

Chain of Lakes group hears zoning changes

By Katherine Schulz

Rusk County Land Conservation and Development Department Director CeCe Tesky spoke to the Island Chain of Lakes Property Owners Association Saturday, June 11, about the changes to the county's shoreland zoning ordinances in the works.

The Island Chain of Lakes is comprised of Island Lake, McCann Lake, Clear Lake, and Chain Lake in the towns of Big Bend and Rusk in southwestern Rusk County. Part of the chain is in Chippewa County.

Most of the changes are required to bring county ordinances in sync with state standards established in 2012, when the legislature overhauled Wis. Stats. sec. 59.692 and Department of Natural Resources code NR 115.

The County Land Information/Zoning Committee is reviewing and updating Chapter 50, and a public hearing is scheduled for July before the proposed changes are presented to the county board.

About 40-50 people attended the talk at Backwoods Resort on McCann Lake and offered comments and questions.



EYE OPENER — About 50 people attended the Island Chain of Lakes Property Owners Association meeting Saturday morning to hear Rusk County Land Conservation and Development Department Director CeCe Tesky talk about the new shoreland zoning ordinances. Most were surprised to learn a building permit is different from a zoning or land use permit, and they need both a building permit from the town or city and a land use permit from the county. "Always call us, please," said Tesky.

— News photo by Katherine Schulz

Since 1968, when the state adopted the first minimum shoreland zoning standards, counties could adopt ordinances more restrictive than state standards. In 1971, Rusk County adopted its first shoreland zoning ordi-

nance.

In the 1990s the number and size of houses built on lakes and rivers increased, and many counties recognized the state minimum standards did not do enough to protect the lakes

and streams. Counties could and did adopt more restrictive standards.

Rusk County applied just the minimum standards for lot sizes, setback requirements and buffer areas. In 2000, the county adopted more restrictive impervious surface standards.

The legislature made changes in 2012, 2013 and 2015 which provide counties cannot apply shoreland zoning standards that are more restrictive than state standards. The standards which must be uniform across counties are lot sizes, vegetation, building setbacks, filling and grading, impervious surfaces, height and non-conforming structures and uses.

Other changes to Rusk County zoning ordinances are in the works, but not all such changes are required by state law and not all will be uniform with Chippewa or other counties.

In Rusk County, the minimum lot size in unzoned townships is 100 feet wide and 20,000 square feet, which applies in Big Bend and Rusk.

Curt Madson asked if the state

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minimum of 100-foot wide lots is predicated on the size of the lake. Madson said he is concerned about the density of development and its effect on water quality.

Smaller lot sizes equate to more development, which puts more phosphorous in the water and stimulates algae growth. Phosphorous occurs naturally in soil, and may be increased with the use of fertilizers containing phosphorous. The sale and use of such fertilizer is restricted in Wisconsin.

Tesky said lot size under the state standards is not relative to the size of the lake.

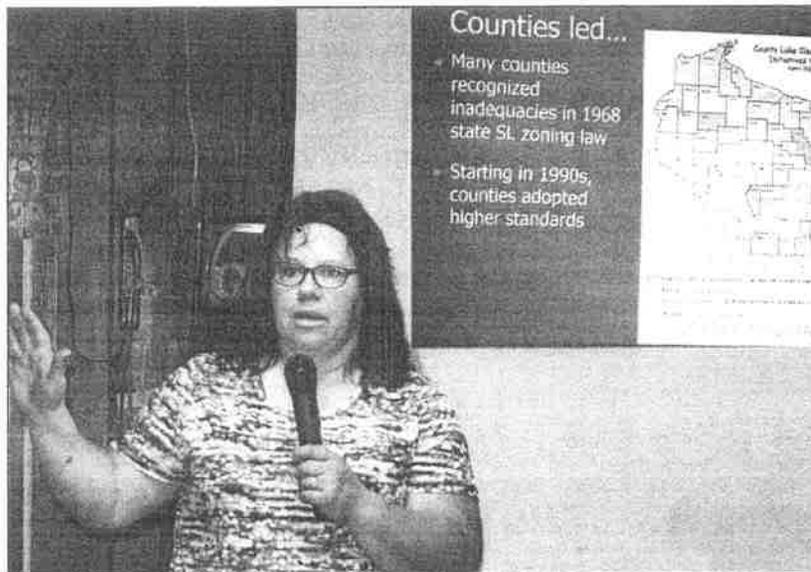
"In the political arena right now, it is more about what is best for the property owner and less about what is best for the public. That is just what we are going through," said Tesky.

Shoreland buffer areas are important for the depth of plant roots, which stabilize the banks, and for absorption of run-off.

In Rusk County, the buffer has always been 35 feet; the state shoreland buffer is also 35 feet. The area that may be clearcut to the water was 30 feet per 100 feet of frontage; now it is 35 feet per 100.

A primary reason for setbacks is to keep homes and accessory buildings on stable ground and to keep the buffer intact. 75 feet is the uniform setback requirement, which Rusk County always applied.

Setback averaging, which was removed from Rusk County ordinances in the 1990s, returns under state standards. If a house within 250 feet to the left is 30 feet from the water, and a house within 250 feet to the right is



SHORELAND ZONING – Rusk County Land Conservation and Development Department Director CcCe Tesky spoke to the Island Chain of Lakes Property Owners Association Saturday, June 11, about changes to the county's shoreland zoning ordinances in the works. Most of the proposed changes are required to bring county ordinances in sync with state standards passed by the legislature in 2012, 2013 and 2015. Tesky said a public hearing will be held in July. The deadline for updating county ordinances is October 1.

— News photo by Katherine Schulz
2000. The state limit is now 15 percent, but with mitigation, the upper limit is 30 percent.

50 from the water, the house in the middle may be built 40 feet from the water.

"That is good for people who may want to build closer to the water; it is not so good for the water," said Tesky.

State impervious surface standards are more restrictive than those Rusk County has been applying. Water from impervious surfaces is heated in the summer and causes lakes and rivers to heat up, but cooler water is better for game fish. Impervious surfaces also increase sediment runoff and phosphorous.

Rusk County set the limit for impervious surfaces at 25 percent in

Non-conforming structures are those which were legal when built but do not meet the new standards. By state standards, a non-conforming structure can be replaced and rebuilt to a height of 35 feet.

"This is great for people with non-conforming structures. But it might not be so great for the neighbor who had to build 75 feet from the water a couple of years ago and now will have a non-conforming structure next door blocking the view," said Tesky.

Tesky also cautioned the burden is on the property owner to show the structure was legal when built, usually by showing there was a permit. Rusk County has permit records from 1968.

"If there was a permit in 1975 to build 75 feet from the water. but the

house is now 40 feet from the water, it is an illegal structure, not a non-conforming structure," said Tesky.

"Why can't they be required to tear it down?" asked one participant.

"Because the legislature said we can't," said Tesky, referring to Wis. Stats. sec. 59.692 (1t).

Section (1t) has been in existence at least since the 1990s and prohibits enforcement against an illegal structure after 10 years.

Boathouses, stairs, walkways, piers, gazebos and screenhouses are exempt from the setback, but patios are not. Tesky said new aerial photos of the chain of lakes showed a number of patios have gone up without permits in the last few years, and letters would be going out to those property owners.

Tom Creviston said at one time you could build a deck or walkway from one door to another, and asked if that was still permissible. Tesky said probably in the late 1990s there was a six-foot walkway clause in the county ordinance, but that is gone. She said those walkways and decks less than 75 feet from the water built without permits will have to come out unless they meet current standards.

Mitigation has been in county ordinances since before the current statutory changes, and administration at the county level has not changed. The 15 percent restriction on impervious surfaces will give rise to more mitigation, but it will not change substantively.

Tesky also emphasized that zoning permits are different from building permits. Building permits are issued by the town or the Uniform Dwelling Code inspector. Zoning permits, or land use permits, are issued by the county zoning office.

"So," said one participant, "it is not safe to assume if you have a building permit, zoning is OK?"

Tesky said that is correct and added, "Always call us, please."

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