

CITY OF BATTLE LAKE PLANNING COMMISSION

The Battle Lake Planning Commission met Tuesday, May 5, 2020 with some members participating via video conference pursuant to Minn. Stat.13D.021 due to a health pandemic. Chairman Gary Dirckx called the meeting to order at 7:00 p.m. Present were Commissioners Dawn Swisher, Gene Kelm, Greg Maynard, Steve Seufert, Tim Carlson and Don Maslow. Also present were Val Martin, Clerk/Treasurer/Zoning Officer; and Chris Johnson, Public Works Director. Visitors included Don and Tammy Kugler and Joe Hammers.

The Pledge of Allegiance was recited.

Seufert made a motion to approve the agenda. Kelm seconded. MCU

Swisher made a motion to approve the minutes. Maslow seconded. MCU

Carlson made a motion for the slate of officers as follows: Don Maslow, Chair; Gary Dirckx, Vice-Chair and Val Martin, Secretary. Swisher seconded. MCU

Request for Variance: Pursuant to City Code #150.102 of the City of Battle Lake, Don Kugler, 302 South Olaf Avenue is requesting a variance from the 30' set-back requirement in the front yard. The request is to remove a 6' x 20' open, covered porch facing Olaf Avenue and replace it with a 9' x 20' porch. The old porch is not safe and has to be removed for structural reasons. The current porch is 24' from Olaf Avenue and the request will be to extend the porch 3' further making the set-back from Olaf Avenue 21'.

The application was presented by the property owners and zoning officer. Martin presented maps and photos of the property and explained that the set-back would be in line with the nearest property owners to the south and to the north. Using the County web-site measuring tools, it measured the Kuglers' current set-back as 24 feet, the nearest property to the south at 30 feet and the nearest property to the north at 18 feet. The impervious surface on the Kugler property with the new request would be 14.42%.

Staff Findings:

1. The subject property is legally described as Hans Olson's 1st Addn Lots 1 @ 2 Block 2 and is zoned residential.
2. The applicant has asked for a variance to replace an enclosed porch that is unsafe and would like to make it a little large, going 3 feet closer to the right of way of Olaf Ave. This would give them more usable space in the porch.
3. His request would bring his set-back to 24'. A property to the south of him measures at 18' from the right of way and the property to the north measures at a 30-foot set back.
4. His impervious surface with the new porch would be 14.42%

Planning Commission Discussion:

The porch will have a steel roof with an overhang but we technically measure from the base of the building's structure. There will be new steps, which will be about the same size and will also come out the three feet as discussed. As the property does not have a survey, the measure is an estimate using the tools available. Martin and Johnson will try and get an estimated on-site measurement. If he installs a gutter, it will run the water towards the flower bed. There was a discussion on whether to require it remain a porch? It was decided that the variance will dictate that the it is for the extension of a porch and a condition should not be needed.

The Planning Commission went through the Findings of Fact:

1. **Is it reasonable?** The Planning Commission members agreed that it is reasonable. **It sits back far enough to not hinder services**
2. **Unique Circumstances:** The property is unique as the current structure was built under the previous land use codes, the request is very minimal and falls in line with the property owners' set-backs in the area.

3. **Essential Character:** It will not alter the essential character - It will blend in with their current structure. It also adds character to the home and makes it more useful.
4. **Is it in harmony with the general purpose of the zoning code?** Yes. It is not encroaching enough in the right of way to hinder services and blends in with the neighbors.
5. **Is it consistent with the Comprehensive Plan?** Yes
6. **Will the request have an adverse impact on government services such as street usage, snow removal, stormwater runoff, emergency services, etc.?** It will not
7. **What portion of the variance request is based upon economic considerations? (economic considerations alone should not be a reason for granting a variance)** None
8. **Does the existing sewer treatment need upgrading?** No
9. **Are there conditions that should be imposed in granting the variance?** Yes

Seufert made a motion to recommend to the City Council to allow the variance described at 3 feet closer to the right of way to build a covered porch to replace the porch that was demolished last fall. Swisher seconded. MCU

Request for Rezoning: *Blue Spruce Properties, LLC is requesting a zoning change from commercial to residential for the property located south of Hidden Meadows in Battle Lake, Otter Tail County, MN. Legal description in Lot 1 Block 3, Moens 2nd Addition, Parcel ID's are 63000990394003 & 63000990394000. The reason for the request is as follows: To build a phased rental development of approximately eleven duplex townhomes. Construction to begin in 2021 and proceed with demand.*

The application was presented by the property owner and zoning officer as described in the application. Mr. Hammers explained that the apartments will be a "high-end" type rental marketed towards 55-plus age group. It will be similar to what his parents his parents built in Battle Lake several years ago. Those units have been full for the last 20 years. They are currently working on a project in Ottertail and want to finish that up before starting with this.

Staff Findings:

1. The property is legally described as Lot 1, Block 3, Moen's 2nd Addition
2. The request is to rezone the property as residential
3. The property is located on the edge of Hidden Meadows and would not create "spot rezoning."
4. There continues to be a need for housing in Battle Lake, especially this type.

Planning Commission Discussion:

Seufert asked if Mr. Hammers realizes the slope of the land may make it difficult to accommodate sanitary sewer to the building on the west end. Mr. Hammers has not gotten far enough into the process to come up with a final plan and the request for rezoning is just the first step in the process of developing the land. The other details will come later.

Planning Commission Review of the Checklist for Rezoning:

1. **Does the City need more land in the zoning class requested?** Yes
2. **Is there other property in the community that might be more appropriate for this use?** No
3. **Is the request compatible with the Comprehensive Plan?** Yes
4. **Will the proposed change have a serious impact on traffic, parking, water, sewer services or other utilities?** No
5. **Is there a good possibility the change, as proposed will have an adverse impact on property value in the vicinity?** No, in fact, using the property for a commercial development may have a negative impact.
6. **Is there a good possibility the change, as proposed, would result in lessening the enjoyment or use of adjacent properties?** No
7. **Will the change, as proposed, cause serious noise, odors, light, activity or unusual disturbances?** No
8. **Does the requested change raise serious legal questions such as spot zoning or the need for this type of use?** No, it is located just south of a residential development.
9. **Does the proposal seem realistic? Is it properly financed and does it depend on other**

events that must first occur to make it feasible? Yes, it is realistic and does not rely on other events.

10. **How will the requested change impact the environment?** None. It was noted that it already has a stormwater pond that was built with Hidden Meadows and shared with that development.

Kelm made a motion to recommend the City Council approve rezoning of the two parcels. Maynard seconded. MCU

Several zoning ordinances were reviewed for amendments:

BLUE REPRESENTS ADDITIONS/CHANGES TO THE ORDINANCES AND YELLOW REPRESENTS CURRENT REGULATIONS. I also just included some language for discussion and you'll see this type of information in a box.

150 Shoreland Management:

Change to the following definitions:

BLUFF. A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18% over a distance for 50 feet or more shall not be considered part of the bluff):

———— (1) Part or all of the feature is located in a shoreland area;

———— (2) The slope rises at least 25 feet above the ordinary high water level of the waterbody;

———— (3) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30% or greater; and

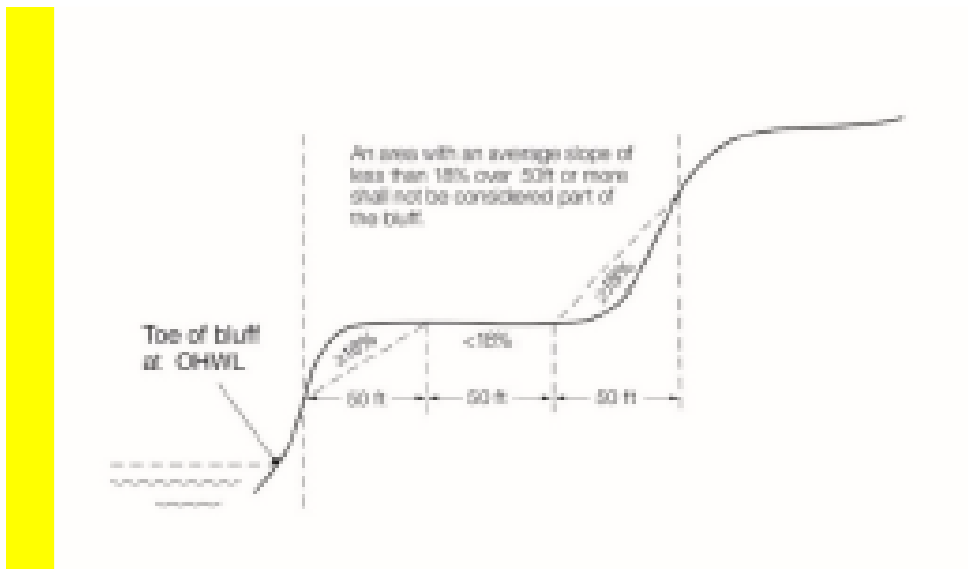
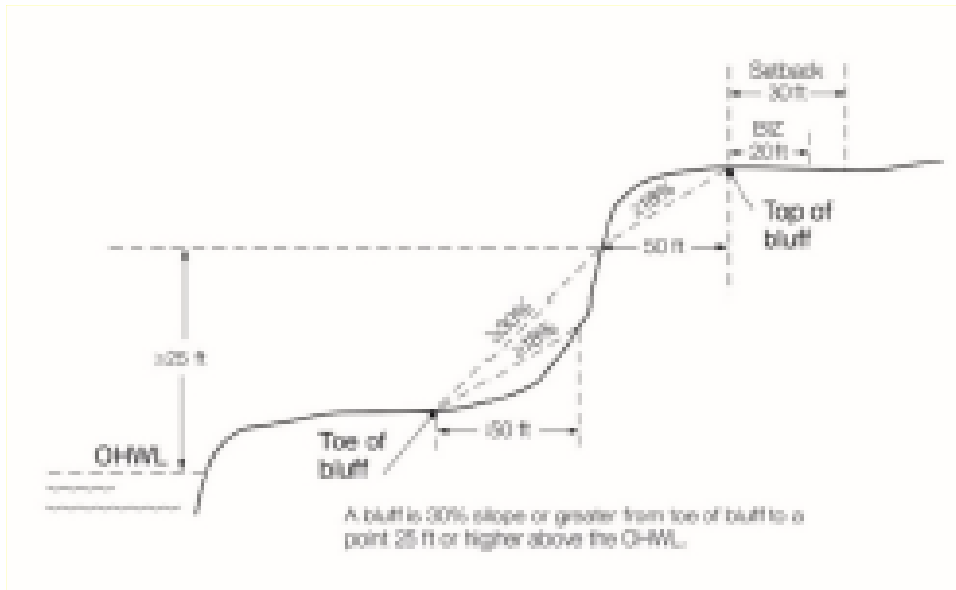
———— (4) The slope must drain toward the waterbody.

———— **BLUFF IMPACT ZONE** A bluff and land located within 30 feet from the top of the bluff.

Bluff. A topographic feature such as a hill, cliff, or embankment having the following characteristics:

- A. Part or all of the feature is located in a shoreland area;
- B. The slope must drain toward the waterbody.
- C. The slope rises at least 25 feet above the ordinary high water level;
- D. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater (see Figure 1), except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff (see Figure 2).

Figure 1. Illustration of Bluff



Bluff impact zone. A bluff and land located within 20 feet of the top of a bluff.

Bluff, Toe of. The lower point of a 50-foot segment with an average slope exceeding 18 percent or the ordinary high water level, whichever is higher.

Bluff, Top of. For the purposes of measuring setbacks, bluff impact zone, and administering vegetation management standards, the higher point of a 50-foot segment with an average slope exceeding 18 percent.

RECREATIONAL CAMPING UNIT (RCU). A relocatable single-family dwelling unit, less than 40 ft. in length, which in the traveling mode, is less than 8 ½ body ft. in width, and is less than 399 square feet when erected onsite, including, but not limited to tents, motor homes, **Fish houses with sleeping quarters** and travel trailers.

STEEP SLOPE. Land where agricultural activity or development is either not recommended or

described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this chapter. Where specific information is not available, **STEEP SLOPES** are lands having average slopes over 12%, as measured over horizontal distances of 50 feet or more, that are not bluffs.

STRUCTURE. Any building or appurtenance, including, but not limited to, vision obstructing fences, decks, permanent swimming pools, solar panels, patios, pergolas, and satellite dishes in excess of 1 meter in diameter and towers (except for public utilities)

WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY. A small, above-ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, satellite dishes, detached decks, patios and pergolas. **watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, saunas, patios, and detached decks. Boathouses and boat storage structures given the meaning under Minnesota Statutes, Section 103G.245 are not a water-oriented accessory structures.**

Other changes:

Discussed the idea of allowing guest/sleeping quarters above a garage or other building. This would not meet fire code and Planning Commission did not feel it was a good idea.

§ 150.036 PLACEMENT, DESIGN, AND HEIGHT OF STRUCTURES.

~~(5) Storage and use of fish houses and RCU's. The storage and use of fish houses and RCU's are allowed with the following provisions:~~

- ~~(a) It meets set back requirements.~~
- ~~(b) Cannot be connected to water or sewer.~~
- ~~(c) The lot is compliant with all area, water frontage and width of the requirements of this ordinance.~~
- ~~(d) Use of an RCU, that meets the above provisions, will be allowed on a temporary basis, not to exceed 10 days.~~

(5) Use of RCU's The use of RCU's are allow with the following provisions:

- (a) A lot without a dwelling may contain one (1) RCU provided**
 - i. the lot meets minimum requirements for size and all requirements of this ordinance for structures are met**
 - ii. there are no water or sewer connections.**
 - iii. The RCU cannot be used as a permanent dwelling.**
 - iv. No RCU may be skirted or permanently placed.**
 - v. An RCU may be allowed in conjunction with a Land Use permit for a**

permanent structure for a maximum of 12 months during the construction period.

vi. A permit is required.

(b) A lot containing one dwelling may contain one (1) RCU for use, not to exceed ten (10) days within any sixty (60) day period.

(6) Storage of an RCU - Storage of one RCU on a residential lot will be allowed provided:

i. It is not located in the right-of-way and is placed solely on the owner's property.

ii. It will not impede City services or obstruct traffic visibility.

iii. It can only be used for storage and not for use and cannot be hooked up to City utility services.

Planning Commission members reviewed requirements to additions/expansions to a nonconforming structure and recommend the regulations stay the same.

151 Subdivision Control:

One change was discussed:

(D) *Final plat.*

(4) *City Council action.* Final plat approval shall not be granted unless all presentation requirements of § 151.08 of this chapter have been met. The City Council shall approve, deny or table the final plat, and the Clerk-Treasurer shall notify the owner or subdivider of the Board's actions within 30 days. The final plat, if approved, shall then be filed with the County Recorder. If any irregularity prevents recording of the final plat, the County Auditor shall notify the owner or subdivider. Any approval of the final plat by the Council shall be null and void if the plat is not recorded with the County Recorder within 90 days after the date of approval unless application for an extension of time is made, in writing, during said 90-day period, to the City Council and for good cause granted by the Council. **Approval of Final Plat may be allowed with approval of the preliminary plat as long as all requirements for both have been met or applicant can prove they will be met within a specified timeline, prior to the hearing of the preliminary plat.**

152 Zoning Code:

Definitions:

STRUCTURE. Any building or appurtenance, including but not limited to, vision obstructing fences, decks, permanent swimming pools, satellite dishes in excess of 1 meter in diameter and towers (except for public utilities).

ADD STRING-LINE TEST. A method of establishing a structure setback line by using the closest adjacent points of existing structures to a proposed structure of like use, on the two immediately adjacent lots. Or within certain feet from the structure? In the event that there is no structure of like use on one of the immediately adjacent lots, the point of the building line at the nearest lot line setback shall be used.

Other items of discussion:

§ 152.019 USES IN COMMERCIAL DISTRICT.

- A. Permitted uses in the Commercial District shall consist of all uses of a commercial nature, such as retail, light industrial, repair or storage of material, goods or products, wholesale, service, office, combination apartment/commercial use, financial, recreational, professional and lodging and such other as are defined below as light industrial.

A couple items were discussed but no recommendations were made. Martin, with the assistance of Maynard will provide additions information:

Subdivision 1. Bulk regulations for Residential Districts.

- A. The principal structure shall have a floor area of not less than 768 square feet and the minimum dimension of the main body of the dwelling unit shall not be less than 20 feet.
- B. Manufactured homes shall be located and installed according to the same standards, including but not limited to, a permanent foundation system, set-backs and minimum square footage which would apply to a site built, single family dwelling on the same lot.
- C. Maximum Building Height. Any principal building within 200 feet of a residential zoning district, shall have a maximum height of 55 feet or less, and all accessory structures shall have a maximum height of 25 feet or less.

Subdivision 2. Accessory Buildings.

- A. In any zoning district, no accessory building or structure shall be erected or constructed prior to the erection or construction of the principal or main building, but may be erected simultaneously unless owner has received an Interim Use Permit.

For discussion – need definition of a permanent structure

Accessory structures? Several lots in BL have these but do you want to change the regulation to allow everywhere or specific areas? Maybe only Moen/EDA area?

§ 152.024 LOT AREA AND WIDTH STANDARDS.

For Discussion:
Other considerations – additions to older homes that have a difficult time meeting set-back requirements and might have smaller lots, especially with a ROW on two sides of the property and some also have an alley. No recommendations were made.

The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots created after the publication of this ordinance are the following:

	Area	Width
Single	10,000	75
Duplex	17,500	135
Triplex	25,000	190

	Area	Width
Quad	32,500	245

Residential subdivisions with dwelling unit densities exceeding those in the above tables can only be allowed if designed and approved as residential Planned Unit Developments under Appendix B of this Chapter.

- A. *Multiple-family dwellings.* Multiple-family dwellings require a conditional-use permit.
- B. *Commercial and industrial buildings.* Such requirements as may be approved by the Council after submission of plat plan and plan of structure.
- C. *Minimum width.* The minimum width of any single-family structure shall be 20 feet

D. The following structure setbacks apply in residential districts:

Placement of structures on lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks (string-line).

Structures shall be located as follows:

<i>Setback from</i>	<i>Setback (in feet)</i>
Right-of-way line of town road, public street, or other roads or streets not classified	30
Rear yard with alley	20
Interior side yard or rear yard without alley	10
Rear yard or alley – for storage building 120 square feet or less	10

§ 152.032 MANUFACTURED-HOME PARKS AND RECREATIONAL CAMPING AREAS.

No person shall locate or operate any manufactured-home park or any recreational camping area within the city unless it is duly licensed and meets and is operated in compliance with all requirements of law, of administrative regulation, and of ordinances of the city. A conditional-use permit is required for the location of manufactured home parks and recreational camping areas. All manufactured home parks and recreational camping areas shall comply with the applicable State of Minnesota laws and Minnesota Health Department regulations.

(*87 Code, § 9.218) Penalty, see § 152.999

(1) Use of RCU's The use of RCU's are allow with the following provisions:

(a) A lot without a dwelling may contain one (1) RCU provided

- vii. the lot meets minimum requirements for size and all requirements of this ordinance for structures are met
- viii. there are no water or sewer connections.
- ix. The RCU cannot be used as a permanent dwelling.
- x. No RCU may be skirted or permanently placed.
- xi. An RCU may be allowed in conjunction with a Land Use permit for a permanent structure for a maximum of 12 months during the construction period.
- xii. A permit is required.

(b) A lot containing one dwelling may contain one (1) RCU for use, not to exceed ten (10) days within any sixty (60) day period.

(2) Storage of an RCU - Storage of one RCU on a residential lot will be allowed provided:

- iv. It is not located in the right-of-way and is placed solely on the owner's property.
- v. It will not impede City services or obstruct traffic visibility.
- vi. It can only be used for storage and not for use and cannot be hooked up to City utility services.

§ 152.061 PERMITS.

Before any structure, including a portable storage shed, is erected, altered or moved, or a manufactured home is placed on any lot outside of a manufactured home park, a permit shall be obtained from the Clerk-Treasurer. Permits are required for additions, new structures, storage buildings, any alteration that will change the height and/or footprint of the structure **including demolition** and for any structure that will be moved onto the property. The provisions of this chapter shall be complied with before a permit may be issued. Permits will not be required for maintenance or updates to a building such as siding, roofing, remodeling interior, replacing decks, replacing steps, replacing windows, etc. Maintenance is considered any change within the current size of the structure **including replacement of the structure.** Permits will be The Council shall, by ordinance, establish a permit fee A permit shall not be issued until the City Zoning Officer is satisfied that all of the provisions of the Zoning Code will be followed by the person requesting the permit. The City Zoning Officer shall not issue a permit to any person who is required to be a licensed residential contractor under the provisions of M.S. § 326.921, as it may be amended from time to time, unless the person has a license. The City Zoning Officer shall report an unlicensed person applying for the permit to the state Commissioner of Commerce.

Adjourn 9:26 p.m.