

August 11, 2008

The Deuel County Zoning Board met on Monday, August 11, 2008 at the Deuel County Courthouse in Clear Lake. Present were Board members: Brandt, alternate Hunt, Kanengieter, Mack and VanLiere. Absent: Jaeger. Also present: Attorney John Knight, Zoning Officer Mary Nosbush and several members of the public.

Chairman Kanengieter called the meeting to order at 6:05 p.m.

1. Motion VanLiere, seconded by Brandt to approve the minutes of the July 14, 2008 meeting. All present voting yes and the motion carried.

Zoning Officer asked if portable storage sheds require building permits in the Ag District. Board agreed that they do not require a permit if they are not installed on a foundation. However, they must be situated on the lot with the appropriate setbacks from road right-of-ways and property lines. If they are set on a foundation, they will require a permit.

Jim Ekholm met with the Board regarding his ongoing request to install plumbing in a garage with loft on his lot at Lake Cochrane which was permitted in November 2007. Issues involved include primary vs. secondary residential structure; fire and safety codes; commercial use vs. family use.

2. Motion VanLiere, seconded by Mack to allow a bathroom in an accessory structure for Jim Ekholm at Lot 2A (replat of Lots 2-3 and part of OL 20) Ash Point Addition in Govt. Lot 9 SW1/4 Section 4-114-47 with the stipulations that there is to be no kitchen or cooking facilities in the structure, nor any commercial use of the property. On a roll call vote, all present voting yes and the motion carried.

The Board also advised Zoning Officer to contact Charles Staudenmaier regarding the remodeling of existing plumbing in his garage, which permit was previously denied, located on Lots 39, 40 and W10' Lot 41 Bostic Beach in Govt. Lot 3 in the NW1/4 Section 4-114-47. The Board stated that the use of the garage as residential requires a Special Exception permit.

The Board met with Barbara Fluttum and J.R. Black regarding her property at Lots 30, 31, 32 and 33 Shady Beach Addition, Lake Cochrane. They intend to remove and replace the existing deck; remove debris along shoreline and plant shade tolerant plants on the bank. They will need to apply for a variance because the deck is less than 50' from the high water mark.

3. Motion Mack, seconded by Brandt to allow Fluttum to remove deck and clear debris from shoreline. All present voting yes and the motion carried.

The Board met with Gary Stava regarding the operation of a gravel pit located in the NE1/4 Section 30-115-48. He stated that the location had originally been opened as a gravel pit in the 1970s and that it now is licensed and bonded through the SD Department of Environment and Natural Resources. The Board determined that a Special Exception Permit for a gravel pit is not needed because the site has been in continuous operation beginning before the Zoning Ordinance required a County permit.

Merle Buyert presented his request for a variance to build a garage closer to the road right-of-way than zoning rules allow.

4. Motion Mack seconded by Hunt to allow Merle Buyert a variance of setback to within 135' of a County road to build a 28'x28' garage located at the

W1/2NW1/4 and N1/2SW1/4 and W110' E1/2NW1/4 in Section 7-115-50. All present voting yes and the motion carried.

Findings for the variance include: the garage will be set back farther than the existing house by 12'; garage will be setback more than existing evergreen trees; location is on the east side of the road, making snow accumulation problems unlikely; site drops off more than 5' going further east.

Contractor Scott Peterson represented James and Elaine Bergquist for their request of a variance to build a pole building within 88' of a County road right-of-way because the site drops off significantly at the 150' setback.

5. Motion Mack, seconded by VanLiere to approve the variance at a setback of 100' for the Bergquists' pole building.
6. After some discussion, Mack rescinded his motion.
7. Motion Mack to table the variance request until such time as the Bergquists can present their reasons for the request. Motion died for lack of a second.
8. Motion Mack, seconded by Brandt to allow a variance of setback to 130' from the County road right-of-way for a 36'x56' pole building on property located at S1/2 Section 4-113-50. All present voting yes and the motion carried.

Findings for the variance include: location is on the east side of the road; there is a 4-5' elevation drop at the normal minimum setback; there will be no visibility, safety or snow accumulation issues at this location; it will be located on an existing building site.

Ron Tvedt met with the board to request a setback of 50' from a township road right-of-way for four grain bins. He is requesting the variance to allow semi access from the existing driveway for loading.

9. Motion Brandt, seconded by Mack to approve a 50' setback from the road right-of-way to Ron Tvedt to build up to four grain bins on property located at E1/2E1/2 less N161' E235' Section 12-114-49. All present voting yes and the motion carried.

Findings for the variance include: building site is congested; underground manure tank prevents greater setback; location shouldn't cause snow accumulation on the road due to a mature shelterbelt on west side of building site; there are drainage problems at other locations on site; there are no safety or visibility problems with this setback.

The Board met with Andrew Schmitt concerning a violation of sand being brought onto the beach on property he owns at Lake Cochrane. Schmitt has applied for a Special Exception Permit to replenish sand on his beach. He is also contesting the Board's requirement of a \$200 administrative fee.

The Board said the rule for allowing sand on a lake lot is 3 yards every 3 years on a 50' lot.

10. Motion Brandt, seconded by Mack to approve a Special Exception Permit allowing Schmitt to apply up to 1.9 cubic yards of washed sand on the shoreline of his property located at Outlot 9 Ashpoint Addition in Govt. Lot 9 in the SW1/4 Section 4-114-47 with the stipulation that the sand be retained on the beach and held back from the water and to require him to pay the \$200 administrative fee for applying sand without a permit. All present voting yes and the motion carried.

Zoning Officer Nosbush pointed out that the camper trailer on the Schmitt lot is not licensed or permitted either as a registered mobile home or as a vehicle with current license plates. Nor is there a record of a building permit for permanent location of the camper trailer on the site. Zoning Officer and Attorney Knight to research this issue.

Mark Aughenbaugh presented his request for a Special Exception Permit to conduct private camping on his property at Lake Cochrane. Adjoining property owner Dennis Nosbush expressed concerns about campers on the lots coming and going on the private drive to empty holding tanks and safety for children present.

11. Motion Mack, seconded by Brandt to allow a private campground special exception permit to Mark Aughenbaugh on his property located at N25' Lot 26B and Lot 23A less that part beginning at Agnes Place in Govt. Lot 8 in Section 5-114-47 (complete description in Deed Record 2007-1134) limited to no more than five camper units on the site at any one time. All present voting yes and the motion carried.

Mark Zahnow presented his request for a Special Exception Permit for a storage building on his Lake Cochrane lot and a request for a variance of setback from the road right-of-way.

12. Motion Mack, seconded by Brandt to allow Zahnow a Special Exception Permit for a 24'x30' garage on his property located at Lot A in Outlot 3 in NE1/4SE1/4 Section 4-114-47 with a setback of not less than 26' from the County road right-of-way and not less than 5' from the rear lot line. All present voting yes and the motion carried.

Findings for the variance include: new building will be setback 5' more than neighboring storage units; adjoining property consists of storage units which is a similar use; no visibility or snow accumulation problems expected with location on the east side of the road; property to north belongs to Game, Fish and Parks, making any setback problems with neighbors unlikely.

John Appelen discussed with the Board his action of adding new rock to the shoreline on his Lake Cochrane property without a permit.

13. Motion Brandt, seconded by Mack to require John Appelen to apply for a Shoreline Stabilization Permit at a cost of \$50, after the fact, for adding rock riprap to shoreline on Lot 3A of Replat of Lot 3 Ingvalson's sugar Sand Beach Addn. in Govt. Lot 6 and SE1/4NE1/4 Section 4-114-47, and to require him to pay a \$50 administrative fee. All present voting yes and the motion carried.

A request was heard for rezoning of property in a Natural Resources District to either Agriculture or Lake Park district by Jim Dailey on property located at Govt. Lots 2 and 5 in Section 1-116-49. He intends to build a residential structure of about 75'x82' for private use on the property and to locate it less than 300' from the high water mark on Lake Alice, hence the need to rezone the property. Dailey said he would use a closed septic system for the building.

Written testimony was received from Mary Clawson, regional land manager for SD Game Fish and Parks, an adjoining property owner. Jay Gilbertson, East Dakota Water Development District, also presented comments in person.

14. Motion Brandt, seconded by VanLiere to recommend to the Deuel County Commissioners a change in zoning from Natural Resources District to Agricultural District on up to 500' of shoreline property at Lake Alice in Govt.

Lots 2 and 5 of Section 1-116-49, subject to location of residential structure he intends to build on site. All present voting yes and the motion carried.

The Deuel County Commissioners will conduct a hearing on the request to rezone on Tuesday, August 26 at 9:30 a.m.

15. Motion Mack, seconded by VanLiere to approve the plat of Lot 1, Tvedt Pasture Subdivision in the NW1/4 Section 13-114-49, Brandt Township. All present voting yes and the motion carried.

16. Motion Mack, seconded by Brandt to approve the plat of Block 1 Bjorklund Addition in the SW1/4 Section 32-113-50, Grange Township. All present voting yes and the motion carried.

Zoning Officer gave a progress report on open projects at Lake Cochrane. Several building permit applications for Lake Cochrane properties were reviewed and approved.

17. Motion Mack, seconded by Brandt to adjourn at 12:10 a.m. All voting yes and the motion carried.

The next meeting of the Deuel County Zoning Board is scheduled for Monday, September 8 at 6:00 p.m. at the Courthouse.

Attest:

Mary E. Nosbush
Deuel County Zoning Officer

Dennis Kanengieter, Chairman
Planning & Zoning Commission