

**Becker County Planning Commission
June 17th, 2014**

Members Present: Chairman Jim Bruflodt , John Lien, Commissioner Larry Knutson, Jim Kovala, David Blomseth, Mary Seaberg, Harry Johnston, Jim Kaiser, Mary Seaworth, Jeff Moritz, Ray Thorkildson, Zoning Administrator Patty Swenson and Zoning Technician Julene Hodgson.

Chairman Bruflodt explained the protocol for the meeting and stated that the recommendations of the Planning Commission would be forwarded to the County Board of Commissioners for final action on June 24th, 2014.

Kovala made a motion to approve the minutes from May 20th, 2014. Seaberg second. All in favor. Motion carried.

Chairman Bruflodt called the **Applicants Public Hearing** meeting to order. Zoning Technician Julene Hodgson recorded minutes.

FIRST ORDER OF BUSINESS: James & Barry Shaw 15730 Snowshoe Beach Rd Lake Park, MN 56554 **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Certificate of Survey to allow (2) two tracts (Tract A= 2.7 +/- Tract B= 2.3+/-) with a remnant tract of 14.5 acres. The request includes a change of zone from Agricultural to Residential for the smaller tracts only.

Scott Walz with Meadowland Surveying explained the application to the Board on behalf of James and Barry Shaw. The applicants wish to separate two large parcels off the end of the property. A few months earlier they were approved to create a separate tract that contained an existing dwelling and now they want to create two on the very east end that will be accessed by an easement road. Walz explained an easement road can only service two tracts of land, these tracts will not be able to be separated any further. There is an old fence running north and south that depicts the east property line of Tract A. The 150' of remaining lakeshore is connected to the larger remainder parcel. Walz noted the larger remnant property cannot be subdivided into several parcels and then share lake access, this would be the "funnel" effect and is not allowed by Ordinance.

No one spoke for or against the request. Tim Erickson, adjoining property owner to the south, wanted the Board aware of an old fence that is running east and west located south of the proposed parcels. Erickson stated there is a dispute regarding property ownership that he is trying to resolve with the Shaws. Kaiser asked if Erickson had an issue with the proposal in front of the Board or with the fence that is running north and south on the side line of Tract A to which Erickson stated no. There was no written correspondence either for or against the proposal. At this time, testimony was closed and further discussion was held.

Johnston noted the property and fence dispute to the south had nothing to do with the request that is front of the Board. Johnston stated the application meets the criteria of the Ordinance with the lots proposed. There was no further discussion by the Commission.

MOTION: Johnston made a motion to approve a Certificate of Survey to allow (2) two tracts (Tract A= 2.7 +/- Tract B= 2.3+/-) with a remnant tract of 14.5 acres as submitted. The request includes a change of zone from Agricultural to Residential for the smaller tracts only. Seaworth second. All in favor. Motion carried to approve.

At this time Chairman Bruflodt called the **Notice of Intent to Amend Ordinance** meeting to order. Zoning Technician Julene Hodgson recorded minutes.

FIRST PURPOSE OF BUSINESS: Purpose: To Amend Chapter 6, Section 10
Subject Matter: Add the following language - If a lot is segregated by a road, the lot area on one side of the road shall not be used to calculate the amount of impervious lot coverage on the opposite side of the road.

Swenson explained the proposals to the Board. When a parcel is separated by a public road, the lot area on one side of the road cannot be used during the lot coverage calculations for more area on the opposite side of the road.

No one spoke against the request. John Postovit on behalf of COLA spoke in favor of the request. Roy Smith was in favor of the request but noted the committee had agreed to add the words public easement road into the language. There was no written correspondence either for or against the proposal.

At this time, testimony was closed and further discussion was held.

Knutson confirmed the committee had agreed to add the wording public easement road to the proposal. Johnston stated this would make things more clear to property owners for future construction requests. Lien stated he was in favor of the request and how controlling lot coverage helps with the water quality.

There was no further discussion by the Commission.

Motion: Kovala made a motion to Amend Chapter 6, Section 10 Subject Matter: Add the following language - If a lot is segregated by a public easement road, the lot area on one side of the public easement road shall not be used to calculate the amount of impervious lot coverage on the opposite side of the public easement road. Kovala second. All in favor. Motion carried to approve.

SECOND PURPOSE OF BUSINESS: To Amend Chapter 8, Section 5
Subject Matter: Add - Minor Subdivision Exemption on Natural Environment Lakes.

Swenson explained the proposal to the Board. The County previously approved to increase the lot sizes of Natural Environment Lakes that are now more restrictive than the State regulations. This proposal would allow more flexibility for minor subdivisions and still meet or exceed the State regulations.

John Postovit on behalf of COLA spoke in favor of the request. Postovit stated the larger parcels would still have less impact than any smaller parcels and would provide more subdivision choices to the property owners. Gary Larson spoke against the proposal. Larson stated the current lake frontage and lot size requirements create a burden on the property owners and are far too restrictive and unfair with the different lot sizes depending on the lake acreage. Larson stated not enough was taken into consideration when this was changed in the first place. Although he was glad the Board was re-looking at these minor subdivision proposals, he recommended the request be sent back to the committee to further discuss required lot sizes on Natural Environmental Lakes all together again, so the results would be fair to everyone. There was no written correspondence either for or against the proposal.

At this time, testimony was closed and further discussion was held.

Knutson commented when the lot sizes were changed to what they currently are, the Committee had first proposed larger lots yet. Johnston stated he could support 300' lots for all sizes of Natural Environment Lakes because this would still exceed the State requirements. Blomseth agreed he would like to see this revisited and have something proposed that would be more fair to all property owners.

There was no further discussion by the Commission.

Motion: Kaiser made a motion to table the request and send it back to the Zoning Ordinance Review Committee to revisit the size limits for subdivision on Natural Environment Lakes to be more consistent with the State regulations and more fair to property owners. Seaworth second. All in favor. Motion carried to table the request until further notice.

THIRD PURPOSE OF BUSINESS: To Amend Chapter 3, Section 11

Subject Matter: Remove porous paver systems from mitigation.

Swenson explained the proposal to the Board. The proposal would discontinue allowing porous pavers as pervious material, they will now be counted as impervious toward lot coverage.

No one spoke against the request. John Postovit on behalf of COLA spoke in favor of the amendment request. Postovit stated the COLA Executive Committee voted on the request. Roy Smith commented that there are not a lot of choices for homeowners of anything that is considered pervious. There was no written correspondence either for or against the proposal.

At this time, testimony was closed and further discussion was held.

Brufloft stated he will be glad to see this changed and there is not enough manpower to inspect the pavers to see if they are being maintained and cleaned. Brufloft stated they will now be counted from pervious to impervious. Kovala agreed the pavers are too hard to maintain and the change will discontinue to allow pourous pavers to be counted as pervious.

There was no further discussion by the Commission.

MOTION: Kovala made a motion to remove using porous paver systems as pervious material for mitigation. Moritz second. All in favor. Motion carried.

FORTH PURPOSE OF BUSINESS: To Amend Chapter 3, Section 8, Paragraph B
Subject Matter: Amend setback average plus 20 ft to setback average.

FIFTH PURPOSE OF BUSINESS: To Amend Chapter 5, Section 2, Paragraph C
Subject Matter: Amend setback average plus 20 ft to setback average.

(The Forth and Fifth Purpose of Business are regarding the same proposal which is in two different areas of the Ordinance).

Swenson explained the proposal to the Board. The request would eliminate the setback average plus 20 ft and would return to setback average. Swenson explained the regulation became too restrictive for many property owners and that caused more Variance requests.

Speaking against the proposal: John Postovit on behalf of COLA, Don Davis on behalf of Cotton Lake Association members, Ruth Bergquist on behalf of Round Lake Association, Jennifer Thompson on behalf of Island Lake Association, Steve Lindow on behalf of Bad Medicine Association, Barb Halbakken/Fischburg on behalf of Lake Detroiters Association, Terry Kalil, Willis Mattison, Paul Lundquist, Dick Hecock. Comments and Concerns: Not clear on why a need for change, revisit additions and expansion sections not the re-development section, impact on lakes- environmental concerns, Ordinance supports to encourage to conformity- this would discourage, additions are limited life to structures- new structure for a long time, go forward to protect the lakes- not backwards, responsibility to the lakes, water quality from runoff, leave more room for berms and trees, shoreland rules not based on economical rules, nonconforming more toward conforming, and increased protection for the lakes. Speaking in favor of the proposal: Greg Anderson on behalf of the Turtle Lake Improvement Association, Karleen Mjolsness, Peter Mead on behalf of Soil and Water Conservation District, Ed Clem Soil and Water Conservation District, Pat Strum and Kevin Shipley. Comments included: Mitigation regulations in place to protect lakes- no matter where structures are located, goal is not to zone out of existence but to give reasonable use to all properties, be consistent- existing average plus 20 feet is unfair to some owners- narrow lots have view taken away, County exceeds State requirements and surpass State minimums even with proposal, regulations in place with control of impervious amount and runoff protect the

lake, existing average plus 20 feet rule complicated, discourages people who then rebuild in the same location- same size in the shore impact zone, change will still reach goal of getting new houses back further, the intent of the Ordinance is to reduce the ongoing impact of the existing nonconformity; provide an opportunity to address untreated rainwater runoff; and reduce impervious surface coverage- to which the proposal and County's existing standards still meet these requirements. Mitigation comes into effect between 15% and 25% lot coverage and always if the most restrictive lake setback is not met. Roy Smith shared a chart showing percentage of substandard lots and made the suggestion to send the proposal back to the Zoning Ordinance Review Committee to re-address. There were letters on file from Cotton Lake Association president Vince Root and Soil and Water Conservation District Administrator Peter Mead with the contents addressed by speakers.

At this time, testimony was closed and further discussion was held.

Knutson wanted it noted that the public do have insight regarding each and every proposal. There are many sessions and COLA was present to speak on behalf of Lake Associations and its members. Swenson explained the Zoning Ordinance Review Committee as an advisory committee who address different issues or needs regarding the Becker County Ordinance regulations to be revisited or petitioned for change. The Board consists of appointed persons from each District, DNR, Soil and Water, Watersheds, COLA, County Commissioners and Zoning. Each proposal is reviewed by all members and at times there are subcommittees created within the review process who then go back to the entire group with suggestions and ideas. The proposals then go forward to the Planning Commission for review and the recommendations go to the County Board for final process. Swenson stated that most provisions within the Becker County Ordinance are more restrictive than the State regulations. Blomseth asked Swenson what lead this to the Planning Commission level to which Swenson stated it wasn't working, there was a lot of Variance requests, issues with vision, a lot of properties so small that they cannot conform, unique circumstances up and beyond what should be granted. Bruflodt spoke as the Board of Adjustment Chairperson and stated he takes offense to anyone who thinks they don't want to protect the lakes and all the Variance requests reviewed are on substandard lots. There is no magic number whether stringline, stringline plus 10 feet or stringline plus 20 ft- it is the mitigation put in place that protects the lakes. Bruflodt notes they look at what is reasonable use and try to move the structures back as far as they can go within reason- there is no sympathy if they ask for something they normally would not get. Bruflodt stated the Board of Adjustment can impose stipulations to require more mitigation up and beyond the basic requirements which can supersede the 20' setback of the averaging plus 20 ft- with berms, natural plantings, only one (1) access path, restoration areas, gutters, French drains and infiltration areas. Johnston stated the current setback impairs vision on narrow lots and agrees with the stronger mitigation measures imposed. Johnston wanted it noted that a lot of larger structures on standard lots could have moved back further, but they chose not to and now want others on smaller lots to move back further. Kaiser asked if the Board of Adjustment approve lot coverage over 25% to which Bruflodt stated no. Bruflodt continued to state the road setback was changed for dwellings to go closer to the road on riparian lots to help move them further

back from the lakes and the Board does not approve anything new in the shore impact zone. Lien stated he was not in favor when they approved the stringline plus 20 ft and he doesn't feel the request is going backwards because there are continuous improvements put in place to help the lake as in no more pavers approved as pervious, no lot area used across the road in lot coverage calculations and mitigation. Moritz wanted more findings of fact on why this should be allowed- reasons to change from what we have. Moritz noted this helps the small lots, it will still cause structures to move back and out of the shore impact zone, will allow vision to the lake, and it is a viable option for reasonable use. Thorkildson stated a lot of the problem is lack of knowledge of the Zoning rules to property owners, if an owner is more educated on rules and regulations, maybe the owners would do more to protect the lake, comply and be aware of all options. Kaiser if the proposal is stringline and out of the shore impact zone, it will still be better than years ago and eventually get homes moved back with lots still only covering 25% no matter where the structures are located. Seaberg stated it all comes back to small lots, the large lots can meet the setbacks. Lien stated by having the Ordinance we have control we don't want regulations that cause a lot of issues. Johnston stated that none of the Board of Adjustment members were in favor of the average plus 20 feet rule. Bruflodt noted the Board implement stipulations for berms, vegetation, impervious removal to control lot coverage, with some mitigation mandated and the owner must show proof of a practical difficulty- each request looked at individually. Seaberg stated mitigation starts with the permit application process and trying to meet property setbacks. Lien thanked the audience for coming and stated he respects the Zoning Ordinance Review Committee and the Board of Adjustment members for the work that they do and the recommendations they propose.

MOTION: Lien made a motion to Amend Chapter 3, Section 8, Paragraph B and Chapter 5, Section 2, Paragraph C Subject Matter: Amend setback average plus 20 ft to setback average as submitted. Kovala second. All in favor except Seaworth and Moritz. Majority ruled with motion carried to approve.

FINAL ORDER OF BUSINESS: Informational Meeting: The next informational meeting is scheduled for Thursday, July 10th, 2014 at 8:00 am in the Third Floor Meeting Room of the Original Courthouse.

Since there was no further business to come before the Board, Kovala made a motion to adjourn. Lien second. All in favor. Motion carried. Meeting adjourned.

Jim Bruflodt, Chairman

Jeff Moritz, Secretary

ATTEST _____
 Patricia Swenson, Zoning Administrator