

Monday June 12, 2017

The Deuel County Zoning Board met on Monday, June 12, 2017, at 6:00 P.M., in the Commissioners' room of the Courthouse in Clear Lake. Those present were members Dennis Kanengieter, Mike Dahl, Steve Rhody, Paul Brandt, and Kevin Deboer. Also present were States Attorney John Knight and Zoning Officer Jodi Theisen.

Chairman Dennis Kanengieter called the meeting to order. The minutes from the April May 8, 2017, were discussed.

Motion by Brandt, seconded by Rhody, to approve the April 10, 2017, minutes. All voted in favor and motion carried.

Motion by Dahl, seconded by Rhody, to approve the June 12, 2017, Agenda. All voted in favor and motion carried.

1. Allan Armstrong applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lot 10 in the Grabow Addition in Gov Lot 1 & 5 in the SW1/4NE1/4 Section 5-114-47, Lake Cochrane, Norden Township, to move in a new 12' x 16' storage structure located in Lake Park District. Armstrong stated that he was granted a special exception to move a storage shed, it would be located behind the existing pole shed. However, the covenants do not allow two buildings on one parcel. Armstrong didn't realize this and would like a refund on his special exception fee because he can't move in the shed. Armstrong stated that he talked to Jay Grabow, the developer of the addition, and Grabow stated he could build a lean-to on to the back of his existing shed. Motion by Dahl, seconded by Rhody to refund ½ half of the special exception fee which is \$100, and the building permit for the storage shed will be applied to the new building permit fee which is about the same amount. All voted in favor and motion carried.

2. Todd Stroschein applied for a Variance Permit. The request, if granted, would permit the applicant to use the following property: SW1/4 Less N270' E475' W2006' in Section 32-114-49, Brandt Township, to build a bin closer than the ordinance allows to the property line in an AG zoned district. Stroschein stated that he wanted to build a bin in line with his other bins. After coming and talking to the Zoning Officer Jodi Theisen, Stroschein realized the proposed site for the new bin was on a different legal than his existing farm site. Stroschein stated when he purchased the SW1/4 that it was broke out into the farm site and the farm land had two different legals. Stroschein stated that he thought the property line for the farm site was past the existing trees. However, the property line is within the trees to the west and the property line lies right between the new bin and the existing bin. The board decided that Stroschein didn't need a variance to build the bin next to the existing property line because he owns both of the properties

3. Corey & Jessica Bauman applied for a Variance Permit. The request, if granted, would permit the applicant to use the following property: Block 1 Hogie Addition in the NW1/4 in Section 25-113-48, Scandinavia Township, to plant a 2 row shelterbelt within 75 feet of the road right-of-way on the south side of his drive way and to plant a 3 row shelterbelt within 50 feet of the road right-of-way on the north side of his drive way in an AG zoned district. Bauman couldn't attend the meeting so he informed Dennis Kanengieter about his request. Kanengieter stated that Bauman would like to plant the trees to help stop the wind from blowing right on his house. Kanengieter stated that Bauman would like to plant the trees on the south side of the drive way behind the existing trees. Motion by Deboer, seconded by Brandt, to grant a Variance to use the following property Block 1 Hogie Addition in the NW1/4 in Section 25-113-48, Scandinavia Township, to plant a 2 row shelterbelt within 75 feet of the road right-of-way on the south side of his drive way and to plant a 3 row shelterbelt within 50 feet of the road right-of-way on the north side of his drive way in an AG zoned district. All voted in favor and motion carried. Findings for this variance is the current road has a 100 foot right-of-way. The trees will be on the east side of road, they are short rows, and it is in an existing farm site. The trees shouldn't increase a snow problem and it doesn't appear to be a safety risk. There is an existing shelter belt located to the north that is closer to the road right-of-way.

4. Wayne Viessman & JWRR Properties applied for a Special Exception. The request, if granted, would permit the applicant to use the following property: Cooks Point Second Addition in NE1/4SE1/4 in Section 4-114-47, Lake Cochrane, Norden Township, to build a 40' x 40' storage shed in a Lake Park District. Viessman stated that he would like to build this storage shed to have more room for storage. The shed will not have any water but will have electricity. The shed will be 80 feet from the middle of the highway which is 30 from the edge of the road right-of-way. It will be located approximately 70 feet from the 30 foot ingress and egress easement.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504 subparagraph 5(a-h) of the ordinance. Motion by Deboer, seconded by Brandt, to grant the Special Exception to use the following property Cooks Point Second Addition in NE1/4SE1/4 in Section 4-114-47, Lake Cochrane, Norden Township, to build a 40' x 40' storage shed 30 feet from the road right-of-way approximately 70 feet from the 30 foot ingress and egress easement in a Lake Park District. All voted in favor and motion carried.

a. Entrance to and exit from property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic

flow and control, and access in case of fire or catastrophe: Applicants have sufficient access to the property and proposed structures and there is no issue with automotive and pedestrian safety and convenience, traffic flow and control or access in case of fire or catastrophe.

b. Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Applicant has sufficient off-street parking. Loading is not a concern. The special exception will have no or minimal economic, noise, glare, odor or other effects on the adjoining properties or properties generally in the district.

c. Utilities, with reference to locations, availability, and compatibility: Does not apply as all the utilities are underground.

d. Screening and buffering with reference to type, dimensions, and character. There is no buffering and it has adequate screening adequate for public safety and it is within the same character

e. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: There will be an external light on site.

f. Required yards and other open spaces: Applicant has sufficient yard and other open spaces.

g. General compatibility with adjacent properties and other property: Applicants proposed use is generally compatible with the adjacent properties and other properties in the Lake Park District.

h. Refuse and service areas, with particular reference to the items in (a) and (b) above: There are no concerns regarding refuse or service areas. Applicants use involves common household garbage. The shed would create minimal garage and would use the existing dumpster at the State Line Bar and Grill located on the same property.

5. Lyle & Lynne Breberg applied for a Special Exception. The request, if granted, would permit the applicant to use the following property Lot 3 Tobins Thokola Beach in Gov Lot 2 in Section 8-114-47, Lake Cochrane, Norden Township, to alter the shore line within 35 feet from the high water mark and to move in a storage shed in a Lake Park zoned district. Breberg stated that he just purchased this lot this spring and noticed that the shoreline is washing away. He stated he would place fabric down and cover it with 1 inch to 1 ½ inch river rock to help stop the erosion. Breberg stated that he did this project on another lake property he owned in Minnesota and it helped stop the erosion. Breberg also stated that he would like to move in an 8' x 10' storage shed. This shed would be

located on the right side of his house. The shed would be located more than 50 feet from the high water mark and more than 10 feet from the side property line.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504 subparagraph 5(a-h) of the ordinance. Motion by Brandt, seconded by Dahl, to grant the Special Exception to use the following property Lot 3 Tobins Thokola Beach in Gov Lot 2 in Section 8-114-47, Lake Cochrane, Norden Township, to alter the shore line approximately 3 to 6 feet wide and approximately 100 to 140 feet long that is within 35 feet from the high water mark in a Lake Park District. Brebergs shall lay fabric and place river rock on top to help stop the current erosion. They will have a trash screen or silt fence during construction to help with erosion. Also to move in an 8' x 10' storage shed that is more than 50 feet from the high water mark and more than 10 feet from the side property line. All voted in favor and motion carried.

- a. Entrance to and exit from property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe: Does not apply.
- b. Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Does not apply. Loading is not a concern. The special exception will have no or minimal economic, noise, glare, odor or other effects on the adjoining properties or properties generally in the district.
- c. Utilities, with reference to locations, availability, and compatibility: Does not apply.
- d. Screening and buffering with reference to type, dimensions, and character: The site has adequate screening and buffering the shed can't be seen from the road.
- e. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: Does not apply.
- f. Required yards and other open spaces: Applicant has sufficient yard and other open spaces.
- g. General compatibility with adjacent properties and other property: Applicants proposed use is generally compatible with the adjacent properties and other properties in the Lake Park District.

h. Refuse and service areas, with particular reference to the items in (a) and (b) above: There are no concerns regarding refuse or service areas. Does not apply.

7. Joseph & Tristin Bothun applied for a Special Exception. The request, if granted, would permit the applicant to use the following property: Lot 9 Lake Alice Shores in SW1/4 in 7-116-48, Altamont Township, to move in a storage shed and to alter their shoreline within 35 feet of the high water mark in a Lake Park District. Bothun's stated that they would like to bring in 12 yards of sand which is one load of sand within the 35 feet from the high water mark so their kids and company can relax in. They would like to place sand area 10 feet back from the high water mark and towards the west side of their property. Bothun stated the sand area would be 20' x 35' and it would be contained by fieldstone with a geo tech style fabric underneath. They would like the same special exception that was granted in 2014. They have contacted the Game, Fish, and Parks and they didn't need to apply for any permits. Bothun's also stated that they would like to move in a 12' x 16' storage shed to store their lake gear in it. It would be 50 feet from the high water mark and more than 10 feet from the side property line.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504 subparagraph 5(a-h) of the ordinance. Motion by Brandt, seconded by Deboer to grant a Special Exception to use the following property Lot 9 Lake Alice Shores in SW1/4 in 7-116-48, Altamont Township, to place a 20' x 35' sand area that is 10 feet from the side lot and that has containment on all sides. That this sand area has a slope away from the water that would divert the rain water away. To have a grass filter strip between the sand area and the rocks by the water that is 10 deep. To move in a 12' x 16' storage shed that is more than 50 feet from the high water mark and more than 10 feet from the side property line. All voted in favor and motion carried.

a. Entrance to and exit from property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe: Does not apply.

b. Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Does not apply. Loading is not a concern. The special exception will have no or minimal economic, noise, glare, odor or other effects on the adjoining properties or properties generally in the district.

- c. Utilities, with reference to locations, availability, and compatibility: Does not apply as all the utilities are underground.
- d. Screening and buffering with reference to type, dimensions, and character: The site has adequate screening and buffering and generally compatible with the Lake Park District.
- e. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: Does not apply.
- f. Required yards and other open spaces: Applicant has sufficient yard and other open spaces.
- g. General compatibility with adjacent properties and other property: This development is in its early years of development and the applicant's proposed use is generally compatible with the adjacent properties and other properties in the Lake Park District.
- h. Refuse and service areas, with particular reference to the items in (a) and (b) above: There are no concerns regarding refuse or service areas. Does not apply.

8. Matt & Kari Wagner applied for a Special Exception. The request, if granted, would permit the applicant to use the following property: Lot 2A, 2D, 2E Rhea 4<sup>th</sup> Addition in Section 4-114-47, Lake Cochrane, Norden Township, to operate a private campground in a Lake Park District. Wagner's stated that they purchased the old Shady Beach lot that was replatted. They were planning on building this spring, they received a building permit last fall, and the 180 days came and building was not begun, so that building permit expired. They have had complications with their contractor so they will not begin building until next year. They would like to use their lot this summer. Wagner's stated that they will run the septic and electricity for their future house on this lot, so they will use those utilities for the camper.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504 subparagraph 5(a-h) of the ordinance. Motion by Deboer, seconded by Brandt, to grant the Special Exception to permit a private campground for the following property Lot 2A, 2D, 2E Rhea 4<sup>th</sup> Addition in Section 4-114-47, Lake Cochrane, Norden Township, to place one camper that can be placed on the lot on April 1, and must be removed by October 31. The Special Exception permit expires October 31, 2018, is non-transferable. All voted in favor and motion carried.

- a. Entrance to and exit from property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe: Applicant has sufficient access to the property and proposed structures and there is no issue with automotive and pedestrian safety and convenience, traffic flow and control or access in case of fire or catastrophe.
- b. Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Does not apply. Loading is not a concern. The special exception will have no or minimal economic, noise, glare, odor or other effects on the adjoining properties or properties generally in the district.
- c. Utilities, with reference to locations, availability, and compatibility: The applicant will bring the appropriate utilities for a future house.
- d. Screening and buffering with reference to type, dimensions, and character: The lot provides adequate screening and buffering for the proposed use.
- e. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: There are no signs or exterior lighting.
- f. Required yards and other open spaces: Applicant has sufficient yard and other open spaces.
- g. General compatibility with adjacent properties and other property: The applicant's proposed use is generally compatible with the adjacent properties and other properties in the lake park district.
- h. Refuse and service areas, with particular reference to the items in (a) and (b) above: There are no concerns regarding refuse or service areas. Applicants use involves common household garbage. No garbage is stored outside and applicants take their garbage home with them when they leave the property.
9. John Homan requested to remove from the table the application for a Special Exception. The request, if granted, would permit the applicant to use the following property W1/2 less portion lying north of Railroad in NE1/4NW1/4 Section 32-116-47, Glenwood Township, to build and operate an airplane landing strip for private use in an Ag zoning district. Motion by Rhody, seconded by Brandt to remove from the table the application for a Special Exception. The request, if granted, would permit the applicant to use the following property W1/2 less portion lying north of Railroad in NE1/4NW1/4 Section 32-116-47, Glenwood Township, to build and operate an airplane landing strip for private use in an Ag zoning district. Homan stated that he should be getting the approval from the

FAA pretty soon. The size of the airstrip would be 100' x 2350'. Brandt asked how big a land strip need would they for a plane to land there. Homan stated between 2100' to 2200' for a SR20 or a SR22. Brandt asked Homan about the setbacks for airstrips. Homan stated that there are no required setbacks, just setbacks for safety. Brandt called the FAA office in Bismarck and talked to Brian Sehuck and found out the side setbacks are 250 from the center as you leave the airstrip the setbacks get wider. Homan stated that he has been working with a Nick Pratt and he has not gotten any hard or fast guidance for the setbacks. Brandt stated the concerns about the wind towers, the approach, and air rights. Brandt stated that he was informed by the FAA that the person who owns the private air strip would be responsible to get assurance from the adjacent land owners that they would not have any obstructions at the end of his strip. Homan stated that when he applies there are no obstructions at this time. Brandt stated by getting these assurance letters from the neighbors that they wouldn't have any obstructions for the airstrip - for instance, not put a wind tower there. Brandt stated on a safety standard they you need 1 foot rise of 20 feet run.

Homan stated that if you are looking at the all the possibilities in the future, how could you as a board grant or approve any permits, and right now there are no wind towers around this property at the time of application.

Molly Smith, a lawyer for Invenergy, stated that they recommend that John Homan get the navigational rights from the neighbors. Without the necessary navigational easements, a private airport owner has no right to request that neighboring property owners maintain a setback from a private airport.

Homan didn't believe airspace is restricted at a certain elevation.

Tom Linngren a lawyer representing Darold Hunt asked John Holman if he will commit that he won't bring an objection to Darold Hunt putting a wind tower on his land that is adjoining Homan's. Homan stated that he would not give a blank commitment because if the tower is too close to his property he has the right to state his concerns through the public meeting. He would have to get another opinion to answer that question.

Homan stated as a board you have the right to place a wind tower near his property but hopefully that they would consider the positioning and the safety of the tower to his property.

Brandt stated again that maybe Homan could consider talking to his neighbor to the south and try to get an easement. Deboer and Rhody asked who is responsible for the surrounding flight access.

Dahl stated to Homan if he can't get the wind rights then maybe he should wait to see were the towers would be sited. Homan stated again that there are no wind towers permitted at the time of the application. The board members stated that



they need more information, and Homan stated that he would like to do some more research and to call the person in Bismarck that Brandt talked to. Motion by Rhody, seconded by Dahl, to table the Special Exception to use the following property W1/2 less portion lying north of Railroad in NE1/4NW1/4 Section 32-116-47, Glenwood Township, to build and operate an airplane landing strip for private use in an Ag zoning district until the board can get more information about the setbacks and the air rights.

10. Motion by Deboer, seconded by Brandt, to approve Plat of Koosman Addition in the N1/2SW1/4 Section 18-117-47 Antelope Valley Township. All voted in favor and motion carried.

11. Motion by Dahl, seconded by Rhody, to approve Plat of Bandemer Addition in the NW Section 22-113-48 Scandinavia Township. All voted in favor and motion carried

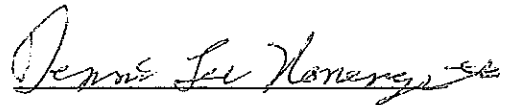
12. Leigh Mellendorf came and talked to the board about his lot outside of Clear Lake and how he would like to buy some more land and move a house on it. The board suggested that he replat the existing plat because of the extra footage, to apply for a variance because the house will not have a front yard of 150 feet, and to apply for a special exception for an extended home occupation.

13. Kanengieter called the meeting.



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Jodi Theisen  
Zoning Officer



Dennis Kanengieter  
Chairman, Zoning Board