

Buffalo County Minutes

Committee/Board: Zoning Committee

Date of Meeting: March 8, 2017

Electronic and Hardcopy Filing Date: March 22, 2017

The meeting was called to order at 10:05 a.m. by John Kriesel, Vice chairperson. Roll Call showed that John Kriesel, Michael Taylor and Bernard Brunkow were in attendance. Lou Anne Roby was absent.

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 and 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. Brunkow, seconded by Mr. Taylor to approve the minutes from the February 9, 2017, Zoning Committee meeting as printed. All in favor. Carried.

Zoning Ordinance Revision. Mr. Fletcher explained that Mr. Owecke has some additional chapters for review and Mr. Owecke suggested that the committee go through the specific uses that were handed out last meeting for comments, questions, corrections or additions. Specific uses were reviewed and approved as follows:

- Campgrounds, correct on page 3, #9, “change designated to designed”. Motion by Mr. Kriesel, seconded by Mr. Taylor to approve the final draft language as corrected. All in favor. Carried;
- Home Occupation, permitted in residential and all ANR districts, low impact, low use, no accessory dwellings and must be operated by a family member of the dwelling. Motion by Mr. Kriesel, seconded by Mr. Taylor to approve the final draft language as presented. All in favor. Carried;
- Home Business. Little bit up the ladder as far as use, can have an accessory structure up to 1500 square feet, 2 full-time employees that are not residents, must have lavatory available for clients and employees, small business that you work out of your home. Motion by Mr. Kriesel, seconded by Mr. Brunkow to approve final draft language as presented. All in favor. Carried;
- Home or Farm Based Business. Currently have this in our ordinance, accessory structure up to 4000 square feet, minimum lot size of 5 acres, 4 full-time employees who are not residents, largest scale to operate a business out of your farm/residence. Mr. Fletcher stated that anything larger would be a commercial use and need to meet the requirements for commercial use. Motion by Mr. Kriesel, seconded by Mr. Taylor to approve the final draft language as presented. All in favor. Carried;
- Fur Farms. Mr. Owecke explained that there is one Fur Farm permitted in the county now, strict as far as location. Motion by Mr. Kriesel, seconded by Mr. Taylor to approve the final draft language as presented. All in favor. Carried;
- Mini-Warehouse. New guidance, do not have any language in our current ordinance for this use. Mr. Owecke noted a correction of duplicate language below #2 needs to be removed. Motion by Mr. Kriesel, seconded by Mr. Taylor to approve the final draft language as corrected. All in favor. Carried;

- Accessory Dwelling. No current language/guidance in our ordinance to address this use; one to allow accessory dwelling in Commercial and Industrial district and one to allow them in the all the ANR districts; parcel of land where family comes and visits regularly, want separate quarters for them to stay in, fairly restrictive, owner has to live in the principal dwelling, can't lease out or rent out the dwelling, just for personal use and can't be a mobile home. Motion by Mr. Kriesel, seconded by Mr. Taylor to approve final draft language as presented. All in favor. Carried;
- Commercial Riding Stables. One correction on #2, there shall be a minimum of 1 acre of open space provided for each horse kept on a lot, scratch "on the lot" (it is duplicate language). Motion by Mr. Kriesel, seconded by Mr. Taylor to approve the final draft language as corrected. All in favor. Carried;
- Concrete or Asphalt Plants. Are a permitted use in the ANR Districts, in the current ordinance and the only change is to extend the period for temporary plant from 90 to 120 days, can give a 30 day extension if they need it, and added a section to address a permanent plant, not located in association with an existing quarry. Right now to place one of these, it needs to be in an existing quarry. Motion by Mr. Kriesel, seconded by Mr. Taylor to approve the final draft language as presented. All in favor. Carried;
- Sawmills. Criteria for temporary and permanent. Motion by Mr. Kriesel, seconded by Mr. Taylor to approve the final draft language as presented. All in favor. Carried;
- Recreational Dwellings, Mr. Owecke explained that since this was handed out last month, he decided that Recreational Dwellings and Recreational Vehicles should be separate uses. Recreational Dwellings, procedure and guidance on how to permit (example, piece of property for a small cabin with no water and no septic). Mr. Fletcher suggested that it helps to define the difference between the two better. Mr. Owecke asked for a correction in #2, change "must" comply to "shall" comply. Mr. Brunkow noted a spelling error. Motion by Mr. Kriesel, seconded by Mr. Taylor to approve the final draft language for Recreational Dwelling as corrected. All in favor. Carried.
- Recreational Vehicles. Motion by Mr. Kriesel, seconded by Mr. Taylor to approve the final draft language for Recreational Vehicle as requested to be divided by Mr. Owecke. All in favor. Carried;

This ended those uses that were reviewed by the Zoning Committee since their last meeting.

New Chapters were explained by Mr. Owecke as follows:

- Tourist Rooming House – There is a state statute for tourist rooming house. Provisions are similar to the language in our current ordinance. Added language to limit occupancy per bedroom, permit is not transferrable; language in the draft has been reviewed by Calli Heike, Environmental Specialist from the Buffalo County Health and Human Services Department because she will also license a tourist rooming house. New language to require owner/operator to carry liability insurance.
- Bed & Breakfast – There is no criteria in our current ordinance for Bed & Breakfasts. Only meal that can be served is breakfast. Limited to six rooms. Most Bed & Breakfasts in the county are within city limits, only one or two are in the unincorporated areas of the county. Mr. Boniface questioned the meaning of "excessive" regarding noise complaints and suggested language to show that you would like more than one complaint before it would be considered excessive.
- Small Arms Firing Range – This is added in case the use request comes up; criteria for both indoor and outdoor ranges; addresses minimum lot sizes and setback requirements. Got language from other counties and some good guidance from a manual that he referenced, "Environmental Management in Operating an Outdoor Small Arms Firing Range."

- Commercial Outdoor Entertainment – Mr. Brunkow questioned noise or decibels and Mr. Owecke stated there were operating hours and continued by saying that this use will require a conditional use permit and the Zoning Board of Adjustment can place a condition regarding criteria for noise. Mr. Boniface stated that language in the ordinance is a base for the use and additional conditions can be put on the permit for further regulation. Mr. Owecke stated it would apply to a lot of different outdoor entertainment venues; there is an assemblage ordinance in the county that would address outdoor assembly's that exceed 1,000 people. Mr. Owecke stated that Commercial Outdoor Entertainment will need to be defined, no definition exists. Mr. Fletcher questioned whether the permit applications should be reviewed by the County Law Enforcement Department in the application process as well as the Health Department and Mr. Owecke stated that language in the ordinance references sanitary, sewage and water being compliant with Buffalo County Health Department. Mr. Brunkow stated that #12 has language addressing minimum traffic hazard and safe parking. Mr. Owecke stated that if the Sheriff's Department wants to provide comments at the Conditional Use Hearing, they would be able to do that.
- Captive Wildlife Operation – This use is currently in the county, most have to do with deer and elk. Gives guidance on how to handle these uses in the future. Addresses setback from property lines, abiding by state statute, sanitary conditions, humane treatment, appropriate licensing from the state, abide by state animal health statutes; the state has a little more guidance as far as captive service operations servicing deer. One criteria about fencing for deer is to require double containment fence. Right now the state doesn't require that. The WI Town's Association sent a flyer encouraging Towns and Counties to petition the state to require a double fence because of CWD, to prevent or minimize as much as possible. Mr. Kriesel questioned the distance between the double fence. Mr. Owecke they didn't specify that and you would use common sense. Mr. Owecke suggested there could be language specifying a minimum of eight or ten feet apart. Mr. Brunkow questioned mowing between them and whether... Mr. Boniface suggested language that area between fences must be maintained. Mr. Fletcher questioned how many there were in the county currently and Mr. Owecke stated he was aware of three in the county now and there are probably more and continued by suggesting language to address fence height at 8 feet and minimum distance of eight feet between fences. Mr. Boniface questioned conditional use permit transfer and Mr. Owecke stated it could be transferrable and continued by saying that typically conditional use permits go with the land, unless otherwise specified. Mr. Boniface stated that you could put a time limit on a conditional use permit and they had to come back and review the permit; if it is not an issue, it is not an issue. Mr. Boniface commented that the only issue is that the fence is not being inspected by anyone after it is put up and years later the fence is falling down, the CWD deer are all out and all around. Mr. Boniface stated that he is only looking at a potential problem, worst case. Mr. Owecke stated that what he did with salvage yards because they could be a potential problem, those have a five year life span; every five years they have to come in and re-apply, so we could do the same with this. Discussion was held and it was the consensus of the committee to put language in this use for a five year renewal. Mr. Boniface questioned a five year renewal versus a five year inspection and Mr. Owecke state that because of the CWD situation, in this state, it is serious enough that he thinks a 5-year limitation for permit renewal should be required. Mr. Boniface questioned them going through the cost of a permit process and Mr. Owecke stated yes they would. Mr. Brunkow stated he did not think it was a bad idea the way it is right now. Mr. Fletcher questioned existing ones out there, obviously would be grandfathered and suggested language for expansion and adding new area to deal with existing. Mr. Owecke stated that it would be reasonable that existing operations that expand and enlarge would need a conditional use permit. Mr. Fletcher stated that ideally would be nice to bring them in. Mr. Owecke stated they would need to meet all the criteria of the new ordinance at the time of expansion. Mr. Boniface questioned expansion and Mr. Owecke stated enlargement of space (footprint).

- Farm Animals on Small Parcels (lots). Farm animals on small lots applies to small lots that are zoned residential; lots less than 20 acres in any ANR district; parcels under one acre will be limited to raising of fowl (chickens). The intent is not to have animal agriculture on residential lots.
- Domestic Fowl. Applies to the residential zoning district limited to twelve chickens per lot. High density lots in residential zoning district. No roosters. Mr. Adank questioned whether there would need to be a definition for fowl.
- Private Burial – Mr. Owecke explained that he has had several calls regarding this land use, so he decided he should include guidelines for this use. Right now there is no federal or state guidance. The state says you can do it, but there is no regulation. Mr. Owecke stated that he searched other states looking for guidance options. The reason behind this is people are looking for green alternatives to our current burial, cost is less to do it on your own; people want to be buried where they lived their whole life. Mr. Owecke stated there is a huge benefit to be able to offer this to residents of Buffalo County. Mr. Owecke reviewed the proposed standards with the committee and stated he felt they were all reasonable; lot of a minimum of ten acres. Burial plot will need to be surveyed; all private burials will need to be recorded with Buffalo County as well as GPS coordinate of the exact location where the burial took place. Mr. Fletcher stated they would need to be able to define family. Mr. Brunkow stated that there are some already present in Buffalo County. Mr. Owecke stated he has had calls and all he can do is tell them they have every right to do it and make suggestions for what they do, but there currently are no requirements.
- Salvage Operations. Currently there is limited language in the ordinance to address this; salvage/junk operations. Mr. Owecke reviewed the standards with the committee; different criteria apply to this use in the different zoning districts. This use would require a conditional use permit in any of the districts; permit valid for five years; need to reapply after five years. Mr. Brunkow commented that the dollar amount for the required posted bond seems awful low. Mr. Kriesel questioned the language regarding not being of commercial purpose or intent and Mr. Owecke stated that some people just like to collect salvage material and stack it up. Mr. Fletcher suggested to modify the language to accommodate a permit in good standing at that time, rather than requiring each operator to reapply. Mr. Owecke stated that it is important to be able to request that there be a reapplication process.

This ended the discussion on new Special Uses.

Mr. Owecke provided a list of the individual uses that have been discussed already and stated that he has four more in April that need to be reviewed, Inoperable Vehicles, Semi-Trailers, Poultry Barns and maybe Logging Roads. Mr. Owecke explained that logging road use would benefit Buffalo County and documentation shows that they are a major source of erosion wherever they are because there is guidance, but no requirements for reclaiming after the logging project is completed. Mr. Owecke stated that he talked with the local foresters and there are twenty to twenty-five new logging roads in Buffalo County each year; not a lot; something the Zoning Department could probably handle.

Mr. Owecke handed out to the committee photocopies of Special Use Chapters, where the draft has been approved that are not in their binders yet. Mr. Fletcher stated that once these uses are wrapped up, stating that he sent Mr. Owecke chapters on enforcement, penalties, setbacks, off street parking/loading and driveway requirements, at that point we can put this all together and see where we are at and see what else will need to be addressed; will definitely need to work on definitions; will also need to address signs, then we will put the ordinance together in one document; update the uses for each zoning district, complete the zoning district map and then we will have our first round of public meetings; people are going to want to see their property on a map and what district it is in.

Mr. Owecke stated that right now non-metallic mining is in the ordinance and questioned whether it should continue to be in the Zoning Ordinance. Mr. Owecke continued by saying that the current Non-metallic Mining Policy and Procedures document, will need to be added to the ordinance, so it can be enforceable as ordinance.

Mr. Owecke stated that something that the Town's in Buffalo County talked about when they wrote their Town Land Use Plans was to have some Bluffland Protection. Mr. Fletcher suggested that the ordinance could include a bluff line setback. Mr. Owecke questioned whether you would want to protect the interior bluffs of the county as well or just the bluffs along the river.

This ended the discussion on the Zoning Ordinance Revision.

Mr. Owecke reported that he has completed a revision of the Shoreland Protection Ordinance; it needs some formatting and then it will be forwarded to the state for their review. Once the state has reviewed it and their edits are made, it will be reviewed by this Zoning Committee and then there will need to be a public hearing and approval by the County Board. Mr. Owecke discussed the fact that shoreland requires a thirty-five foot setback from any navigable water and this applies to agricultural practices. Mr. Owecke continued by saying there is science to show the effectiveness of shoreland buffers in protecting those streams from sedimentation, runoff and pollutants; Minnesota has issued a requirement for fifty foot buffers on all streams in the state because of their effectiveness; most of the streams in Buffalo County are classified as highly degraded. Mr. Owecke stated that language in the ordinance will require a thirty-five foot buffer to all agricultural cropping. Mr. Kriesel questioned who was going to enforce it and Mr. Owecke stated that it is a beginning and will need to be discussed. Mr. Brunkow stated that he did not think thirty-five feet was enough. Mr. Owecke commented that it is not enough. Mr. Brunkow commented that, not being a farmer himself, farmers want to farm as close to the edge of a field as possible, right up to the blacktop and the stream edge and also questioned how it would be enforced. Mr. Owecke stated that it is important enough that it should be brought up. Mr. Brunkow questioned the state of Minnesota and as a state-wide implementation and not county wide.

Motion by Mr. Brunkow, seconded by Mr. Taylor to adjourn. All in favor. Carried. Meeting was adjourned at 11:35 a.m.

Respectfully Submitted,

Julie Lindstrom
Zoning Administrative Assistant