

Monday July 13, 2020

The Deuel County Zoning Board met on Monday, July 13, 2020, at 6:00 p.m., in the Commissioner's Room of the Courthouse in Clear Lake. Those present were members Dennis Kanengieter, Judith Homan, Paul Brandt, Kevin DeBoer and Mike Dahl. Also present were Attorney John Knight and Zoning Officer Jodi Theisen.

Chairman Dennis Kanengieter called the meeting to order.

The minutes from the June 9, 2020, meeting were discussed. Motion by Dahl, seconded by Homan, to approve the amended June 9, 2020, minutes. All voted in favor and motion carried.

The minutes from the June 16, 2020, meeting were discussed. Motion by Dahl, seconded by Homan, to approve the amended June 16, 2020, minutes. All voted in favor and motion carried.

Theisen asked the Board of Adjustment if she could add some discussion items at the end of the meeting.

Motion by Brandt, seconded by Kanengieter, to approve the amended July 13 2020, Agenda. All voted in favor and motion carried.

ITEM ONE

Royce Harringa, applicant, and Royce & Kim Harringa Living Trust, owner, applied for a Variance of Section 1208 Shelterbelt Setback Requirements. The request, if granted, would permit the applicant to use the following property: S1/2NW1/4 & SW1/4 of the Section 29-114-48, Norden, to plant shelterbelts that are closer to the road right-of-way than what the ordinance allows.

Harringa would like to plant 14 new spruce trees about 6' tall spaced 25' apart approximately 350' long and approximately 25' east from the 50' road right-of-way. They would like to remove the red bushes that were planted approximately 31' from the road right-of-way.

On January 2003, at the Board of Adjustment meeting the board granted a variance to Harringa's to plant trees 55' from the road right-of-way, which are the pines trees that are 46' from the road right-of-way. Harringa stated that they would like to remove 14 of the damaged pines trees and replace them with 7 new 6' tall spruce trees.

Harringa stated that they would like to remove the damaged trees and plant the new trees to help stop the snow blowing into his yard since the old grove is dying. They would leave the 3 trees that are Ash and Elms that are located 50' from the road right-of-way which don't cause a safety or snow issue. They will remove the dogwood bushes.

Dahl stated he visited the site and had some concerns about the trees located to the north of the drive that have branches extend into the road right-of-way.

Motion by Brandt, seconded by DeBoer, to grant the Variance to plant a shelter belt with 1 row of 14 trees that are no closer than 25' from the road right-of-way east of 479th Ave and to remove 14 trees and plant 7 trees no closer than 46' from the road right-of-way east of 479th Ave. To trim the existing trees north of the driveway that are hanging over the road right-of-way. The findings for this Variance are there it is an existing building site and the existing shelterbelt

is dying, this shelterbelt is located on the east side of the road and will have minimal impact of snow on the road. It is a county road with a 50' road right-of-way and they have an existing shelterbelt to the east and northeast. Kanengieter called for a roll call vote; DeBoer-yes, Brandt-yes, Homan-yes, Dahl-yes, and Kanengieter-no and the motion carried.

ITEM TWO

Motion by DeBoer, seconded by Brandt, to remove from the table the Edward Finnegan application for a Variance of Section 1103.5. Area Regulations. The request, if granted, would permit the applicant to use the following property: on existing Lots 36, 37 & 38 of Shady Beach Addition in Gov Lot 7 in SE1/4 in Section 4-T114N-R47W, Lake Cochrane, Norden Township, Deuel County, South Dakota, to replat existing Lots 35-38 of Shady Beach Addition into two lots (Lot 1 and Lot 2 Finnegan and Ludvigson Addition) to retain existing structure less than 50' from the high-water-mark, less than 10' from the side lot, shoreline frontage less than 75' in width and less than 150' in depth. Theisen stated that the office received an exhibit of the proposed plat which shows the existing building located over the property lines toward the road. John Knight, Deuel County States Attorney, stated that the board doesn't require these property owners to plat these lots. The reasoning is that the property owners are not creating new lots they are correcting the property lines and they are not acquiring more property and they are keeping the original footage. Knight stated that the board should suggest to have this plat withdrawn and the property owners could transfer the land by deed. The board suggested that Theisen refund the variance fee back to Finnegan. Motion by Dahl, seconded by DeBoer, to table the Edward Finnegan application for a Variance of Section 1103.5 "Area Regulations" until Finnegan withdraws the variance request for re-platting the property. All voted in favor and motion carried.

ITEM THREE

Joyce Anderson, Richard Schoenefeld, Daryl Schoenefeld, Galen Schoenefeld, Russell Schoenefeld & Dale Schoenefeld applied for a Variance of Section 1208 Shelterbelt Setback Requirements & Section 1101.04 Area Regulations. The request, if granted, would permit the applicant to use the following property: NE1/4 (Schoenefeld First Addition in the NE1/4) of Section 33-117-48, Lowe Township, Deuel County, South Dakota, to plat a parcel of land, to retain existing buildings that are closer to the road right-of-way and existing shelterbelt that is closer to the road right-of-way and to adjoining property line than what the ordinance allows.

Theisen stated the existing buildings are approximately 24' (shed), 44' (quonset), 72' (house), 127' (granary) and 123' (garage) from the road right-of-way. The existing shelterbelt is approximately 48' from the road right-of-way and up to the property line of the adjoining property lines which is owned by the applicants.

Motion by DeBoer, seconded by Homan, to grant the Variance to plat a parcel of land and to retain the existing buildings that are approximately 24' (shed), 44' (quonset), 72' (house), 127' (granary) and 123' (garage) from the road right-of-way, trees that are approximately 48' from the road right-of-way and up to the property line of the adjoining property lines which is owned by the applicants. This Variance doesn't apply to any new structures that are built on the property. The findings for this Variance are that they are platting this property and will not cause any greater snow or safety concern.

ITEM FOUR

Otter Tail Power Company applied for a Special Exception Permit Pursuant to Section 1101.02 Essential Services. The request, if granted, would permit the applicant to use the following property: N1/2NE1/4NE1/4 in Section 24-113-49, Blom Township, Deuel County, South Dakota, for Essential Services to construct a 115kV switching station at the intersection of the existing 115kV transmission lines on their property. Paul Hennen, from Otter Tail Power Company, stated that the site will be 20 acres and it will have a fence surrounding the switching/breaker substation. The proposed breaker substation will increase the reliability of their system to help with outages.

The control house and the security fence will be located more than 150' from the both rights-of-way located to the north and the east. The proposed substation is on a shallow aquifer area. The site is eligible for a substation as a permitted facility within the meaning of Deuel County Zoning Ordinance, the performance standards as set forth in 1105.12 are not required in this project (for instance septic tanks, storage of petroleum products. 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 Dahl, to grant the Special Exception for Essential Services to construct an 115kV switching station at the intersection of the existing 115kV transmission lines on their property in an Agriculture Zoned District. All voted in favor of and the 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 will have adequate entrance and exit that is approved off the township road.
- 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, no noise, glare, odor or other effects on the adjoining properties or properties generally in the district. Minimal traffic since they have one tech service the switching station per month.
- c) Utilities, with reference to locations, availability, and compatibility: Applicant has adequate utilities.
- d) Screening and buffering with reference to type, dimensions, and character: Applicant exceeds the setbacks and considering the location, no screening is necessary.
- 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: Applicant will have a sign on the gate.
- f) Required yards and other open spaces: Applicant has adequate yard and other open spaces.

g) General compatibility with adjacent properties and other property: Applicant's proposed use is generally compatible with the adjacent properties in the Agriculture Zoned 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.

ITEM FIVE

Paul Letsche from East River Electric Coop., Inc. applied for a Special Exception Permit Pursuant to Section 1101.02 Essential Service, Section 1101.0313 Wireless Telecommunication Tower and for Variance of Section 1101.0402 Area Regulations. The request, if granted, would permit the applicant to use the following property: E250' N300' of NE1/4NE1/4 in Section 22-116-48, Glenwood Township, Deuel County, South Dakota, for Special Exception for; a Wireless Telecommunication Tower and Essential Services to continue operation of an existing substation. The variance is to erect a 60' microwave tower for communications and to maintain existing security fence with less than 150' of front yard. Letsche stated that they would erect a 60' microwave tower for communications which will not have a light. The property was purchased in 1964 by East River and there was no Special Exception for Essential Services. A Special Exception for Essential Services would be necessary to bring the entire property into compliance with current zoning regulations before a building permit would be permitted.

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 the Special Exception & Variance for Essential Services to continue operation of an existing substation; to erect a 60' tower 84' and 99' from the road rights-of-way; and to allow existing security fence 44' and 30' from the road rights-of-way in an AG Zoned District. All voted in favor and motion carried. The findings for this Variance are the tower, the existing fence, and existing substation have unique characteristics that prevent the fence and tower to be located 150' from the road right-of-way and it will not cause any greater snow or safety issue.

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 adequate entrance and exit with existing approach.

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: Applicant has adequate utilities.

d) Screening and buffering with reference to type, dimensions, and character: The existing screening and buffering have been appropriate. Applicant is not going to change the screening or buffering.

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: Applicant has an existing sign located on the privacy fence.

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

g) General compatibility with adjacent properties and other property: Applicant's proposed use is generally compatible with the adjacent properties and other properties in the Agricultural 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. Applicant will take out any garbage.

ITEM SIX

David & Sandra Korinek applied for a Variance of Section 1101.04.02 Front Yard. The request, if granted, would permit the applicant to use the following property: Lot 24 Grabow Second Addition in the NE1/4 of the Section 5-114-48, Norden Township, Deuel County, South Dakota, to build a house, basement, garage and storage sheds with less than 150' front yard in an AG Zoned District.

Korinek stated they would like to build the proposed house, basement & garage 100' from the 50' access easement. Korinek stated that they would like to build a 32' x 32' storage shed 50' from the access easement.

Theisen showed the board a letter from the neighbors, Mary & James Harkins, that the office received on July 13, 2020. It stated that they approve of the variance to go closer to the access easement because of the lot lay out and if Korinek's built 150' from the access easement it would be a detriment to their future building plans.

Motion by Deboer, seconded by Dahl, to grant the Variance to build an approximately 40' x 86' house, basement and garage no closer than 100' from the 50' access easement and to build an approximately 32' x 32' storage shed and locate a 12' x 20' storage shed no closer than 50' from the 50' access easement. All voted in favor and motion carried.

The findings for this variance are it is located on a access easement and there is minimal public traffic, there is a low area located in the area 200' from the property line, it is a subdivision, and it will not cause any greater snow or safety concern.

ITEM SEVEN

Mark & Audrey Appelhof applied for a Special Exception Permit Pursuant to Section 1101.03.10 Veterinary Clinic and Section 1101.03.23 On-Site Sign. The request, if granted, would permit the applicant to use the following property: Lot 2 Bader Addition in SE1/4SE1/4 in Section 15-115-49, Clear Lake Township, in Deuel County, South Dakota, to continue operation of an existing Veterinary Clinic and to erect an on-site sign in an Agricultural District.

Appelhof couldn't attend the meeting, Theisen stated on June 25, 1990 the applicant received a permit to build and operate a veterinary clinic, which was a permitted use in the Agricultural District. On April 2, 1991 the ordinance was updated and a veterinary clinic became a Special Exception. A Special Exception for Essential Services is necessary to bring the entire property into compliance with current zoning regulations before a building permit would be permitted.

Theisen stated that Appelhof erected a 3' x 4' on-site sign that is 12' tall with 6" x 6" poles that is located 59' from the center of the road, which is a 50' road right-way. Theisen stated she called Matt Brey, SD DOT, and he stated that if it is outside the road right-of-way it is ok with him.

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 Homan, to grant the Special Exception to continue operation of an existing Veterinary Clinic and to erect an on-site sign approximately 9' from the road right-of-way in an Agricultural 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: Applicant doesn't create a safety hazard 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: Applicant has sufficient utilities.
- d) Screening and buffering with reference to type, dimensions, and character: Applicant has sufficient screening on both sides of his property.
- 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: The sign will not produce glare, or be a traffic safety, it will not cause an economic effect and is compatible and harmonious with properties in the district.
- f) Required yards and other open spaces: Applicant has adequate yard and other open spaces.
- g) General compatibility with adjacent properties and other property: Applicant's proposed use is generally compatible with the adjacent properties and other properties in the Agricultural 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. Applicant has garbage removal for site.

ITEM EIGHT

Lyle & Carol Tobin, applicants, and Tobin Family Revocable Living Trust, owner, applied for a Variance Section 253.1.c Modular Home Regulations. The request, if granted, would permit the applicant to use the following property: Lot 5 Tobins Thokola Beach in Gov Lot 2 in Section 8-114-47, Norden Township, Deuel County, South Dakota, to move a modular (tiny) home with less than 1,000 square feet in a Lake Park District. The tiny home is 391 square foot of living space and has a 6' x 11' deck.

Tobin stated the tiny home would be approximately 37' from the edge of the road which is 70' from the center of the road (33' road right-of-way) and approximately 23' from the east property line.

Motion by DeBoer, seconded by Brandt, to grant the Variance to move in a modular (tiny) home with less than 1,000 square feet. The tiny home is 391 square foot of living and has a 6' x 11' deck. All voted in favor and motion carried.

The findings for this variance are that the home looks stick built, it is located across the road from the lake, it has screening, it will be hooked up to the Lake Cochrane Sanitation, and it will not cause any greater snow or safety concern.

ITEM NINE

Bart & Kari Wiley applied for Special Exception Permit Pursuant to Section 1103.4.5 Shoreline alterations. The request, if granted, would permit the applicant to use the following property: Lots 5 & 6 Grabow Addition in NE1/4 in Section 5-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota to alter their shoreline within 35' from the high-water-mark.

Wiley stated that they would like to excavate 8" to 14" depending on the slope of the of the ground and place pavers flush with the ground approximately 10' wide and 25' in length. This would flatten the slope for safety reasons.

Wiley also talked about removing two trees within the 35' from the high-water-mark because they are hollow and for safety reasons. DeBoer stated that he recommended that they don't grind the stumps for erosion and to let the grass grow around the stumps.

Theisen stated she contacted Rhett Russel, and he stated that this project doesn't need a permit since the pavers are above the water.

Motion by Brandt, seconded by Dahl, to grant the Special Exception to alter the shoreline within 35' from the high-water-mark by removing dirt and to build an approximate 10' x 25' patio with pavers, to remove possibly 2 trees along the shoreline, and to use a silt fence during construction. On condition that if they do remove the two rotten trees along the shoreline that they replace each tree with a new tree within the 35' of the high-water-mark. All voted in favor of and the motion carried.

ITEM TEN

Bart & Kari Wiley , applicants, and Leroy F & Patricia A Hamann, Special Exception Section 1103.4.9 Storage. The request, if granted, would permit the applicant to use the following property: Lots 5 & 6 Grabow Addition in NE1/4 in Section 5-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota, to build a storage shed on Hamann's property in the Lake Park District.

Wiley stated he would like to purchase these lot/lots at the golf course to put up a 42' x 60' storage shed. Wiley stated that this shed would be for storage and they might build storage shed for rentals. Allan Armstrong stated that the covenants does not allow commercial storage units. The Board stated that they don't control the covenants, they follow the regulations in the Deuel County Ordinance.

Knight, stated that the Board of Adjustment is in litigation currently on allowing storage sheds in the Lake Park District. They board thought about tabling this Special Exception until a later date.

The Board was informed that these lots of Hamann's were sold to another person other than Wiley. The Board decided along with Wiley that there was nothing to act upon this application for a storage shed on these lots. The Board told the Theisen to refund the \$200 Special Exception fee for this application back to Wiley.

ITEM 11

Ryan & Dayna Johnson applied for Special Exception Section 1103.4.9 Storage. The request, if granted, would permit the applicant to use the following property: Lot 21 Lake Alice Shores in SW1/4 in Section 7-T116N-R48W, Altamont Township, Deuel County, South Dakota, to move in storage shed on their property in the Lake Park District. Johnson stated they would like to move in a 10' x 20' storage shed. They would place the shed approximately 200' from the platted road, approximately 12' from the side lot line and approximately 136' from the high-water-mark.

Johnson stated they are applying for a Special Exception to move in an older mobile home on to their lot for the August 10, 2020 meeting.

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 Homan, to grant the Special Exception to move in a 10' x 20' storage shed on their property in the Lake Park District which is approximately 12' from the property line and more than 50' from the high-water-mark, and to approve the staff report findings with the changes made by the board. Contingent on the applicant obtaining a building permit for a residence within 180 days of the Special Exception permit for the storage shed. All voted in favor of and the 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 doesn't create a safety hazard 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: Applicant has adequate utilities.
- d) Screening and buffering with reference to type, dimensions, and character: Applicant is not going to change the screening or buffering and there does not appear to be an issue with screening or buffering.

- 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: No proposed signs.
- f) Required yards and other open spaces: Applicant has adequate yard and other open spaces.
- g) General compatibility with adjacent properties and other property: 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. Applicant takes their garbage home with them when they leave the property and, in the future, will have garbage service.

ITEM 12

Justin & Jessica Miller applied for a Variance of Section 1101.04.02 Front Yard. The request, if granted, would permit the applicant to use the following property: E386' S390' N1435' in NE1/4 of the Section 28-115-50, Havana Township, Deuel County, South Dakota, to build a house with a crawlspace with less than 150' front yard in an AG Zoned District.

Miller's stated they would like to remove their current mobile home and move in 27' x 64' new modular approximately 98' from the 50' road right-of-way. Theisen stated they would like to plant trees north and west of their property which will be 150' from the road right-of-way to the west and they have permission from the adjoining property land owner to the west and north.

Motion by Brandt, seconded by Dahl, to grant the Variance to move in a 27' x 64' new modular home no closer than 98' from the road right-of-way . All voted in favor and motion carried.

The findings for this variance are it is located on a county road which has a wider road right -of-way. Because of the location of the existing structures they are unable to move the proposed modular home 150' from road right-of-way, there are existing shelterbelts to the east and the south, and it will not cause any greater snow or safety concern.

The Deuel County Board of Adjustment recessed and convened as the Deuel County Planning Commission.

ITEM 16

Motion by DeBoer, seconded by Kanengieter, to approve the Schoenefeld First Addition in the NE1/4 of Section 33-117-48, Lowe Township, Deuel County, South Dakota. All voted in favor and motion carried.

The Deuel County Planning Commission recessed and convened as the Deuel County Board of Adjustment.

ITEM 17

Theisen stated that she sent a violation letter to Kevin Tesch since he has more vehicles than permitted, so he is in violation of is his Special Exception Permit. On June 13, 2020 she called Kevin Tesch, and he stated he had 20 vehicles currently and 2 were leaving on July 14, 2020.

Tesch stated that he is in the process of removing some of the vehicles and would get this done as quick as possible.

ITEM 18

Richard & Linda Nuytten and James & Marica Vlamincck came to the board to talk about a complaint the Zoning Board received about a gravel boat ramp that was asphalted toward the lake. Nuytten stated that he has owned the property for many years and the gravel boat ramp has always been there. Kanengieter and Knight stated they had phone calls about the asphaltting and concerns if the property owners received a permit. The board discussed the special exception for shoreline alteration within the 35' from the high-water-mark. Nuytten stated they came before the board a couple of years ago about the erosion issue and the board suggest filling the rut that is going towards the lake as soon as possible to stop any more erosion. Ron Ruud and Alan Armstorng were also present and stated that they should follow the ordinance and regulations. The Board stated it is necessary to have Nuytten and Vlamincck apply for a Special Exception for shoreline alterations within 35' from the high-water-mark. Theisen asked Vlamincck if they have campers on their Lake Cochrane lot, Vlamincck stated that they have a camper there for their family members. The Board stated they would have to apply for a Special Exception for Private parks and campground, and camping is not a permitted in the Lake Park District.



Jodi Theisen
Zoning Officer



Dennis Kanengieter
Chairman, Zoning Board

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