

**Becker County Zoning Ordinance Review Committee  
July 9, 2015**

**Present:** Roy Smith, Larry Knutson, Dave Knopf, Scott Walz, Ray Vlasak, Peter Mead, Rodger Hemphill, Harry Johnston, John Postovit, Terra Guetter, Ed Clem, Willis Mattson, Eric Evenson-Marden and Debi Moltzan.

Chairman Johnston called the meeting to order at 9:00 am. The agenda was considered, with no changes made to the agenda.

Knopf made a motion to approve the minutes from the May 12, 2015. Vlasak second. All in favor. Motion carried.

**Non-conforming Deck Additions**

Discussion at the last meeting was to put nonconforming deck additions back into the Ordinance. Proposed language was drafted by the Zoning Office with what was in the model Ordinance and suggestions from the last meeting. This language included:

Chapter 5, Section 2

L. Nonconforming Deck Additions.

A deck addition not meeting the required setback from the ordinary high water level may be allowed without a variance if all of the following criteria and standards are met:

- A. There is no reasonable location for a deck to meet the required setback;
- B. The deck encroachment toward the ordinary high water level does not exceed twelve (12) feet of the current structure setback or required setback for new construction.
- C. The deck addition cannot extend into the shore impact zone;
- D. The deck is constructed in pervious manner, and is not roofed, enclosed or screened; and
- E. The ground underneath the deck must remain pervious (in the case of an upper story deck, the ground underneath the deck must remain pervious unless there is evidence of a pre-existing impervious material in this location).

Current Paragraphs L – Q would be renumbered.

Discussion was held regarding the proposed draft. Discussion included removing item A; clarifying preexisting concrete cannot be expanded and if the deck was enlarged the concrete would have to be removed.

Vlasak stated that he was not in favor of this because he felt it was a move to deteriorate the lakes. Most decks now days are not constructed as pervious and what about the people that have already complied with the regulations. Postovit felt that this was a loop hole. People could not build the house at the setback and come back and add a deck 12 ft closer rather than moving 12 ft

further back to begin with. Walz felt that people would not be as devious on their plans if they knew they were getting a 12 ft deck. Johnston questioned if the PRWD had definitions for pervious deck. Guetter said they did have some definitions but felt that there should be a concrete or brick containment to contain the water run-off from the deck.

Postovit questioned why the Board of Adjustment recently denied a request for a nonconforming deck addition. Johnston stated that a hardship must be proven in order to grant a variance.

Further discussion was held as to how to keep the area under the deck pervious without causing erosion. Some suggestions were fabric and rock, French drains, and retention areas. Postovit felt that this section should not be made more complicated when there is a definition of a pervious deck.

Further discussion was held regarding upper story decks begin added to an existing structure. The proposed language allowed patios to remain if the patio was already in existence. Consensus was that the concrete could remain but not be expanded. However, after much discussion, it was decided that if a second story deck would be added, the concrete must be removed and replaced with a pervious deck.

Knopf made a motion to recommend the nonconforming deck addition proposed language to the Planning Commission, written as follows:

Chapter 5, Section 2

L. Nonconforming Deck Additions.

A deck addition not meeting the required setback from the ordinary high water level may be allowed without a variance if all of the following criteria and standards are met:

- A. The deck encroachment toward the ordinary high water level does not exceed twelve (12) feet of the current structure setback or required setback for new construction;
- B. The deck addition cannot extend into the shore impact zone;
- C. The deck is constructed in pervious manner, and is not roofed, enclosed or screened; and
- D. The ground underneath the deck must be pervious.

Current Paragraphs L – Q would be renumbered.

**Clarification of Chapter 8, Section 5 Subdivision of Land.**

While drafting language to put a timeline on the number of lots created by a certificate of survey, it was found that language was changed in the Ordinance in March 2012. This language was changed in Chapter 8, Section 4, but did not get changed in Section 5. The following needs to be changed to reflect the language approved in March 2012:

Section 5      Subdivision of Land

2. Lots.

- e. Minimum road frontage. Every lot must have at least sixty-six feet (66') of frontage on a public dedicated road or street other than an alley except that a

lot created by a Surveyor's Sketch is not required to have frontage on a public road if access is provided:

- (1) ~~with a fourteen foot (14') wide driving surface;~~ The easement from the property to a public road must be at least thirty-three (33) feet wide when servicing one (1) or two (2) tracts of land;
- (2) ~~on an easement or on property owned by the developer; and~~ The easement from the property to the public road must be at least sixty-six (66) feet wide when servicing three (3) or more tracts of land; except that this provision does not apply to property that is accessed by a forest management road; and
- (3) ~~that access is to no more than two (2) lots.~~ The easement from the property to the public road has a graded and serviceable driving surface.

Walz made a motion to accept the above language to make the section consistent with the changes made in 2012. Vlasak second. All in favor. Motion carried.

### **Limitation on number of tracts to be done with a certificate of survey.**

After the last discussion, language was put together to allow certificates of survey, but when multiple surveys are done from a parent tract, there is some type of control to aid in orderly development. The proposed language is:

J. Subdivision of a tract of land into three or fewer tracts. Applications involving tracts of land that are proposed to be subdivided into three (3) or fewer tracts, but are not exempt from subdivision review under Chapter 8, Section 5, subsection A.2, may be reviewed according to the procedures in this subsection. The design of such subdivisions shall conform to the requirements of this subsection. Within a five (5) year period, a total of three (3) tracts of land may be subdivided from a parent tract by a certificate of survey. Additional tracts may be done by platting.

Smith explained how property can be divided, certificate of survey and platting and the difference between them. In the end, you have the same number of tracts of land; it is just the process of how you get there. There are times that platting is the better way of completing the process and there are times that a certificate of survey is the better way, each project is different.

Further discussion was held as to whether or not there should be one regulation for property located on an existing public road and one regulation for property that needs to create a new public road and what timeline should be placed on the number of lots created.

**Motion:** Knopf made a motion to approve language to limit the number of tracts to be created with a certificate of survey to read as follows:

J. Subdivision of a tract of land into three or fewer tracts. Applications involving tracts of land that are proposed to be subdivided into three (3) or fewer tracts, but are not exempt from subdivision review under Chapter 8, Section 5, subsection A.2, may be reviewed according to the procedures in this subsection.

The design of such subdivisions shall conform to the requirements of this subsection. Within a three (3) year period, a total of three (3) tracts of land may be subdivided from a parent tract by a certificate of survey. Additional tracts created may be created through the public hearing process.

### **Clarification of Chapter 8, Section 5, J 2**

While drafting language to put a timeline on the number of lots created by a certificate of survey, it was found that language was changed in the Ordinance in March 2012. This language was changed in Chapter 8, Section 4, but did not get changed in Section 5. The following needs to be changed to reflect the language approved in March 2012:

2. Review procedure.

a. Within a shoreland area.

(1) Administrative review. The surveyor's sketch shall be submitted to the Zoning Administrator for approval. The Zoning Administrator shall approve the surveyor's sketch only if it meets or exceeds 2.5 acres. The Zoning Administrator reserves the right to refer to the Planning Commission and County Board for consideration any subdivision proposal presenting extraordinary circumstances. Approval or disapproval of the proposed subdivision shall be conveyed to the subdivider in writing fifteen (15) days after the submission. If the proposed subdivision is disapproved, the subdivider shall be notified in writing of the reasons for the disapproval. The approval of the proposed subdivision together with a copy of the surveyor's sketch shall be filed with the County Recorder before any conveyances of the subdivided lots shall be valid.

(4 2) Review by the Planning Commission. The surveyor's sketch shall be submitted to the Zoning Administrator in the Becker County Planning and Zoning Office. The County Planning Commission shall hold a public hearing on said proposed subdivision. The public hearing shall conform to the provisions of Chapter 8, Section 2, of this Ordinance. The Planning Commission shall approve the subdivision with findings that contain conditions for approval or shall state reasons for denial. A denial of a subdivision by the Planning Commission shall be reviewed by the County Board for final action. In case the proposed subdivision is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the Planning Commission.

(2 3) Review by the County Board. After the public hearing and review of the proposed subdivision by the Planning Commission, such proposed subdivision, together with the recommendations of the Planning Commission, shall be submitted to the County Board for consideration. Approval or disapproval of the proposed subdivision shall be conveyed to the subdivider in writing ten (10) days after the meeting of the County Board at which such proposed subdivision was considered. In case the proposed subdivision is disapproved, the subdivider shall be notified in writing of the reasons for the

disapproval. The approval of a proposed subdivision together with a copy of the surveyor's sketch shall be filed with the County Recorder before any conveyances of the subdivided lots shall be valid.

**(This addition is consistent with Section 5, A.2.a.(1), exemption by Tech Panel)**

**Motion:** Walz made a motion to accept the above language to make the section consistent with the changes made in 2012. Vlasak second. All in favor. Motion carried.

### **Change Requirements of Non-riparian Lots**

In 2012, changes were made to allow for non-riparian back lots to be joined permanently to lake lots to allow for storage sheds and septic systems. The lot must be located within 200 feet of the lake lot and must contain a minimum of 5000 sq ft of lot area, being defined as useable, buildable area, not steep slopes, bluffs or wetlands. The language that was approved was as follows:

M. Non-riparian lots. Non-riparian lots not meeting the required size of the zoning district may be allowed if the following criteria are met;

1. Non-riparian lots described by metes and bounds conveyance must be described by legal description the riparian lot to which it is being attached to and the combined tract cannot be conveyed separately nor separated without county approval;
2. Non-riparian lots created by platting must include in the plat dedication the legal description of the riparian lot to which it is being attached and that neither can be conveyed separately nor separated without county approval;
3. The non-riparian lot and riparian lot must be located within two hundred (200) feet of each other;
4. The non-riparian lot must be greater than five thousand (5000) square feet in area;
5. The minimum road frontage of the non-riparian lot is fifty (50) feet;
6. All setbacks for the applicable zoning district shall apply to the non-riparian lots;
7. The lot area of the non-riparian lot cannot be used in the calculations of impervious coverage for the riparian lot;
8. The maximum lot coverage of the non-riparian lot cannot exceed twenty-five (25) percent of the area of the non-riparian lot.

Since this regulation went into effect, there have been times that people have wanted to buy areas of land that do not contain the 5000 sq ft of lot area, but are 5000 sq. ft. in size. They want land as buffers from surrounding neighbors not necessarily to build.

Discussion was held regarding what the difference was if the back lot was buildable or non-buildable, as long as it was permanently attached to the lake lot and cannot be separated.

**Motion:** Knopf made a motion to change the language to allow 5000 sq. ft. lots, no matter if the property is buildable or useable, according to the following language. Walz second. All in favor. Motion carried.

- M. Non-riparian lots. Non-riparian lots not meeting the required size of the zoning district may be allowed if the following criteria are met;
1. Non-riparian lots described by metes and bounds conveyance must be described by legal description the riparian lot to which it is being attached to and the combined tract cannot be conveyed separately nor separated without county approval;
  2. Non-riparian lots created by platting must include in the plat dedication the legal description of the riparian lot to which it is being attached and that neither can be conveyed separately nor separated without county approval;
  3. The non-riparian lot and riparian lot must be located within two hundred (200) feet of each other;
  4. The non-riparian lot must be at least ~~be greater than~~ five thousand (5000) square feet ~~in area~~;
  5. The minimum road frontage of the non-riparian lot is fifty (50) feet;
  6. All setbacks for the applicable zoning district shall apply to the non-riparian lots;
  7. The lot area of the non-riparian lot cannot be used in the calculations of impervious coverage for the riparian lot;
  8. The maximum lot coverage of the non-riparian lot cannot exceed twenty-five (25) percent of the area of the non-riparian lot.

### **Natural Environment Lakes**

Smith questioned how this was brought up again when it was not that long ago that the County increased the lot sizes on NE lakes. Walz explained the issues he had with the lot sizes when dealing with landowners, primarily the ones that just want to break off a piece of land for their children.

Smith felt that this committee should have a directive from the County Board as to what needs to be looked at in this committee, one of which being NE lot sizes. Postovit gave a timeline as to how long the committee had worked on changing the NE lot sizes in the past; this process was a two (2) year process. Postovit gave further background history on what information was used to make the decisions that were made. Mattson stated that he had worked with the DNR with lake caring capacity, which is very scientific and that the standards set by the County are a rule of thumb, one size fits most.

Johnston and Walz stated that the Conservation Subdivisions are not working and something needs to be changed. Both agree that more restrictive is ok, but there is a difference between more restrictive and extreme. Hemphill stated that the DNR model ordinance is just a guide; the counties can be more restrictive. Knutson felt that the former change did a great job of restricting property rights by not allowing people to sell their land.

Smith presented a chart rating NE lakes from 1 to 5 based on 8 different areas (size, shape, depth, watershed, % of potential development, etc.) and that most of this information could be obtained from the GIS information and lakes could be reclassified and lot sizes reduced.

Mead and Guetter asked that the group hold off on working on this because of the SWCD having to update their water plan. The work on the water plan could help this group in decisions. Knopf felt that the group is not working for the people at full capacity and speed if things are not getting accomplished correctly. Postovit complimented Smith for this work on a simplified rating system, but felt more science is needed.

Smith felt that the group should wait on any further discussion or decisions on NE lakes. Consensus of the group was to wait with more discussion on NE lakes until a later date.

### **Next Meeting**

The next meeting is scheduled for Thursday, August 13, 2015 at 9:00 am. The agenda will be set by the Zoning Office.

Walz made a motion to adjourn the meeting. Knopf second. All in favor. Motion carried. Meeting adjourned.

Respectfully submitted,

Debi Moltzan