

**May 13, 2024 BOARD OF ADJUSTMENT/ PLANNING COMMISSION DEUEL COUNTY
STAFF REPORT**

Monday – May 13, 2024 – 6:30 p.m.

DEUEL COUNTY BOARD OF ADJUSTMENT

ITEM #1 VARIANCE

Applicant/Owners: Chad & Valynn Appelhof

Property Description: Gov Lots 1-2 Less N241' W296' of Gov Lot 1 in Section 18-116-50, Goodwin Township, Deuel County, South Dakota.

Action Items – Variance – (1101.05 Area Regulations)

Zoning Designation: AG – Agricultural

Request: Applicant requesting a Variance to build a building for the extended home occupation within the 65' front yard setback.

Specifics of Request:

- 1. Chad & Valynn Appelhof owns the N241' W296' IN NW1/4 (1.64 acres) which is where the house is located and Gov Lots 1-2 Less N241' W296' of Gov Lot 1 in Section 18-116-50, Goodwin Township, Deuel County, South Dakota (63.36 acres) which is the location of the farm and the outbuildings.**
- 2. Appelhof's would like to build a 60' x 80' building for a livestock sorting sticks assembly business which they are applying for a CUP in the same meeting.**
- 3. Appelhof's are requesting a variance to build a building for the extended home occupation less than 65' from the road right-of-way. They would like to place the building approximability 38' from the 33' township road right-of-way. Approximately 71' from the center of the township gravel road that has a 33' right-of-way**
- 4. The proposed site of the new shed would be approximate 15' north of the existing pole shed which is located approximate 111' from the ROW.**
- 5. There is an existing row of trees north of the proposed site and 174th St. There is an existing grove of trees closer to the ROW on the east side of the proposed building site.**

Ordinance/Variance History regarding this request:

Section 1101.05 Area Regulations

- 1. The Zoning Ordinance requires that all residential lots shall be a minimum of three (3) acres the minimum depth of the front yard shall be not less than sixty-five (65) feet, side yard, the minimum width of a side yard shall be twenty-five (25) feet and the minimum depth of a rear yard shall be twenty-five (25) feet.**
- 2. The Board has history of granting numerous variance requests in the Ag District of similar or greater relaxation of rules (Peterson, Tvedt, McCarty & etc.)**

Staff recommendation: If approved, staff recommendation - To grant the Variance to build a building for the extended home occupation no closer than 35' from the road right-of-way. This Variance does not apply to any new structures that are built on the property. All voted in favor and the motion carried. Please see Findings of Fact and Conclusions of Law on file with this application.

The Board could deny the Variance on the basis that the circumstances surrounding this request are not so unique in nature to necessitate granting special privilege to this applicant which is denied to other properties in this zoning district.

ITEM #2 CONDITIONAL USE PERMIT

Applicant/Owner: Chad & Valynn Appelhof

Property Description: Gov Lots 1-2 Less N241' W296' of Gov Lot 1 and N241' W296' IN NW1/4 in Section 18-116-50, Goodwin Township, Deuel County, South Dakota.

Action Items – CONDITIONAL USE PERMIT – (1101.04.16 – Section 1210) Extended Home Occupation

Zoning Designation: AG – Agricultural

Request: Applicant/Owner to operate an Extended Home Occupation (to operate a livestock sorting sticks assembly business)

History/Issue(s):

Specifics of Request:

1. Chad & Valynn Appelhof owns the N241' W296' IN NW1/4 (1.64 acres) which is where the house is located and Gov Lots 1-2 Less N241' W296' of Gov Lot 1 in Section 18-116-50, Goodwin Township, Deuel County, South Dakota (63.36 acres) which is the location of the farm and the outbuildings.
2. Access to this property is 174th St which is a township gravel road.
3. The applicant is requesting to operate an Extended Home Occupation (to operate a livestock sorting sticks assembly business) they would like to build a 60' x 80' building accessory building to conduct the business in.
 - a) Future location of 60' x 80' building accessory building required a variance from the front yard setback requirement. Which was applied for prior in the meeting.
 - b) Work would include receiving the product and assembling livestock sorting paddles, sticks and flags.
 - c) The employees are Valynn, her son and her father.
4. This property is not located on the Zone B or Zone A of the Aquifer Protection Overlay Zones.
6. Deuel County Ordinance requires that a landowner go through the Conditional Use Permit Process to to operate an Extended Home Occupation in the "AG" District.

Ordinance and Comprehensive Land Use Plan regarding this request:

- o This lot will have access off of 174th St which is a township gravel road;
 - o The site has room for off street parking;
 - o They have efficient utilities; water is provided by Sioux Rural Water; they have a dumpster for the trash service and they will take the cardboard to IC School in Watertown for them to use as a fundraiser and would burn the other papers. They have electricity provided by Northwestern Energy.
 - o They have efficient Screening and Buffering there are existing trees located to north, east and west;
 - o They are going to have an on-site Signs – on the building. They would like a wall sign an approx. 5' x 5' which is 25 square footage which is less than the 20% of the wall surface.
 - o They have have efficient yard space and other open space they will have parking in front of proposed shed.
- Section 1210. Extended Home Occupation. There are significant differences between home occupations and extended home occupations. While each use is based on supplementing income, the location and type of business in which each is practiced has unique characteristics. Specifically, a home occupation is conducted within the primary structure (residence) while an extended home occupation is conducted in an accessory building
 1. For the purpose of this section, provided all requirements are met, the following shall be considered extended home occupations:
 - a. Those businesses that support agricultural needs to include but not limited to vehicle and implement repair, implement sales, welding repair; veterinarian's office; seed sales; and others, which in the opinion of the Board of Adjustment, would not conflict with adjoining land uses.

Staff recommendation:

Condition Use Permit – **Extended Home Occupation (to operate gunsmith business):** The application may be approved, postponed, or denied. If approved, approval would be based on the board being empowered to issue the permit due to the proposal meeting the definition of an Extended Home Occupation and Uses and the applicant's ability to meet the requirements for a special exception described in ordinance. Staff recommends the following conditions be agreed to in a letter of assurance signed by the applicant(s):

- a. An extended home occupation may not be changed to another home occupation except by the issuance of a separate conditional use permit.
- b. Individuals engaged in such occupation shall consist of family members residing on the premises and up to three (3) non-family employees.
- c. There shall be no change in the outside appearance of the buildings or premises, or other visible evidence of the conduct of such home occupation other than one on-premise sign, not to exceed eighty (80) square feet in area, non-illuminated.
- d. Off premise signage for extended home occupations shall be limited to South Dakota Department of Transportation (SDDOT) commercial, directional signs, also known as "TOD Signs". These signs, with SDDOT approval, may be located adjacent to State and Federal Highways.
- e. The only retail sales allowed shall consist of the sale of commodities/products prepared on the premises in connection with such occupation or activity. Exception: Seed Sales.
- f. Extended home occupations should be agriculturally related and be conducted in an accessory building.
- g. No traffic shall be generated by such extended home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need of parking generated by the conduct of such extended home occupation shall be provided off the street and other than in a required front yard.
- h. No equipment or process shall be used in such extended home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the conditional use and that granting the conditional use will not adversely affect the public interest. Please see Findings of Fact and Conclusions of Law on file with this application.

ITEM #3 VARIANCE

Applicant: Clear Lake Vet Clinic PC
Owners: Andrew & Kenzie Rathbun

Property Description: Lot 2 Bader Addition in SE1/4SE1/4 in Section 15-115-49, Clear Lake Township, Deuel County, South Dakota.

Action Items – Variance – (1101.05 Area Regulations)

Zoning Designation: A – Agricultural; Zone A & B – Aquifer Protection Overlay District (wellhead & shallow aquifer)

Request: Applicant requesting a Variance to place storage containers less than 25' from the side property line.

Specifics of Request:

1. Clear Lake Vet Clinic PC sold this property to Andrew & Kenzie Rathbun (one of the veterinarians at the clinic) on 4-1-2023 which has the Clear Lake Vet Clinic located on it.
2. On July 13, 2020 they applied for a SEP to continue operation of an existing veterinary clinic an onsite sign.
3. In April Zoning Officer Theisen noticed that the Clear Lake Vet Clinic PC moved in two metal storage containers 8' x 20'. Mark Appelhof the president stated that the metal storage containers are for livestock mineral and lick tubs.
4. Clear Lake Vet Clinic PC is requesting a variance to have two metal storage containers 8' x 20' less than 25' from the side property line. They would like to keep the two metal storage container up to or on the property line (adjoining property owner is Marlin Bjerke) and is more than 25' from the rear property line and more than 65' from the road right-of-way. The office has a letter from adjoining property owner is Marlin Bjerke and he is acceptable with the location.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. Regarding the Variance: The Zoning Ordinance requires that all residential lots shall be a minimum of three (3) acres the minimum depth of the front yard shall be not less than sixty-five (65) feet, side yard, the minimum width of a side yard shall be twenty-five (25) feet and the minimum depth of a rear yard shall be twenty-five (25) feet.

a) The Board has history of granting numerous variance requests in the Ag District of similar or greater relaxation of rules (Peterson, Tvedt, McCarty & etc.)

2. The property is located over Zone A & B of the Aquifer Protection District.

3. All "Permitted Uses" listed in the underlying zoning districts, with the exception of those expressly prohibited in Zone A & B, provided that they can meet the Performance Standards as outlined for the Aquifer Protection Overlay Zones.

a) Which they meet the Performance Standards as outlined for the Aquifer Protection Overlay Zones.

4. The part of the property is located over Floodplain District.

a) The location of the two metal storage containers are located outside the Floodplain District. The Floodplain is located in majority west side of the lot. Mark Appelhof stated to the Zoning Officer that part of the lot is very wet after a rain so that is why they placed the storage containers where they did by the property line. Plus, this location will not interfere with snow removal and not to interfere with livestock trailers coming in to use the haul in facilities.

Staff recommendation: If approved, staff recommendation - To grant the Variance - two metal storage container up to or on the property line. This Variance does not apply to any new structures that are built on the property. All voted in favor and the motion carried. Please see Findings of Fact and Conclusions of Law on file with this application.

The Board could deny the Variance on the basis that the circumstances surrounding this request are not so unique in nature to necessitate granting special privilege to this applicant which is denied to other properties in this zoning district.

ITEM # 4 PLAT

Applicant/Owners: H Bar G Farms LLC

Property Description: Tristien And Mara Kwasniewski Addition in Gov Lot 3 of Section 3-114-49, Brandt Township, Deuel County, South Dakota.

Request: To plat Tristien And Mara Kwasniewski Addition which contains 3.19 acres for transferring purposes. Action Item –Plat approval.

ITEM # 4 Discussion: Brent Moeller with Missouri River Energy about a proposed project