard from them and they do not show up in court they get a fine in excess of \$300.; Mr. Adank stated that approximately fifteen landowners have received fines as a result of the delinquency in pumping their system and those are landowners that he has not heard from at all. Ms. Roby questioned whether the fine goes on their real estate tax statement and learned that the court system is responsible for collecting the fine similar to other court fines. Mr. Owecke stated that a vast majority of these cases are being resolved where people are finally getting their septic tanks pumped and inspected. Mr. Owecke continued by saying that in the course of this enforcement process the Zoning Department is learning of a lot of septic systems that are not working properly or are failing systems. Mr. Adank stated that some noncompliant systems still work and Mr. Owecke stated that the state is finding that aquifers are contaminated and non-compliant systems are one of the reasons. Mr. Brunkow stated that if a fine is imposed and it is not paid, a judgement is placed against the landowner in the court and before they buy or sell real estate or receive a loan, they may need to satisfy the judgement. Mr. Kriesel questioned additional enforcement after the fine and judgement

to be sure the system gets pumped. Mr. Adank explained that if they don't pump their system they will remain on the delinquent list and continue to get a delinquent notice every year. Mr. Owecke stated that the landowner could essentially get this notice and court date and fine every year until the system is pumped; once they go to court and they do not comply then a notice to pump is on a yearly cycle. Mr. Adank stated that is how the Zoning Department decided to do it, but a fine could be assessed on a daily basis based on language in the Sanitary Ordinance. Mr. Kriesel suggested that there be a graduated fine or notice after the second notice. Mr. Owecke stated that this is a new process for the Zoning Department, so they are seeing how it goes.

Chairpersons Comments/Report. Ms. Roby had no additional comments.

There were no public comments.

The next meeting was scheduled for Wednesday, November 9th at 5:30 p.m. earlier in the meeting.

Motion by Mr. Kriesel to adjourn. Seconded by Ms. Roby. The meeting was adjourned at 6:30 p.m.

Respectfully Submitted,
Julie Lindstrom
Zoning Administrative Assistant