

Buffalo County Minutes

Committee/Board: Zoning Committee

Date of Meeting: February 9, 2017

Electronic and Hardcopy Filing Date: February 15, 2017

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, Michael Taylor and 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, Dave Boniface-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 Ms. Roby to approve the minutes from the January 12, 2017, Zoning Committee meeting as printed. All in favor. Carried.

Zoning Ordinance Revision. Mr. Owecke explained that the Board of Adjustment (BOA) had some suggestions for minor changes when they reviewed the Board of Adjustment chapter of the Zoning Ordinance revision. The committee, in general questioned the nature of the changes and Mr. Owecke stated that one change the BOA asked for in "Content of Hearing" was to limit to ten minutes opening and closing statements by attorney's and expert testimony. Other changes were clerical errors. Mr. Owecke stated that he agreed with all the changes the BOA recommended. He continued by saying the changes have been made to the chapter and provided each member with a corrected copy of the BOA recommended changes. Motion by Mr. Kriesel, seconded by Mr. Taylor to accept the changes to the BOA Chapter. All in favor. Carried. No additional changes were made by the Zoning Committee to the BOA chapter.

Discussion continued with the chapters that were handed out at the last meeting, Mobile Tower Siting, Mobile Home Communities and Kennels. Committee recommended no changes to these chapters. Motion by Ms. Roby, seconded by Mr. Taylor to approve the Mobile Tower Siting chapter as presented. All in favor. Carried. Motion by Mr. Kriesel, seconded by Mr. Taylor to approve the Mobile Home Community chapter as presented. All in favor. Carried. Motion by Mr. Taylor, seconded by Ms. Roby to approved the Kennel chapter as presented. All in favor. Carried. Ms. Roby questioned and Mr. Owecke stated that these chapters are still drafts and changes can be made to these chapters at any time.

Mr. Owecke handed out copies to the committee, chapters of specific uses; Fur Farms, Commercial Riding Stables, Sawmills (temporary & permanent). Mr. Taylor questioned whether there were changes in these from language in the current ordinance. Mr. Owecke stated that some of these chapters do have language in the current ordinance or they are only mentioned, but there is no guidance in how we administer them. Concrete and Asphalt Plants (temporary and permanent) were handed out. Mr. Owecke stated that temporary asphalt plants are usually located in active quarries for road projects. Mini Warehouse Storage chapter was handed out. Mr. Owecke stated that currently

there is no guidance in our current ordinance for this chapter. Mr. Taylor questioned existing mini warehouse storages and Mr. Owecke stated that if the storages are out there already, they are grandfathered in. Mr. Owecke continued by saying that anything in place prior to the adoption of the new ordinance would not be under the new regulation.

Mr. Owecke explained that the next three chapters are related: 1) Home Occupation is in our current ordinance. It is small scale and confined to the home; can't be in an accessory structure 2) Home Business, larger in scale, use a larger area of your home, example is an accountant with one or two employees using your downstairs as your office 3) Home or Farm Based Business – this is in the current ordinance. Even larger scale, can actually build another building, limited to four full-time employees.

Ms. Roby questioned and Mr. Owecke explained these Use chapters help define the use more and Mr. Owecke continued by saying that Home Business and Home and Farm Based Business will be listed as conditional uses in our ordinance, which will provide for more opportunity for public input. Mr. Owecke continued by saying that if you want to go beyond this, then you need to look at re-zoning if you want to start a commercial business; parking, traffic patterns, lighting all need to be addressed.

Ms. Roby questioned whether the Home Business right now would require a conditional use permit and Mr. Owecke stated that we do not have Home Business in our current ordinance. Ms. Roby stated that she thinks the Home Business is something that should be allowed as a permitted use without a conditional use permit, not the Home or Farm Based Business. Mr. Owecke stated that it could be a permitted use. Ms. Roby stated that she thinks we need to do it that way because listening to people, Home Business as a conditional use may be too much regulation; a conditional use permit on a business with a maximum of two employees. Mr. Owecke stated that there is also the possibility that it could be a car repair business or another business that may generate a lot of noise; again it comes down to compatibility with neighbors. Ms. Roby stated that talking with the residents in her Towns about a conditional use permit for Home Business, they may feel it is too much control.

Mr. Brunkow questioned existing businesses and Mr. Owecke stated they would be grandfathered in. Mr. Owecke continued by saying that a Home Business allows an accessory dwelling/structure up to 1,500 square feet; so you could put up a building to house your business.

Additional Specific Uses include Recreational Dwellings and Recreational Vehicles. Mr. Owecke stated that a recreational dwelling, by definition is a cabin, something that you put up that is going to shelter you; does not have a well or septic system; would require a waste treatment facility, such as composting toilet; they have to have an address number; emergency services have to know how to get there; a very easy permit process, may want to look at fee structure for this in the future.

Mr. Kriesel questioned and learned that RV's are campers and trailers in place for up to 30 days, if longer than 30 days, they need a permit. RV's are not used as a permanent dwelling or as an accessory dwelling; they can be temporarily located (for not more than 6 months in a year); no more than one RV to a lot.

Mr. Owecke stated that the way the chapter is written now, if it is there for more than 30 days they would need a permit and they would have to show how waste is being treated.

Ms. Roby questioned campers in a location year round and they come in and use the camper occasionally and further questioned whether this would be grandfathered. Mr. Owecke stated that this

language will try to address some of the situations described in this discussion. It was questioned and the language in place is to address situations of abandoned campers/trailers in particular.

Mr. Owecke stated that one of the standards is that a camper/trailer must remain mobile; must be able to pull or drive it out.

Ms. Roby questioned and Mr. Owecke stated that we don't direct the camper/trailer owners, only give them options on how they should dispose of their sewage.

Next Special Use – Accessory Dwelling. Mr. Owecke explained that this is divided into two sections, A & B; A is in the Commercial and Industrial District and B is in the ANR Districts, except ANR-40, which is the Farmland Preservation Program District and that district has its own criteria for additional homes in that district. These are not mobile homes and must be on a foundation.

Mr. Brunkow questioned a mobile home in Section A and Mr. Owecke stated they can't have a mobile home, but can have a manufactured home as long as it is set up as a permanent structure.

Mr. Owecke stated there is no guidance in the current ordinance for Accessory Dwellings; we can't say yes or no; this should not be confused with an accessory structure which is addressed in our current ordinance. A pole shed house in addition to their current house, would fall under this chapter.

The final Special Use chapter handed out today is Campgrounds. Mr. Owecke explained that we do have some language on campgrounds in our current ordinance; not very extensive. Mr. Brunkow questioned and Mr. Owecke stated that existing campgrounds are grandfathered in.

Ms. Roby questioned Special Event Campgrounds and Mr. Owecke state they are permitted through the County Health Department by State Statute and the health department looks at licenses, health issues, bathroom facilities and garbage disposal and not such things as noise or land use. Mr. Owecke stated that if they are going to have over 150 campsites, they need a conditional use permit and again that is a courtesy to neighbors.

Ms. Roby questioned sawmills and the Amish and Mr. Owecke stated that he would not be concerned if the sawmill is for personal use versus a sawmill for commercial use.

Mr. Owecke stated that Jason Poser, GIS staff in Buffalo County has completed Town Zoning District maps for sixteen of the seventeen towns. Discussion was held and it was decided that the Towns should review their maps now. Mr. Poser suggested to Mr. Owecke that if the Towns meet in the County Board Room, he would be able to make changes to the map from that room. Mr. Boniface stated that he would set up a meeting with Mr. Poser and decide how to proceed with the map review by the Towns and a process for making changes to the maps.

This ended the discussion on the Zoning Ordinance Revision.

Amendment Application Fee. Mr. Owecke explained that state statute authorized the Board of Adjustment (BOA) to establish fees for petitions to amend county Zoning Ordinances and appeals. Mr. Owecke continued by explaining that an appeal, in this case, is when a decision of the Zoning Department staff is contested. Mr. Owecke further explained that the BOA can also set the fee to amend our Zoning Ordinance; Ordinance language or district boundaries. Mr. Owecke also stated that currently we do not have an application or fee established for an appeal. Mr. Owecke explained that a

re-zone process goes to the Zoning Committee and then to the County Board of Supervisors for review and approval; a Zoning Department appeal is heard by the BOA in a public hearing. Ms. Roby questioned how to determine a fee and Mr. Boniface explained that as a county, we provide certain services; staff time is hard to factor in, however direct costs other than staff time that are specific to the particular application you should be able to charge those costs. Mr. Owecke stated that he believes the cost of a condition use permit hearing before the BOA to be around a thousand dollars and our current fee is half of that. Mr. Kriesel questioned what other counties charge and Mr. Owecke stated that Buffalo County fees are at the lower end of the spectrum of what other county fees are. Mr. Owecke continued by saying he thinks a reasonable fee would be \$750. Mr. Kriesel questioned whether Finance Committee gave Mr. Owecke any direction on setting fees and Mr. Owecke stated they did when he presented to them his 2017 budget last fall; the finance committee discussed that a goal would be to have half of the department expenses covered by fees. Motion by Mr. Brunkow, seconded by Mr. Taylor to draft an application and establish an application fee of \$750.00 for Zoning Ordinance Amendments. All in favor. Carried.

Mr. Brunkow questioned why the agenda item stated recommendation to the BOA. Mr. Owecke explained that now we need to take the Zoning Committee's recommendation back to the BOA and they have to make the final approval. Since the Zoning Committee will have to deal with ordinance amendments, the BOA wanted Zoning Committee input.

Strategic Planning. Mr. Owecke presented a handout showing Short-term goals for 2017 and Long-term goals through 2021 and explained each of the goals. Discussion was held. Mr. Kriesel questioned and Mr. Owecke stated this document would meet the requirement of the Committee of the Board request. Mr. Brunkow questioned and Mr. Owecke stated that the things in the strategic plan will be part of an annual budget as necessary.

Zoning Administrator Report. Mr. Owecke reported that the last Board of Adjustment (BOA) hearing, Bug Tussel Wireless applied for three permits for communication Towers. Finding an error in one application, it will need to be re-submitted; the other two applications were approved by the BOA. Mr. Owecke provided a map showing the location of the three towers and continued by saying that Bug Tussel has plans for a total of six towers in Buffalo County. Bug Tussel is a wireless internet service company and also has a contract with a major cell phone company that is going to co-locate on the tower.

Mr. Owecke provided an update on two issues that were discussed at the January 2017 Zoning Committee meeting; 1) There is currently no ban on applications for industrial sand (frac) mining in Dunn County, only an overlay district; county just made an applicant complete additional approvals to mine industrial sand in the county, 2) Current case before the Supreme Court; Trempealeau County was taken to court by All Energy Sand Mining Co because of denial of a conditional use permit to mine industrial sand; all previous court appeals were upheld, arguments were heard recently by the Supreme Court on January 11th; no date has been set when a decision will be passed down. Mr. Owecke stated that in his research he discovered that a Buffalo County court case (Earney mine), went through the same process as Trempealeau County, Supreme Court has agreed to hear the Earney case, however, it is on hold until a decision has been made on the Trempealeau County Case.

Mr. Owecke also reported that there appears to be a plea to the legislature to enact enabling legislation that would remove obstacles from permitting a sand mine; the interpretation is that this is all being done so that the state can take away local control of the permitting of industrial sand mines.

Chairperson Report. No formal report, just expressed appreciation for the hard work of the Zoning staff.

The next meeting was scheduled for Wednesday, March 8th to begin at 10:00 a.m.

The meeting was adjourned at 7:00 p.m.

Respectfully Submitted,

Julie Lindstrom
Zoning Administrative Assistant

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