

Zoning Ordinance Advisory Committee Meeting
August 9th, 2018

Present: Jerry Flottemesch, Larry Knutson, Rolf Christianson, Dave Knopf, Harry Johnston, Scott Walz, Rodger Hemphill, Barry Nelson, Patty Swenson, Nate Welte, Roy Smith, Tera Guetter, Brent Alcott, Kyle Vareberg, and Rachel Bartee.

Flottemesch called the meeting to order at 11:30am. Bartee recorded the minutes.

Flottemesch identified each voting member from each district.

- District 1 Rolf Christiansen
- District 2 Harry Johnston
- District 3 David Knopf
- District 4 Scott Walz
- District 5 Jerome Flottemesch

Flottemesch explained the purpose of the Board is to do an in-depth study before presenting to the Planning Commission and the County Board.

Flottemesch stated they should choose a Chairman.

Walz made a motion to nominate Flottemesch for the Chairman seat.

Johnston seconded. All in favor. Motion carried.

First Order of Business: Number of final plats required. Swenson requested to add an item to the agenda. Flottemesch accepted her request. Swenson stated she had recently been to a recorder's conference where they were notified they are no longer legally required to have two copies of a final plat come into their office. Swenson stated in the past one was open to the public and the other was to be saved in an environmentally appropriate room. One is all that is now required as the other one is electronically filed, therefore, no second hard copy is needed. Walz stated they are also costly to create, around \$100.

Scott made **motion** to approve the change as requested to change (page 94) (Chapter 8, Section 5; Letter G, Subsection 2) from Two (2) copies to One (1) copy of a final plat required.

2. ~~Two (2) copies~~ One (1) copy of a final plat prepared for recording purposes.

To:

2. **One (1) copy of a final plat prepared for recording purposes.**

Knopf second. All in favor. Motion carried. Amendment approved.

Second Order of Business: Table 5-1 Land Use Districts-Storage/units. Vareberg stated the way the current Ordinance reads is a lot cannot have a structure without first building a residence or a business as a primary structure. Chapter 10: Definitions Accessory building or structures is defined as: Any building or structure that is incidental to the principal use of the property. For example a garage would not be allowed on a back lot or a shed to stand alone on a vacant lot. There are many requests for standalone structures on parcels; however the legal opinion is that we cannot approve them without a Board of Adjustment approval on each individual basis.

Knopf stated he recalls the Board discussing the matter in the past, approving the placement of structures on the back lots as long as the fronts were developed. Knutson stated the current wording also prevents owners from placing a standalone shed on a vacant lot, adding the tables have never been changed in the Ordinance to approve it. Nelson stated that a person could have Ag related building being used for Ag purposes without a primary structure. Vareberg agreed that if you have a building that is being used for Ag purposes no permit is required. Walz stated if you have a house first then you can have a shed. Christiansen asked what the County's objection was to it. Walz replied the Ordinance does not follow the intent. Knopf asked if he had a 10 acre parcel could he have a shed. Flottemesch stated not if there was not already a primary structure on the property (residence or commercial). Flottemesch stated the Board thought they had corrected this sometime back, however it came to their attention they did not clear up the table. Flottemesch added that when the Ordinance was written, it was done by a company who worked with urban areas. Walz stated he searched other local Ordinances none had any similar language. Swenson stated it was complicated when the MUD's and PUD's were added and this must have been missed.

Hemphill stated changes will need to go through the DNR review process for any changes within 1000 feet of the lake. Nelson asked can we write the shore land portion in separately from the non-shore land changes to move it along. Hemphill stated the DNR needs a minimum of a 10 day notice and get a letter of approval or denial. Hemphill added it goes through the public hearing process and then DRN Board reviews the changes and then sends a letter of approval/denial, explaining the DNR review process should not slow down the development.

Guetter asked if there was a way like on resorts where cic storage units could have cluster systems. Nelson stated it was not necessary. Knutson asked if they could have 2 of the 3 amenities. Vareberg stated they would have to always remain non-residential; adding these people would like to have a bathroom in the storage sheds as often times their homes/cabins are a few miles down the road and they don't want to have to run back and forth. Hemphill replied we do not care about convenience, the CIC said it was not for dwellings, how are you going to enforce it with someone who ends up using it as their weekend location, like a PUD? Where is the legal control? Vareberg stated a cluster system vs a few holding tanks is going to put effluent

into the ground where a tank would not. Walz stated the application request was for non-residential use and if they have only a bathroom, they can use it that way. Flottemesch asked what amenities are allowed in a non-residential structure. Vareberg stated they can have 2 of the 3 amenities. Nelson stated I thought we got rid of that if they have 2.5 acres. Walz replied that if the structure has all 3 amenities then it is a residence and they would have to remove an amenity in order to construct another with all 3 amenities. For example if they have a shop with a small living area and then 10 years down the road they also want to build a house, they would have to remove an amenity from the shop to get the dwelling. Nelson stated they cannot have two habitable dwellings. Flottemesch asked if they should separate the shoreland from the non-shoreland changes.

Welte stated we have to be able to defend the Ordinance. On the table in chapter 5, if the zoning district is residential it says that if you have a “p” in this column then you are good to go. If you do not have that principal use in place then you cannot have an incidental use. When you are adding to the chart you can add the incidental use. Currently the accessory use is not permissible with our principle use. Welte agreed with the new language and to add a definition of a storage structure to the definitions section.

Flottemesch stated they should add a line to the chart on table 5-1 for a storage structure and definitions stating what amenities are allowable. Storage structures are different from accessory structures. Knopf asked how large are they allowing. Vareberg replied as large as they want as long as they meet the setbacks. Knopf asked what if it is hunting ground. Knutson stated we have been permitting them however it has come to our attention we should not have been. Welte replied they were not allowed per the Ordinance. Nelson stated we are getting language to conform to what we are practicing.

Flottemesch can they have running water, microwave, sink, fridge? Define a bed room? Walz stated it gets gray when you have to begin defining the different amenities. Welte asked if they wanted to define the amenities or is it better to put in negatives, what is not allowed, not for habitation, not permitted for sleeping quarters or overnight guests. Hemphill stated there should be no sewer or water period, then that will get you to a strictly storage unit and get you out of any habitation problems. Knutson but what if the owner’s home is a few miles down the road and they want to use the bathroom. Hemphill replied then it should be considered a shop. Flottemesch stated the Ordinance works because people support it. If it is reasonable people will follow it. Flottemesch asked do we want to make it more restrictive if it is working. Knutson replied what we are practicing is working.

Guetter clarified this is referring to stand alone structures. Walz replied yes, it is stating an owner would not need to have a residential/commercial building on the property first before they placed a storage structure on it. Christensen asked if the DRN would have to review each case in the

shoreland district. Vareberg replied no, they would just review the Ordinance changes they are requesting and if approved going forward the zoning office would approve them.

Hemphill asked what the difference is when 2 out of 3 owners of these structures are going to live in them. Walz replied how it makes a difference if they are going to get a licensed septic designer/installer to do the septic work. Hemphill stated these storage structures are going to turn into seasonal cabins. Hemphill added the shoreland Ordinance was created to control density on the shoreline. Walz replied that you're still adding the density with the current Ordinance with an accessory structure. Hemphill replied you are not meeting the lot size or other requirements with the toy box CIC's it is going to be like a PUD with this storage structure issue. Flottemesch stated the Board may not allow them in CIC's or PUD's. Hemphill stated you can place multiple storage structures on a buildable lot. What if brothers own one parcel they both put a storage structure on the property and they both end up staying in them, now they have doubled the density. Vareberg replied if they meet the setbacks then it is allowed, adding it is controlled by the impervious surface. Walz added they have to get a permit for every structure so the Zoning Office regulates that with setbacks and impervious coverage.

Walz made a **motion** to keep the definition of accessory structure the same and add the definition of storage structure: "Any building or structure used for non-residential and non-commercial use." Also to add storage structure to the 5-1 table, Section G. Other Uses, with the following conditions:

	Table 5-1 Land Use Districts																
	General Agriculture		Special Protection		Residential			High Density Residential		Water Oriented Commercial			Commercial			Industry	
Use Type	All Lakes Rivers	Non Shoreland	All Lakes Rivers	Non Shoreland	GD & RD Lakes	NE Lakes & Rivers	Non Shoreland	All Lakes Rivers	Non Shoreland	GD & RD Lakes Rivers	NE Lakes	Non Shoreland	GD & RD Lakes Rivers	NE Lakes	Non Shoreland	Mfg	Adm. & Whsg
Storage Structure	P	P	C	C	P	P	P	C	C	P	P	P	P	P	P	C	C

Johnston second. All in favor. Motion carried. Amendment approved.

Walz requested to add an item to the agenda. The Board accepted.

Third Order of Business: Multi-unit Storage developments. Walz explained there is not currently language in the Ordinance that describes the requirements for multi-unit storage developments. Walz stated using the language from MUD's he presented the Board with a draft to review:

Multi-Unit Storage Structure Developments

- A. **Purpose and applicability:** The purpose of this section is to establish the procedure and criteria to evaluate multi-unit storage structure developments for private ownership. It is intended to provide a means to create a cluster style development for privately owned storage structures.
- B. **Where allowed:** Multi-unit storage structure developments are allowed for new projects on undeveloped land, redevelopment of previously developed land, or conversion of existing buildings in land use districts where storage structures are permitted.
- C. **Definition:** Multi-unit storage structure developments consisting of sites or units that are sold or leased for the purpose of private storage, work space or any other non-residential and non-commercial use associated with storage structures.
- D. **Review process:** Multi-unit storage structure developments shall be considered a plat and processed as subdivisions of land into units, lots or parcels as outlined in Chapter 8, Section 5 of this ordinance.
- E. **Application for a Multi-unit storage structure development** The applicant for a multi-unit storage structure development shall submit the following documents prior to final action being taken on the application requests:
 - a. **Preliminary site plan:** A site plan for the project showing locations of property boundaries, surface water features, proposed units or lots, common elements and structures, land alterations, topographic contours at ten foot intervals or less and sewage treatment and water supply systems (if any are being proposed).
 - b. **Property owners association:** A property owner's association agreement with mandatory membership with the following features:
 - i. Membership shall be mandatory for each unit or site purchaser and any successive purchasers;
 - ii. Each member shall pay a pro rata share of the association expenses and unpaid assessments can become liens on units or sites;
 - iii. Assessments shall be adjustable to accommodate changing conditions; and
 - iv. The association shall be responsible for insurance, taxes and maintenance of all commonly owned property and facilities.
 - v. Any changes to the association agreement related to the layout, impervious surface, surface water flow or other uses/features that were included in the approved site plan shall be submitted to the County for Planning Commission and County Board approval.
- F. **Design requirements:**
 - a. **Density:** The density of multi-unit storage structure developments shall be determined by the allowable impervious surface coverage for the land use district.
 - b. **Water and Septic:** If water is being supplied to the units, it is recommended that a common well be utilized, if possible. Considering the units are not for habitation, it is

acceptable to utilize septic holding tanks designed and installed in accord with Minnesota Department of Health requirements and Section 4 of this ordinance.

- c. **Erosion control and stormwater management:** Erosion control and stormwater management shall be developed in accord with any Minnesota Pollution Control Agency requirements or Watershed District in which the multi-unit storage structure development is situated. If the multi-unit storage structure development is not located with and Watershed District or if the governing Watershed District nor MPCA does not have or require erosion control and stormwater management standards the multi-unit storage structure development shall:
 - i. **Erosion control design standard:** Erosion control systems shall be designed, and the construction managed, to reduce the likelihood of serious erosion occurring either during or after construction.
 - ii. **Method of control:** Erosion control shall be accomplished by limiting the amount of and the length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques shall be used to reduce erosion impacts on surface water features. Erosion control plans approved by a Soil and Water Conservation District may be required if project size and site physical characteristics warrant; and
 - iii. **Stormwater management design standard:** Stormwater management systems shall be designed and constructed to effectively manage reasonable expected quantities and qualities of stormwater runoff.

Walz advised this is for storage structures only, not residential buildings/dwellings. Walz added these will be defined as non-residential and non-commercial storage structures. The changes would be considered a subdivision if adapted and not require a CUP (Conditional Use Permit) and all the stipulations above would be placed on it. Flottemesch stated the fewer CUP's you give the better off you are.

Flottemesch asked do we want to permit these structures only in certain areas. Walz stated the number of allowed units was always based on the impervious coverage. Vareberg recommended installing holding tanks instead of leaching systems for these units. Gutter stated she believed the City had issue with septic's on these types of units. Vareberg stated the City never addressed it as a future issue to hook up to public sewer.

Vareberg stated these types of units were never permitted through the Ordinance before however they are all over the county. Flottemesch we have to decide if we are going to allow them or not and if we allow them this proposal will give it conditions. Flottemesch asked should we permit them in certain zones or does it require a Conditional Permit Use or should they not be permitted at all. Flottemesch asked should it have to go through administration only or through the Planning Commission for approval. Walz stated you are subdividing land when creating these so they should have to go through Planning Commission. Walz added if the County wants to put conditions on it they can.

Guetter asked how is ownership described on these, are they just the land, land and 1/16th ownership of the commons, or do they just own the building footprint? Flottemesch replied if they don't want to have an association they do not qualify under this description. Knopf asked about the association noting the documents are not listed on the description of multi-unit storage structure developments supplied by Walz. Smith explained it is state statute, they are required to file an association document, and Patty cannot record it without it. Guetter stated the association can go back and change the association documents after it has been approved. If there are changes to the association documents they should not be able to change it without a CUP. Walz stated the County can added that any changes to the homeowner's association documents must be amended through the Planning Commission for future changes. Vareberg if there are changes to the lot area then it would need to be replotted.

Johnston made a motion to approve the changes as proposed to add verbiage for Multi-Unit Storage Structure Developments to chapter 8 section 15 after attorney reviews and approves. To add to chapter eight section 15.

Walz second. All in favor. Motion carried. Amendment approved.

Fourth Order of Business: Subdivision for Plat Use Approval within Two Miles of an Incorporated City. Vareberg explained the City of Detroit Lakes has adopted extra-territorial subdivision platting regulations. Currently both the City and the County sign and approve final plats, which conflicts with the state statute. The preliminary plat goes to the City alone to be reviewed. The state statute does not require it to go back the County for final approval after the City has approved it. Walz added the City has all control over plats within the two mile extra-territorial area and current practice has been to go to them alone for approval. Vareberg stated the request is to remove the word "also" from the verbiage in the Ordinance to make it follow statute. It should need to be approved by the City alone, present county language says we also have control over final plats. When they adopted extra-territorial subdivision platting regulations in 2002 they must not have been changed this in the Ordinance.

Walz made a motion to remove the work also from the verbiage:

- b. **Cities.** Where any municipality has adopted extra-territorial subdivision platting regulations as provided by State law, any proposed plat lying within two (2) miles of said municipality **shall also be** submitted to and approved by said municipality.

Change to:

- b. **Cities.** Where any municipality has adopted extra-territorial subdivision platting regulations as provided by State law, any proposed plat lying within two (2) miles of said municipality **shall be** submitted to and approved by said municipality.

Koepf second. All in favor. Motion carried. Amendment approved.

Fifth Order of Business: Land use Interpretation for Unlisted Use.

Vareberg explained that currently it states the BOA (Board of Adjustment) is the review Board for all unlisted uses on Table 5-1 of the Ordinance.

Chapter 5, Section 1, (D)

- D. Use interpretation.** If a use is not listed or does not have a designated type of use, the use may be allowed if it is of the same general character as those listed as Permitted (P), or Conditional (C) uses in the use table, provided the use is deemed fitting and compatible to the district by the Becker County **Board of Adjustment**, and is not listed as a Not Permitted (N) Use.

Vareberg stated after the applicant goes to the BOA for variance approval they would then have to the Planning Commission for another approval. Johnston clarified the request was to change the review Board for land use interpretation on unlisted uses to the Planning Commission instead of the Board of Adjustment to save the owner time, and because the Planning Commission is more qualified to make determinations based on use. Vareberg agreed.

Walz made a motion to change the review board from BOA to the Planning Commission.

From:

- D. Use interpretation.** If a use is not listed or does not have a designated type of use, the use may be allowed if it is of the same general character as those listed as Permitted (P), or Conditional (C) uses in the use table, provided the use is deemed fitting and compatible to the district by the Becker County **Board of Adjustment**, and is not listed as a Not Permitted (N) Use.

To:

- D. Use interpretation.** If a use is not listed or does not have a designated type of use, the use may be allowed if it is of the same general character as those listed as Permitted (P), or Conditional (C) uses in the use table, provided the use is deemed fitting and compatible to the district by the Becker County **Planning Commission**, and is not listed as a Not Permitted (N) Use.

Christiansen second. All in Favor. **Motion** carried.

Ordinance will be forwarded to the Planning Commission prior to the **October 9th, 2018 deadline.**

As there was no further business before the Committee Flottesmesch adjourned the meeting.

Respectfully submitted,

Kyle Vareberg