

## **Buffalo County Minutes**

**Committee/Board:** Zoning Committee

**Date of Meeting:** April 16, 2018

**Electronic and Hardcopy Filing Date:** April 20, 2018

The meeting was called to order at 10:00 a.m. by LouAnne Roby, Chairperson. Roll call was taken with all members of the Zoning Committee in attendance; LouAnne Roby, John Kriesel, Bernard Brunkow, Michael Taylor.

Others present for all or part of the public meeting include Mike Owecke, Zoning Administrator, Keith Bollinger, Zoning Specialist, Julie Lindstrom, Administrative Assistant in the Zoning Department, Peter Fletcher, Mississippi River Regional Planning Commission (MRRPC) staff, Sonya Hansen, Buffalo County Administrative Coordinator, Buck Sweeney, Axley Law, Bob Jewell, Geologist with Kraemer Company, Gary Pronschinske, Supervisor-Town of Glencoe.

Minutes are summarized as follows:

Meeting Minutes. Motion by Mr. Kriesel, seconded by Mr. Taylor to approve the minutes from the March 8, 2018 Zoning Committee meeting as mailed. All in favor. Carried.

Public Comments Relating to the Agenda: Ms. Sonya Hansen, Buffalo County Administrative Coordinator, explained that she has reviewed the Zoning Ordinance, final draft and found some technical errors that she would like to review with Mr. Owecke following this meeting. Ms. Hansen continued by saying she has received a lot of comments about the vegetative screening language requirement in the “Poultry Barn”, special use; she has also received feedback on the containers and the junk, if we could possibly give some of that responsibility back to the Towns.

Mr. Kriesel questioned and Ms. Hansen responded by referring to vehicle cars, whether or not we can give the Towns more responsibility in addressing junk cars. Ms. Hansen questioned the reference to the Broadband Ordinance that was recently passed by the county and how that may or may not relate to the chapter on “Mobile Tower Siting”, in the ordinance. Mr. Owecke stated the Zoning Ordinance only addresses communication towers.

Mr. Owecke stated that he has made a lot of technical error corrections in his constant review of the Zoning Ordinance revision. Mr. Brunkow commented that the vegetative screening only applies to state and federal highways. Ms. Hansen responded by saying the comments she received addressed the fact that we are not doing this for cattle barns so why are we singling out the poultry barns. Mr. Brunkow stated this just applies to new structures and cattle barns are not the size of poultry barns in length. Mr. Owecke stated they reduced the amount of trees required, the height of the trees and added language so they can be up to 75 feet away from the barns.

Public Comments continued: Buck Sweeney, Axley Law, representing The Kraemer Company throughout the state. We have been working with the Zoning Administrator and County Corporation Counsel to discuss zoning of non-conforming quarries that have been there for a long time and before zoning; we want to make sure those particular non-conforming use quarries continue to be a non-conforming use. We have no problem to come in with a request for a conditional use permit on a new quarry. We want to be sure as long

as we continue to mine a quarry and the land is under same ownership, we can expand as a non-conforming use. We want to make sure that in the zoning code, the county recognizes the non-conforming use status.

This ended public comments.

Comprehensive Zoning Ordinance Revision. Mr. Owecke undated the Zoning Committee on activities, events and meetings since the Zoning Committee last met for a regular meeting on March 8, 2018. As of March 8<sup>th</sup>, we had first draft edits of the Zoning Ordinance Revision, two open houses, one in Alma on March 12<sup>th</sup> and a second one in Mondovi on March 22<sup>nd</sup>. Mr. Owecke stated that they took feedback from those meetings, we had the official public hearing on April 5<sup>th</sup>, nine people spoke; April 9<sup>th</sup> there was a special meeting of the County Board; there were a few public comments at that meeting. Mr. Brunkow questioned and Mr. Owecke stated it appears to be the same issues from those attending the public meetings. Now it brings us to the meeting today, April 16<sup>th</sup>.

Mr. Owecke reviewed the first draft edits as follows: Changes to Board of Adjustment, variances and conditional use permit language changed due to recently passed legislation; a change to specific use "Farm Animals on Small Parcels", we doubled the number of animal units allowed; reinstated cohesive soil floor option for poultry barns; vegetative screening for the poultry barns is only required on state and federal highways; changed the height of the vegetative screening coniferous trees from six feet to three feet; highway setback vision clearance, concerns from crop farmers not being able to have crop production in those areas, so after reviewing that with the highway commissioner, agricultural crops are exempt, with the caveat that the Highway Department, Zoning Department or Town Board can require the removal of those crops if they present a hazard; a provision was added to exclude logging roads and field access roads from limitation in the blufflands and steep slopes district.

Mr. Owecke reviewed the second draft edits as follows: after working with Carrie Olson, County Conservationist, and consultation with DATCP for feedback, language was added to require a six hundred square foot concrete litter stacking pad for poultry barns; reduced the number of soil borings from three to two for poultry barns; included a seventy-five foot setback from poultry barns for the vegetative screening; eliminated the requirement for vegetative screening from a poultry barn if the barn is not visible from the adjacent highway; "Livestock Structure Siting", special use, nutrient management section (this was a change that Ms. Olson requested, having to do with manure management, {stating that unless otherwise provided by law, a participating landowner shall be offered cost sharing); to alleviate the concern from the Kraemer Company, non-conforming uses judged nuisances by a court of law shall not be permitted to continue as a non-conforming use. Mr. Kriesel questioned and Mr. Owecke responded by saying that a nuisance needs to be decided by a court of law.

Mr. Owecke passed out copies and final draft edits were reviewed as follows: these edits are in response as feedback from the public hearing and the special meeting of the County Board; language was added to allow changes by the Zoning Administrator, to the Zoning District maps with written approval of Town Chair or Town Board, changes can be made for a period of 90 days from the date of adoption of the ordinance. Following the ninety days, map amendments would need to go through the re-zone process; "Home Business", special use, language to allow no more than two permitted Home Businesses on a lot, enlarging from one to two Home Business; next two edits are in response to Ms. Hansen's concerns. Enforcement measures for compliance and removal of inoperable motor vehicles are subject to and contingent upon the written approval and support of the applicable Town Board; same tack that was applied to the abandoned buildings. It will ultimately be the decision of the Town Board; trailers/shipping containers; maximum number from three to four, eliminated language, they can now be stacked and added same language letting the Town Board decide if it is going to be enforced by the Zoning Department.

Chapter 10 – non-conforming uses, addressing the Kraemer Company’s concerns with their existing mine sites. Mr. Owecke stated that the county has absolutely no intention of hindering the mine operations of existing quarries with the Zoning Ordinance Revision. Mr. Owecke stated that he has reviewed The Kraemer Company’s list of proposed language changes to the Zoning Ordinance with Tom Clark, County Corporation Counsel quite thoroughly. The final language in the ordinance states that Buffalo County is aware of the Diminishing Asset Rule as it applies to non-conforming, pre-existing nonmetallic mines. Mr. Owecke stated that the county will apply the law on a case-by-case basis, evaluate each and every case when it comes up. Mr. Owecke continued by saying that he hopes this accomplishes what the Kraemer Company wants and Kraemer Company wants to be recognized in their pre-existing mine operations. Mr. Owecke explained the Diminishing Asset Rule as follows: an existing mine operation has the right to expand within any contiguous land they had when they first developed those mines. Mr. Sweeney addressed the committee and stated that when the ordinance goes into effect, the contiguous land has to be under the same ownership; property purchased after the zoning ordinance goes into effect, would need a request for a conditional use permit to operate. Mr. Sweeney questioned other references to non-conforming language they requested in the ordinance and Mr. Owecke stated there is language in the ordinance applicable to non-conforming uses, Chapter 10, “Non-conforming Uses, Structures, and Lots” and we thought that was sufficient.

Mr. Kriesel questioned and Mr. Owecke stated that any changes that are made from this point will only be formatting, grammar and technical changes. Once the Ordinance is signed by the Zoning Committee, no additional changes can be made to language and this will be the document that goes to the County Board on May 21<sup>st</sup>.

Ms. Roby questioned prior uses not specifically stated being grandfathered in and if there was a good way to clarify that these uses are grandfathered in. Mr. Owecke stated they are grandfathered to an extent and explained as follows: pre-existing Home Businesses that were never required to have a permit would fall under the non-conforming business and if they want to expand the existing business or add another use, they would need to get a permit. A variance would be required if they wanted to expand from two to three home businesses. Mr. Owecke stated there is also a “Home Occupation”, specific use and there is no limit on the number of home occupations on one lot. Ms. Roby questioned whether there is a possibility of giving some flexibility by giving the Town Board the final say on the number of Home Businesses. The language was not changed to address Ms. Roby’s question.

Ms. Hansen questioned the “agrees to” statement for conditional use permit approval of conditions whether there will be a time limit on when they do something they agree to at a hearing where a conditional use permit is approved. Mr. Owecke stated that language is taken right from state statute and did not think we could put a time limit on it because we could not be more restrictive than state statute. Ms. Hansen questioned, page 41 regarding time limit for closing testimony and Mr. Owecke stated that just refers to adjournment and ending of the hearing.

Ms. Roby stated that she represents more rural Towns and has some concerns, however she expressed her liking for the language changes regarding junk vehicles and containers. She continued by saying this is a good document; we need zoning, but has some reservations putting this through with the strong reaction she has had from some people. Just because they don’t say anything at a hearing does not mean they don’t have a strong opinion.

Motion by Mr. Kriesel to endorse the draft of the Zoning Ordinance Revision, sign the Ordinance and recommend to forward Ordinance 18-05-01 to the County Board for approval. Seconded by Mr. Taylor. All in favor. Carried. Ms. Roby asked that it be noted that her vote changed to approval because of the language

changes regarding abandoned vehicles and the extension giving the Towns the ninety days for map district changes. Mr. Owecke stated it is a good sign to the county for a unanimous vote from the Zoning Committee.

Mr. Brunkow stated this has been a very interesting process and he is very satisfied personally with the document and thinks we as a group are satisfied with it being a very well written, well put together document by the Zoning Department. Mr. Taylor agreed with Mr. Brunkow statement and the hard work from the Zoning Committee and the Zoning Department; it opened his eyes to things he had not been exposed to before.

Mr. Gary Pronschinske, Town of Glencoe, Board Supervisor, addressed the Zoning Committee and questioned and Mr. Owecke stated that the Zoning Department will send a copy of the final edits to all the Towns, post them on the county website, will inform them of the ninety days for last minute changes to the Zoning District maps following adoption of the Ordinance by the County Board on May 21<sup>st</sup>. Mr. Owecke continued by saying that if the County Board adopts the ordinance on May 21<sup>st</sup>, the Zoning Department will do a last printing of the document and send two copies of the Adopted Ordinance to each Town. If the Town chooses to adopt the ordinance they need to return a copy of the ordinance with their approved resolution. Mr. Owecke stated that Towns will have one year to adopt the ordinance.

Mr. Fletcher stated if a Town chooses not to adopt the ordinance, they become an un-zoned Town. If a Town chooses, they need to follow the procedures and statutes to do anything additional. Mr. Owecke stated that a Town is under the old ordinance until the Township would adopt the new ordinance. Mr. Fletcher stated that for one year there will be two ordinances under enforcement.

Chairpersons Report. Ms. Roby thanked Mr. Owecke for his hard work, responsiveness and dedication to getting it right. The dedication is why she changed her vote today. She appreciated the hard work and thanked everyone . Ms. Roby stated that she thinks it is a good document.

Public Comments. Bob Jewell thanked the Zoning Committee for hearing and listening to The Kraemer Company and incorporating their concerns.

The next regular Zoning Committee meeting was scheduled for Thursday, May 10, 2018 at 10:00 a.m.

Motion by Mr. Kriesel, seconded by Ms. Roby to adjourn. All in favor. Carried.

The meeting was adjourned at 10:55 a.m.

Respectfully Submitted,

Julie Lindstrom  
Zoning Administrative Assistant