

**Bois D' Arc Lake Zoning Commission**  
**11/04/2021 Meeting Minutes**

On Thursday, November 4, 2021 the Bois D' Arc Lake Zoning Commission (BDA-LZC) held a regular meeting after public notice was posted October 28, 2021 at 12:31pm with the following members being present:

**Kevin Darwin (KD)**  
**Gary Fernandes (via phone) (GF)**  
**Randy Moore (RM)**  
**Matt Titsworth (MT)**  
**Gilbert Welch (GW)**

Also present: Newt Cunningham (NC), Diana Hopkins (DH), Commissioner Lane (EL), Commissioner Magness (JM) and Lisa Loiselle.

**1. Call to Order / Establish Quorum;**

Judge Moore called the meeting to order at 8:52 am stating all members are present with Mr. Fernandes present via telephone. Quorum established.

**2. Public Forum;**

Mr. Mike Nejtek asked why have salvage yards around the lake regarding Sec 3.05(c). He feels salvage yards should not be allowed.

**3. Approve meeting minutes from 10/07/2021 Regular Meeting;**

*Mr. Fernandes motioned to accept the minutes as written. Seconded by Mr. Welch. Motion passes.*

**4. Discussion, consideration and action to approve the Special Exception application regarding setbacks for property ID# 78979 in Honey Grove and recommend to the Commissioners Court for approval;**

GW – Asked if Di felt it was done maliciously.

DH – No. She believes it was a genuinely unintentional. The owner inherited the property.

RM – If the Commission is going to issue a variance, feels it should be made to where it is not too easy as others could take advantage by intentionally building and then applying for a Special Exception. There needs to be consequences.

MT – Feels there should not be a penalty.

NC – We must keep in mind that there is a community around the lake, and they are counting on the commission to follow what was voted on.

GF – The Commission has not been silent on this, property owners should be doing their due diligence.

MT – Need enforcement before we can do anything.

GW – Feels there should be a fine so there is a penalty if one does not do what is supposed to be done unless that property is grandfathered in.

DH – Would it be possible to give a 6-month notice to come into compliance before issuing a fine?

NC – Worst case – give a fine first, but if they do not come into compliance then the special exception property could have to be moved.

Additional discussion involving fine verses penalty.

*Mr. Fernandes motioned to 1) recognize the property is in violation of the regulations and 2) find that coming in to compliance is not practical as the entire home would have to be moved and 3) recommend to Commissioners Court that the variance be approved after a \$500 fine is paid. Seconded by Mr. Welch. Motion passes.*

## **5. Discussion, consideration and action to approve the step by step protocol for violations;**

Ms. Hopkins spoke with Richard Glaser, District Attorney, and he is good with the suggested protocol.

GF asked that the word trial be changed to action under Section C.3.

*Mr. Fernandes motioned to approve the step by step protocol for violations with the one change mentioned. Seconded by Mr. Welch. Motion passes.*

After the motion, Mr. Welch asked if the JP court should be used rather than the District Court as discussed in the previous meeting. Ms. Hopkins stated according to Daniel Harrison, it must be the District Court.

## **6. Discussion, consideration and action to approve the three Notice of Violation letters;**

*Mr. Fernandes motioned to approve the three Notice of Violation letters. Seconded by Mr. Welch.*

Mr. Welch made comments and requested changes to the three Notice of Violation letters:

**3<sup>rd</sup> Notice** – Replace the word ‘letter’ with ‘notice’. Replace the words ‘I have’ with ‘this office’. Replace the initials ‘D.A.’ with District. Delete the last paragraph and replace with ‘Per Section 1.09 A of Lake Zoning Regulations for Bois D’Arc Lake, this offense under this subsection is a misdemeanor punishable by a fine of not less than \$500 or more than \$1000. Add sentence ‘Additional remedies under section 1.09 B may be imposed.’

Regulations can be found at: <http://www.co.fannin.tx.us/page/fannin.developmentservices>’.

**2<sup>nd</sup> Notice** – Replace ‘As you have failed to contact me I have placed this matter on the Agenda for the Zoning Board...’ with ‘Since you have failed to contact this office, this matter has been placed on the Agenda for the Bois d’Arc Lake Zoning Commission...’. Delete the words ‘if you can’. Replace last paragraph with paragraph changed on 3<sup>rd</sup> Notice letter.

**1<sup>st</sup> Notice** – Insert the word ‘requirements’ after the words ‘Therefore you are required to follow all zoning regulations and permit...’. Replace the words ‘you are grandfathered’ to ‘you may be grandfathered...’.

*Mr. Welch asked to amend the motion by Mr. Fernandes with the updated changes, Mr. Fernandes agreed to amend his motion. Seconded again by Mr. Welch. Motion passes.*

**7. Discussion, consideration and action to approve changes to the masonry requirements in the Lake Zoning Regulations and to recommend to Commissioners Court for approval;**

Mr. Cunningham stated legislation did not change in the 87<sup>th</sup> Legislature. They stand where they were.

*Mr. Welch motioned to accept the masonry changes as presented and to recommend to Commissioners Court to approve the changes. Seconded by Mr. Titsworth. Motion passes.*

**8. Discussion, consideration and action regarding other changes and/or amendments to the Lake Zoning Regulations;**

Mr. Welch asked to have the subject of salvage yards around the lake to be on the agenda next time. *No action.*

**9. Discussion, consideration and action regarding changes and/or modifications by landowners;**

DH – Updated the Commission regarding Mr. Hernandez and the auto shop. Mr. Hernandez brought in receipts showing that dirt started being hauled in for the property before the Oct. 2018 cutoff for Lake Zoning Regulations implementation.

RM – Must come to an agreement on what is grandfathered in. If they did start before Oct 2018, does that make them grandfathered?

NC – Did a little research and basically what is considered grandfathered is what the Commission decides what will be considered grandfathered. There are no set guidelines as far as time.

GF – Feels broader definition is better regarding being grandfathered.

It was asked that this property situation be placed on the next agenda. *No action.*

**10. Set next BDALZC meeting and/or hearing dates;**

Judge Moore will be out of town on the regularly scheduled date of Thursday, Dec. 2, 2021.

*Mr. Darwin motioned to set the next BDALZC meeting for Wednesday, December 1, 2021 at 8:30 am. Seconded by Mr. Titsworth. Motion passes.*

**11. Adjourn.**

*Mr. Welch motioned to adjourn. Seconded by Mr. Darwin. Motion passes.*

**Meeting adjourned at 10:18 a.m.**

**The above and foregoing represents true and correct minutes of the Bois d' Arc Lake Zoning Commission regular meeting that was held on the 4th day of November, 2021 at 8:40 a.m.**

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**ATTEST:**

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**Lisa Loiselle - Administrative Assistant to  
Fannin County Judge, Randy Moore**