

The Beulah Planning and Zoning meeting of May 10, 2021 was called to order at 5:00 pm by Dale Schwalbe at Beulah City Hall

Present: Dale Schwalbe, Brock Seibel, Roger Gazur, Gary Miller, Chris Renner

Absent: Dustin Buchmann, Gerald Bieber

Also Present: Beaver Brinkman, Heidi Hamelton, Tyler Rooks, Frank Senn, Jarann Johnson

Gazur stated changes needed to be made to the April 26, 2021 meeting notes. Under the section titled **Mark Pollack – Industrial Park Set Back**, last sentence should read "Gazur moved to make a recommendation to City Council that the variance be approved conditioned on all adjoining landowners within 300' be contacted for comment; seconded by Seibel." Also, Gazur believes the third paragraph, second sentence under the section titled **Christina Barbot – Request to Locate Business in R Zone** was misstated, and that the applicant is the one that brought up having her business designated as Personal Care rather than Healthcare. Beaver stated he would review the tape and make corrections.

Beaver introduced the new City Assessor Technician, Heidi Hamelton. There was discussion surrounding the responsibilities of her position. Gazur asked about split of building official and secretary of P&Z. Hamelton would be considered the secretary. Inspections would be handled by Charlie Hankins and Brinkman. Brinkman and Hamelton will handle permit and variance issues together as she learns the position.

Gazur moved to approve the April 26, 2021 Planning and Zoning Meeting Minutes pending these changes; seconded by Seibel. Motion carried.

PUBLIC PRESENTATIONS

Tyler & Tatiana Rooks – ADA Bathroom Exception Request

Tyler Rooks presented to further discuss the ADA compliance requirement for the bathroom. He understood that his request was approved, so he is confused as to why there is still an issue. They are renting a building located on CR 21 and would like to open a salon. He received a quote for \$6500 from Western Steel Builders, Inc. to bring the bathroom into compliance, which he is unable to afford. Schwalbe questioned whether the owner would bring the bathroom up to ADA standards, and Rooks said the owner declined because of the cost. Schwalbe asked about whether anyone had suggested railings out front at 2' drop to meet ADA standards, and Rooks replied he had that on his to-do list.

Gazur stated that all P&Z can do is tell him what the requirements are, they can't supersede federal law; it's up to Rooks to figure out how to meet those requirements to complete the project. Rooks questioned whether there was a grandfather clause or variance to allow him to bypass the requirement. Schwalbe asked if water/sewer was city supplied, and Rooks said it is. Beaver stated that, per Todd at IBC, this project constitutes a change of use he would have the requirement of bringing the bathroom into compliance with ADA. Rooks believes he is not making any changes, he is just replacing the sink, and asked Beaver to contact Todd Johnson at IBC again to confirm that he is required to meet ADA standards. There was extensive discussion between Brinkman and Rooks about whether he had other options or exceptions to the ADA requirement because the cost was out of reach for him.

Gazur asked what part of the current bathroom was not ADA compliant. Rooks stated that the door isn't wide enough, and there is not 60" to turn a wheelchair inside the bathroom. Discussion ensued regarding options for expanding the bathroom dimensions. Beaver asked about whether the bathroom would meet compliance in an ADA transfer situation, and requested Rooks send him the measurement from the left adjacent wall to the center of the toilet bowl so he could pass that information on to Todd and see if that was an option. Schwalbe asked about plumbing for hair-wash stations, and Rooks explained the plumbing for that needed to be added but would be in a separate area. Gazur suggested getting more quotes, and recommended Marvin Bauer.

Rooks spent some time explaining other aspects of the building and improvements he was making or would need to make to get the salon up and running. Brinkman stated a special meeting could be held, if necessary, to speed up the process; he requested Rooks get the measurement to him ASAP so he could bring it to Todd. Gazur pointed out to Rooks that even if he found a space where he wasn't required to update the bathroom, it was in his best interest because any customer could bring a lawsuit against him for the bathroom not being accessible. Schwalbe questioned if his landlord was willing to help with the cost of the update; Rooks stated that he asked and the landlord declined. Gazur stated we want businesses in town to succeed, but the city isn't willing to bypass legal requirements to make that happen. Schwalbe and Brinkman mentioned the JDA may be able to help with costs, but an application would be required.

Dave Gar – Not present for discussion. Brinkman said pad has been poured and inspected by Charlie.

Scott Solem – Not present for discussion.

OLD BUSINESS

Update Mercer County Planning & Zoning - Beaver is still waiting for documents.

Bornsen Home Update

Attorney doesn't have appraisals yet.

Old Nursing Home

Old nursing home abatement setup started 5/10/2021.

Fence Ordinance

Need clarification for side yard and rear yard description overlap in the ordinance. Issue been tabled the last two meetings. Discussion tabled because of time restrictions.

Foundation Detail Update

Brinkman should have information by next P&Z meeting.

C of O Permit #6647

Brinkman walked around the property with the owner's permission. C of O will be issued by next meeting.

Ben Lenzen Project

Brinkman stated there has been no progress since the last meeting.

420 Ordinance and zoning map revisions

Brinkman said there have been no additions or changes

Christiana Barbot

Brinkman stated there is a rumor she has purchased a building on Main Street. Seibel verified that she is under contract for purchase with no contingencies.

Keller Drive

Council discussed giving recommendation to the City Council to open additional lots for sale to build sheds as there has been interest in the community. Gazur mentioned that utilities run down the middle of the lots, and Schwalbe stated that underground mines are a safety concern. The council agreed that the potential buyer would assume and accept these risks. A past similar project was discussed. It was also discussed that this bench would have to be rezoned, as the bench is currently zoned MH, while the adjacent property is C1. There was a discrepancy found between the zoning map Brinkman was referencing and the one Gazur was viewing online. The shops currently on Keller drive are special assessments, and the utilities may need to be moved. The cost for this could be added to the price of the lots. Anything currently stored on these lots would need to be moved.

Gazur motioned to recommend expanding sale of lots on Keller Drive for private shops to City Council, recognizing the need for rezoning, and concerns with underground mine shafts and location of utilities; Seibel seconded. Motion carried.

NEW BUSINESS**Garden Mill Parking**

Council discussed the ongoing complaints surrounding Garden Mill customers parking along the street adjacent to a residential area (damaging the lawn) and residential pets intruding on business property (sandbox). The business owner is upset because the homeowner is parking their vehicles on that side of the street to prevent business patrons from parking there. This area is zoned R5, and is more of a civil issue than a P&Z issue.

Clarification of 300' Radius for neighbor signatures

Brinkman said he could find no ordinance as to specifically where to measure the 300' from on the property to obtain neighbors approval signatures. The council agreed that signatures should be obtained from any neighbor that is within 300' of any part of the property in question.

Outdoor storage vs. indoor storage

Brinkman raised the question of what usage an indoor storage unit would fall under on the chart (Article 2.5), as he didn't see it listed in the ordinance. This will be researched.

Amendments and Revisions to Existing P&Z Ordinance

Brinkman recounted his conversation with Scott Solem regarding procedure for revisions to P&Z Ordinance. According to Solem, although the main ordinance numbers change, the structure of the Planning & Zoning Ordinance does not change; revisions are made to the chapters and articles of the P&Z Ordinance. City legal counsel is responsible to immediately update chapters/articles when an ordinance is changed, along with keeping the original copy and all red-lined documents. The city website would be a clean copy of the most up-to-date P&Z Ordinance. Solem had also confirmed that he believes an ordinance can only be changed by an ordinance.

Gazur disagreed, citing ND Century Code 40-47-04 and 40-47-05. He stated that P&Z did not recently follow proper procedure for amending the ordinance. There was no hearings or publishing of amendments to ordinances, so P&Z is violating state law. His research says that an ordinance and a zoning text amendment shouldn't be treated the same; none of these documents says you need an ordinance to amend zoning regulations. There is a specific exemption for zoning ordinances. Per Robert Wefald, ND Atty Gen, 1981 – Statement regarding enacting an ordinance vs. procedures to amend a zoning plan: No requirement that the zoning amendment contain an enacting clause receive two readings or be recorded in an ordinance book. 40-47-05 sets for the proper procedure for amending a zoning ordinance. State law doesn't allow zoning ordinances to be treated the same as any other city ordinance, per 40-47-04 of the ND Century Code.

Beaver stated he would take the issue back to Solem for clarification.

Old Spear Building

Gazur questioned whether they had a permit for the work they are doing; Beaver stated they do have a permit.

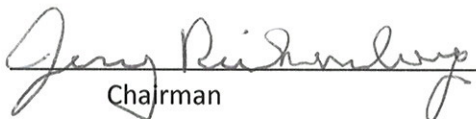
Frank Senn – Yard Violations

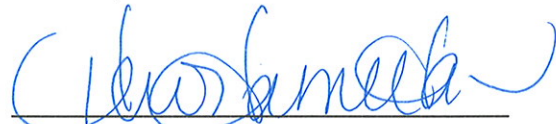
Senn stated there were 11 letters sent out for yard violations. Citywide cleanup starts this week. He is also anticipating another possible city cleanup day in June. His staff is currently canvassing for vehicles parked in yards.

Permit List

No permit list was presented at the meeting

Schwalbe moved to adjourn the meeting at 7:00 pm; seconded by Gazur. Motion carried.


Chairman


Secretary