



**County of Door
PLANNING DEPARTMENT**

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MEMORANDUM

June 8, 2015

TO: The Wisconsin Legislature Joint Committee on Finance Members:
 Senator Darling, Co-Chair
 Representative Kooyenga, Vice-Chair
 Senator Harsdorf
 Senator Tiffany
 Senator L. Taylor
 Representative Loudenbeck
 Representative Schraa
 Representative C. Taylor
 Representative Nygren, Co-Chair
 Senator Olsen, Vice-Chair
 Senator Vukmir
 Senator Marklein
 Senator Erpenbach
 Representative Knudson
 Representative Czaja
 Representative Hintz

FROM: Mariah Goode, Door County Planning Department Director
 Ken Fisher, Door County Resource Planning Committee Chair

RE: Item #23 of Motion #520, related to County Shoreland Zoning

Honorable Members of the Joint Committee on Finance:

We are writing to relay the concerns Door County Planning Department staff and Resource Planning Committee members have regarding item #23 of Joint Committee on Finance Motion #520, pertaining to county shoreland zoning, and to respectfully request the motion item be removed from the 2015-2017 budget bill. Our county board of supervisors will also be looking at adopting a resolution regarding this matter later this month.

Door County has more miles of shoreline than any other county in the state (roughly 300 miles along Lake Michigan and 300 miles of navigable streams), so we are affected by the proposal more than any other county. Our concerns regarding this motion item are both process- and content-related.

As you are no doubt aware, from 1968 until 2010, the county shoreland zoning regulations in Wisconsin State Administrative Code Natural Resources Chapter 115 (NR115), Wisconsin's Shoreland Protection Program, were relatively unchanged. The significant changes made to NR115 in 2010 were the result of approximately seven years' worth of meetings, hearings, public input, negotiations, etc.

From 1968 until the Wisconsin Legislature's passage of Act 170 in 2013, NR115 set minimum standards for county shoreland zoning programs. Counties were free to be more restrictive if they felt it appropriate/necessary. Act 170 required that counties immediately bring into their ordinances certain portions of the revised (2010) NR115. Counties for the

first time were not allowed to be more restrictive in their county shoreland ordinances for those provisions outlined in Act 170.

Subsections c. and d. of the Joint Committee on Finance Motion 520, item 23 take away the control counties have had since 1968 (except for Act 170) to decide what is best for their counties in terms of shoreland zoning regulations. Those sections of the motion say counties may no longer have any shoreland zoning regulations that are more restrictive than the state standards, and that the new state standards are to be in effect immediately. That loss of local control and decision-making authority is of great concern to Door County.

Subsections b.(2) and (3) of item 23 change long-standing policy regarding nonconforming structures. Rather than allowing just the maintenance and repair of such structures, as has been the practice for many decades, with this motion, nonconforming structures may be completely replaced with new structures within the same footprint. Nonconforming structures may also be extended vertically to up to 35 feet in height. Not only do these provisions concern us with regard to fairness – owners of nonconforming structures will have far greater latitude in what they construct on their properties and where than owners of property with conforming structures or vacant property – but we have concerns with regard to the potential impact on water quality, near-shore wildlife habitat quality, aesthetic beauty, and property values for those neighbors who now may be faced with a 35-foot structure in their waterfront view where before maybe there was a small, one-story building. We are also concerned that this portion of the motion prohibits the county from requiring permits, fees, or mitigation measures to (re)construct nonconforming structures, but monitoring/enforcing these provisions will still require work on the part of county zoning administrators.

Subsection b. (5) states that a county shoreland zoning ordinance may not establish standards (i.e., maximums) for impervious surfaces, unless impervious surfaces are redefined such that they are considered pervious if runoff from the surface is treated by a runoff device or system. This means that if a county is going to regulate impervious surfaces at all in the shoreland area, all property owners will need to develop and install storm water runoff control systems in order to establish any impervious surfaces. As a county that has regulated impervious surface allowances in the shoreland since the 1960s, Door County will likely continue to do so, and we do not wish to require property owners proposing any new impervious surface areas to be burdened with the expense of designing and installing a storm water runoff control system.

In conclusion, we are distressed that these significant policy matters are being inserted into the budget bill rather than being taken up in regular legislative session. We would welcome the opportunity to participate in legislative meetings and hearings to discuss shoreland zoning regulations and manners in which they could be improved; we ask that you remove this item from the budget bill and instead take up the matter in regular legislative processes so that we and others may participate fully in a discussion of these important matters.

Thank you for your consideration of our request. We would be happy to discuss this matter further should any of you wish to contact us.

cc: Senator Robert L. Cowles
Senator Frank Lasee
Representative Joel Kitchens