

Monday June 26, 2023

The Deuel County Zoning Board met on Monday June 26, 2023 at 6:30 p.m., in the Commissioner's Room of the Courthouse in Clear Lake. Those present were members Paul Brandt, Dennis Kanengieter, Mike Dahl, Jay Grabow, Kevin DeBoer, States Attorney Craig Evenson and Zoning Officer Jodi Theisen.

Chairman Dennis Kanengieter called the meeting to order.

The minutes from the May 16, 2023 meeting and May 22, 2023 meeting were discussed and corrected. Motion by DeBoer, seconded by Dahl, to approve the corrected May 16, 2023 meeting and May 22, 2023 minutes. Motion passed unanimously.

Motion by Dahl, seconded by Brandt to approve the agenda. Motion passed unanimously.

Motion by Brandt, seconded by Dahl to recess the Planning Commission and convene only as the Board of Adjustment. Motion passed unanimously.

Motion by DeBoer, seconded by Grabow to approve a Conditional Use Permit request by the applicant/owner, Kim & Jean Willers, to build a garage located on a lot adjacent to a lot with principle structure separated by a public or private road on their property on Lot 5 Block 2 Dakota Bluffs Addition in Gov't Lot 1, Gov't Lot 2 and the N1/2 of the Section 8-114-47, Norden Township, Lake Cochrane, Deuel County, South Dakota. Willers purchased this lot recently. The applicants would like to build a 30' x 48' garage on Lot 5 which is located across from the Lots 33-34-35 Thokola Beach and Edgewater Drive separates the two lots. This garage would be cold storage and no bathroom. The applicant would not need a variance to build an accessory building it would meet all the Lake Park setbacks; the garage would be located approximately 70+/- feet from the edge of Edgewater Drive and more than 60' from the front property line. Please see Findings of Fact and Conclusions of Law on file with this application. Motion passed unanimously.

Motion by Dahl, seconded by DeBoer to approve a Conditional Use Permit request by the applicant, Tabb McCluskey, and the owner, Joan A McCluskey Living Trust, to move in a shed/garage located on a lot adjacent to a lot with principle structure separated by a public or private road on their property on Lots 6-6A (replat Lot 12) & 20' between Lots 6-7 Ingvalsons Sugar Sand Beach Add in Gov Lot 6 & SE1/4 NE1/4 4-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota. Joan A McCluskey Living Trust owned these lot for many years. The applicant would like to move in a 12' x 20' shed/garage on Lot 6A (Lot 6 is the lake lot). There is an existing 20' road way platted between the lots that separates Lot 6 and Lot 6A. The applicant will not need a variance to build an accessory building because they meet the all the Lake Park setbacks. The proposed location of the shed is approximately 12' from the side lot line and approximately 39' from the edge of the road. Please see Findings of Fact and Conclusions of Law on file with this application. Motion passed unanimously.

Theisen stated that McCluskey has sections of a wood split rail fence toward the water and along the property line to the south. Theisen stated that McCluskey also has the wood split rail fence around the area where they park west of Cobblestone Lane. Theisen stated she couldn't find the building permit for the existing fence, McCluskey stated that he would like to replace the existing fence since it has become an eye sore and it is deteriorating. He would like to replace it

with vinyl split rail fence. Motion by DeBoer, seconded by Grabow to authorize the Zoning Officer to grant a building permit to Tabb McCluskey to upgrade the existing fence in the same location and not to charge the building permit fee. Motion passed unanimously.

Motion by DeBoer, seconded by Brandt to approve Variance to build/replace an accessory building no closer than 30' from the high-water-mark and to meet the other Lake Park setbacks requested by the applicant/owner Hal & Terri Clemensen on their property on Lots 63-64 Thokola Beach in Gov't Lots 1 & 2 & NE1/4NW1/4 of the Section 8-114-47, Norden Township, Lake Cochrane, Deuel County, South Dakota. Clemensen couldn't attend the meeting so Theisen stated Hal & Terri Clemensen purchased this lot in 2018. The applicants removed the old shed and built a new shed less than 50' from the high-water mark. The existing shed was very old and had rotting corners and floor. Theisen did research and couldn't find a building permit or a variance for the old existing shed. However, Theisen did find pictures for the retaining wall in 2001 and it showed the existing shed and location. The existing shed was located approximately 30' from the high-water-mark and they built a new 8' x 12' shed in the same location. The shed is located more than 10' from the property line. There were no objections. Please see Findings of Fact and Conclusions of Law on file with this application. Motion passed unanimously.

Motion by Brandt, seconded by DeBoer to approve a Variance to build an older bin no closer than 50' from the road right-of-way requested by applicant Ronald Tvedt, owner, Ronald Tvedt Family Trust on his property on E1/2E1/2 Less N161' S568' E235' SE1/4NE1/4 of the Section 12-114-49 Brandt Township, Deuel County, South Dakota. Ron Tvedt has owned this property for many years. Mr. Tvedt is requesting to build a less than 65' from the road right-of-way. Tvedt would like to build a 42D x 26H 2013 Bock bin approximately 57' from the road right-of-way (approximately 90' from the center of a 33' ROW). The existing bins are approximately 54' from the 33' ROW (approximately 87' from the center). Mr. Tvedt would like to keep the bins in alignment. There were no objections. This Variance does not apply to any new structures that are built on the property. Please see Findings of Fact and Conclusions of Law on file with this application. Motion passed 4-1.

Motion by Dahl, seconded by Grabow to approve a variance to plant one row of trees no closer than 1' from the road right-of-way located to south and to have more than 4 trees in a row in the controlled area no closer than 40' from the road right-of-way located to the south requested by Cordell & Phyllis Fox on their property on E690' S1345' less HWY in the SE1/4 of the Section 10-115-49 in Clear Lake Township, Deuel County, South Dakota. Applicant/owners, Cordell & Phyllis Fox applied for a variance they are requesting to plant trees within the 50' from the road right-of-way and to have more than 4 trees in a row in the controlled area. The applicant would like to plant one row of approximate 9 new trees with some older trees approximate 1' feet from the road right-of-way, the other 22 apple trees that are within the 100' controlled area from the house and barns are approximate 90' from the the center of the road which is 40' from the road right-of-way they would be horizontal (parallel) to the road right-of-way. Foxs' have existing windward row of trees (furthest north row of trees) located more than 150' from the road right-of-way. This property is located north of a county road (180th St) that has a 50' road right-of-way. The applicant has received written permission from Jamie Broksieck Deuel County Hwy Superintendent to allow them to plant one row trees within the 50' road right-of-way setback, approximate 1' from the ROW. There were no questions or objections. Please see Findings of Fact and Conclusions of Law on file with this application. Motion passed unanimously.

Motion by DeBoer, seconded by Brandt to approve a Condition Use Permit request by the applicant/owner, Jeremy Wipf, to operate an Extended Home Occupation (Spray Foam Business) on his property described as NE1/4NW1/4NE1/4 & W268' N661.47' NE1/4NE1/4 of Section 28-113-47, Scandinavia Township, Deuel County, South Dakota. Wipf was granted a Special Exception to operate an auto and equipment sales business, spray foam business, and to have a single-family residence in a Commercial District in 2019. Wipf rezoned this property from Commercial District to Agricultural District on May 16, 2023 and the effected date is July 4, 2023. Theisen stated Wipf rezoned the property to Commercial District with the intention to operate auto and equipment sales business however that business was not started. In the updated Commercial District, single-family residences are not allowed and that is why Wipf applied to rezone the property back to Agricultural District, where a single-family residence is permitted. That is why he is applying for a CUP for extended home occupation for spray foam business in the existing accessory building which it meets the setback requirement. Theisen stated that Wipf informed the office that he has 6 employees (himself, 2 brother-in-law's and 3 cousins. If approved, Wipf would be required to sign a Letter of Assurance agreeing to the following conditions:

1. An extended home occupation may not be changed to another home occupation except by the issuance of a separate conditional use permit.
2. Individuals engaged in such occupation shall consist of family members residing on the premises and up to three (3) non-family employees.
3. 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.
4. 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.
5. 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.
6. Extended home occupations should be agriculturally related and be conducted in an accessory building.
7. 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.
8. 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 decided to waive the Conditional Use permit. Motion passed unanimously.

Motion by Dahl, second by Brandt, to recess the Board of Adjustment and reconvene as Planning Commission. Motion passed unanimously.

Motion by Dahl, second by DeBoer, to recommend approval to the Board of County Commissioners the Plat of Parker Third Addition in NW1/4 of Section 15, T114N, R50W. Motion passed unanimously.

Motion by Grabow, second by DeBoer, to recommend approval to the Board of County Commissioners the Plat of Brian And Vanessa Moe Addition in S1/2 of Section 12, T116N, R49W. Motion passed unanimously.

Motion by Dahl, second by Grabow, to not have the regular zoning meeting on July 10, 2023 since the Zoning Office only has one variance application, and to have the variance application on July 18, 2023 with the Joint Meeting the Deuel County Commissioners. Motion passed unanimously.

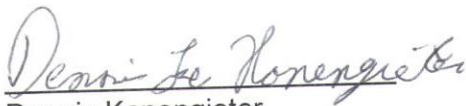
Motion by Grabow, second by Brandt, to recess the Planning Commission and convene only as the Board of Adjustment. Motion passed unanimously.

Theisen informed the board that she was asked to define the setbacks for CAFO'S. Theisen stated that the Deuel County Zoning Ordinance applies the setbacks for a CAFO from the barns that house the animals and from the lagoons located in the CAFO. The building permit will pertain to the current setbacks, for instance a machine shop, commodity shed and feed pad would need to meet the setbacks from the road right-of-way and the dairy barn, feed lot or manure lagoons would need to meet the CAFO setbacks. Theisen also informed the board about the ordinance amendments: sizes of accessory sheds in LP, private storage in LP and scrivener's errors which will be discussed on July 18, 2023 with a joint meeting with the Deuel County commissioners. Theisen informed the board that an adjoining property owner expressed concerns about their neighbor that planted four rows of trees which they thought was within the setback. Theisen went to the site to measure and stated that the trees met the setback of 25' from adjoining property line and more than 50' from the ROW. Theisen stated when she was measuring, she visited with the property owner and informed them that they need a shelterbelt application for the trees planted to the north of the property and they need permission from the north property owner. Theisen informed the board about 2 previous SEP for campers in LP (2017 and 2012) which are still valid (until they sell the land) and they don't need to apply for a new Special Permitted Use. She stated she has been getting questions and feedback for the Special Permit use for campers in the Lake Park.

Motion to adjourn made by Dahl, second by Kanengieter. Motion passed unanimously.
Meeting adjourned at 9:30 p.m.



Jodi Theisen
Zoning Officer



Dennis Kanengieter
Chairman, Zoning Board