

Becker County Planning Commission
October 21, 2008

Present: Members John McGovern, Ray Thorkildson, John Lien, Jeff Moritz, Mary Seaberg, Harry Johnston, Jim Brufloft, Jim Kovala, Commissioner Larry Knutson, Zoning Administrator Patricia Swenson and Zoning Staff Debi Moltzan.

Chairman Brufloft called the meeting to order at 7:00 p.m. Debi Moltzan took minutes.

Chairman Brufloft explained the protocol for the meeting. Brufloft explained that the recommendations of the Planning Commission would be forwarded to the County Board of Commissioners for final action on Tuesday, October 28, 2008.

Kovala made a motion to approve the Minutes from the September 2008 meeting. Moritz second. All in favor. Motion carried.

FIRST ORDER OF BUSINESS: J. Richard Alsop. Request approval of a change of zone from Agricultural to Commercial and approval of a conditional use permit for a common interest community consisting of 15 storage condominiums. The storage units will be housed in three buildings (48 ft by 150 ft in size) with five units per building for the property described as: SE ¼ NW ¼ and Govt Lot 4; Section 20, TWP 138, Range 40; Burlington Township. PID Number 03.0193.004.

Alsop explained the application to the Board. After much discussion it was clarified that the portion along Highway 10 would be platted into commercial lots, this is the portion that requires that zone change. The subdivision of these lots would be done by a plat through the City of Detroit Lakes, since the property lies within the two-mile extraterritorial area of the City. The portion along the railroad tracks would remain agricultural with a conditional use permit for the common interest community storage units.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence either for or against the application. At this time, testimony was closed and further discussion was held.

Motion: Kovala made a motion to approve the change of zone from agricultural to commercial for approximately half the property abutting Highway 10, which would be subdivided by a plat through the City of Detroit Lakes and approve a conditional use permit for approximately half the property abutting the railroad tracks to allow a common interest community consisting of fifteen (15) storage condominiums to be housed in three buildings (48 ft by 150 ft in size), with five (5) units per building based on the fact that the use would not be detrimental to the surrounding area and the property is located on a US four lane highway. Lien second. All in favor. Motion carried.

SECOND ORDER OF BUSINESS: Lawrence Baasch. Request a conditional use permit to have three horses on approximately 9.85 acres agriculturally zoned parcel

described as Pt Govt Lot 4, Section 9, TWP 139, Range 41; Detroit Township. PID Number 08.0133.000. This application was tabled at the September 23, 2008 Becker County Board of Commissioners Meeting.

Baasch explained the application to the Board. At the last meeting, the Planning Commission had approved the application with a 50 ft buffer along the south and east property line. Baasch felt that this buffer was excessive and greatly reduced his pasture area and wanted the application reviewed.

Kovala stated that he felt the east buffer should remain or even increase but the south buffer could be reduced. Kovala felt there was plenty setback from the property line to the rearing pond. Knutson read the motion from last month's meeting and further discussion was held regarding the setback buffer.

Speaking in opposition to the application were Clayton Peck and Roger Schraufek. At this time testimony was closed and further discussion held.

Knutson clarified that the property is zoned agricultural but may be taxed as residential. Further discussion was held regarding run off, the number of horses in the general vicinity and buffers.

Motion: Kovala made a motion to approve a conditional use permit to allow three horses on the property with the stipulation that there be no buffer along the south property line and the easterly buffer be established by a line running as an extension to the property line described as: South 09 degrees 17 minutes 44 seconds West based on the fact that the use would not be detrimental to the surrounding area. Johnston second. All in favor. Motion carried.

THIRD ORDER OF BUSINESS: Frazee Holdings, LLC. Request a change of zone from residential to industrial and approve a conditional use permit for a truck shop and office with onsite parking. The business would include a 60 ft by 104 ft building with an attached 30 ft by 32 ft office. There would also be a 100 ft by 300 ft lot for off-street parking. The business would be in operation Monday thru Friday between 7:00 am and 5:00 pm. Tree barriers would be planted along the property lines. This application is for the property described as: Pt SE ¼ SW ¼, Section 25, TWP 138, Range 40. This is a split from PID Number 03.0228.000.

Dave Coufal explained the application to the Board. They are currently operating out of a small office on main street of Frazee. They would like an area to house the trucks, service them and have an office. They are currently working with MN DOT for approach permits off Highway 87. A sediment pond would be created to hold all run off. The hill would be leveled so the property would be level with or one foot below Highway 87.

Brufloft questioned what types of trucks are operated. Coufal stated that the trucks are over the road 18 wheelers (semi tractors and trailers). Kovala questioned how many trucks there are and what would be serviced in the shop. Coufal stated that there are

currently 10 tractors and 9 trailers. The service would be done only on the vehicles they own/lease. Kovala stated that when he looked at the area, all he saw was houses and residential use. Knutson questioned how long Coufal had owned the property. Coufal stated that he closed on it last Friday. Knutson asked Coufal if he realized it would be a potential problem when he found out the property was zoned residential. Coufal stated that he figured that the process would not be easy. Seaberg questioned if Coufal had talked to the neighbors about what was taking place. Coufal stated that he had talked to 99% of the people around the project and the City of Frazee. Coufal stated that he received about 50 calls wishing him good luck and was expecting there would be more opposition.

Speaking in support of the application was Jim Lamont. Lamont only had one concern and would not like the property to have access to County Road 150. Written correspondence in opposition to the application was received from James and Lisa Piper. At this time, testimony was closed and further discussion was held.

Brufloft stated that Coufal's intentions are good, but in the wrong location. Brufloft stated that he expected more people there in opposition. Lien stated that he has concerns with the residential zone and residential character. Knutson stated that the property was zoned residential for a reason (sometimes the intended zoning in the comprehensive plan does not match what the direction the use ended up) and shouldn't be changed to either commercial or industrial. Knutson stated that people usually don't voice opinions against local people. Johnston and Kovala felt that the residential zoning is correct because of all the residential zoning in the area. Lien felt that this was spot zoning. Seaberg stated she could not see this property being rezoned to commercial or industrial.

Motion: Kovala made a motion to deny the change of zone from residential to industrial and deny the conditional use permit for a truck shop based on the fact that the use is not compatible with the surrounding area. Lien second. All in favor except Seaberg, who abstained from voting. Motion carried.

FOURTH ORDER OF BUSINESS: Mary Lee Enfield. Request a conditional use permit to replace existing wood retaining walls and steps located within the shore impact zone with block retaining wall, an enlarged patio and steps on the property described as: NE ¼ SE ¼ S of Rd & W of Lot 9; .70 ac in NW Pt of that Pt of NE ¼ SE ¼ of Rd; Section 20, TWP 140, Range 36; Osage Township. PID Number 21.0193.000 and 21.0196.000.

Don Stone explained the application to the Board. Stone explained that a variance was granted in 1996 for the setbacks and original structure. Since then, the timbers have rotted and need to be replaced with block.

No one spoke in favor of the application. No one spoke against the application. There was no written correspondence either for or against the application. At this time,

testimony was closed and further discussion held. Kovala stated that the walls are existing and are just being replaced with concrete material.

Motion: Kovala made a motion to approve a conditional use permit to replace the existing wood retaining walls and steps with block retaining walls, an enlarged patio and steps based on the fact the walls are existing and the project would not be detrimental to the surrounding area and it meets the criteria of the ordinance. Moritz second. All in favor. Motion carried.

FIFTH ORDER OF BUSINESS: Michael and Cynthia Schlosser. Request an after the fact conditional use permit for a newly constructed retaining wall in the shore impact zone. The retaining wall was erected to create egress window well areas and is intended to prevent erosion and limit direct run off to the lake for the property described as: Lots 1 and 2 Birch Bay; Section 09, TWP 138, Range 43; Cormorant Township. PID Number 06.0501.000 and 06.0502.000.

Patrick Kenney, attorney, explained the application to the Board. Kenney stated that he submitted a letter to the Zoning Office and that the Board members should have gotten a copy of that letter. Kenney stated that he questioned if this structure was really a retaining wall because it is not constructed near the lake. This structure is a window well for egress windows. The structure also helps with the mitigation so that there is no direct run off toward the lake (and acting as a window well). The structure cannot be seen from the lake.

Brufloft questioned if the structure in question is not considered as a retaining wall, what is it? Kenney stated that it was not a retaining wall for the purpose of the ordinance, it is landscaping around the house, and it is not holding dirt back from the lake or creating a beach.

Knutson questioned if it was not considered a retaining wall, what legal process was needed to allow it. Kenney felt that it should be at the discretion of the Zoning Ordinance. Further discussion was held regarding the size of the wall, distance the wall is from the house; distance wall is from the lake, and mitigation.

Brufloft stated that this was the largest window well he has ever seen; it was more like a moat. Brufloft stated that a good job was done on improving the lot, but it was excessive. Brufloft stated that a retaining wall is a rigid structure that holds back dirt, no matter where it is located. Kenney stated that this wall meets the criteria of the Ordinance and must be granted and that the Ordinance pertains to retaining walls along the shoreline.

Knutson questioned what room was located where the center window was. Kenney stated that it is a family room. Seaberg stated that she just had to change her addition plans due to an egress window. When she was shown egress windows and window wells, she was not given this type of option. Seaberg felt this was excessive. Knutson stated that an egress window requires a minimum of 20 inch wide opening and a

minimum of 24 inch high opening, with a minimum of 36 inch deep window well, that is all that is required. Seaberg stated that the main issue here is the location within the shore impact zone.

Speaking in favor of the application was Terry Becker, contractor. Becker stated that this was his first building in Becker County. Becker stated that there are two bedrooms and a family room located behind the basement windows. The family acts as an overflow sleeping area. Becker stated that this type of wall is not excessive for this price range of home. Once they found out about the mistake, they tried to correct it, but the manufactured window wells would not work.

Further discussion was held regarding the setback, the shore impact zone and mitigation.

There was no written correspondence either for or against the application. At this time, testimony was closed and further discussion held.

Lien read the portions regarding retaining walls from the Ordinance. Lien stated that he agreed that the wall may meet some of the criteria, however it was excessive, not the minimum. Johnston stated that the lot is well landscaped with the berms and mitigation and the wall cannot be seen from the lake; however, the retaining wall is still located within the shore impact zone. Moritz stated that with an after the fact request, one should ask the question, would it have been allowed should the request have come before the Board before it was constructed. Lien stated that there have been several retaining walls that have been denied and the Board should be consistent. Johnston felt the Board needed to be consistent.

Motion: Lien made a motion to deny an after the fact conditional use permit for a retaining wall located within the shore impact zone based on the fact that it did not meet the criteria of the Becker County Zoning Ordinance. Knutson second. All in favor except Thorkildson. Majority in favor. Motion carried.

SIXTH ORDER OF BUSINESS: Informational Meeting.

The next informational meeting is scheduled for Thursday, November 13, 2008 at 8:00 a.m. at the Planning and Zoning Office.

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

Jim Bruflo, Chairman

Jeff Moritz, Secretary

ATTEST

Patricia Swenson, Administrator