

Monday March 11, 2019

The Deuel County Zoning Board met on Monday, March 11, 2019, at 6:30 p.m., in the Commissioner's Room of the Courthouse in Clear Lake. Those present were members Dennis Kanengieter, Steve Rhody, 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 February 11, 2019 meeting were discussed. Motion by Brandt, seconded by DeBoer, to approve the February 11, 2019 minutes. All voted in favor and motion carried.

Motion by Dahl, seconded by Brandt, to amend the August 14, 2017 minutes to state: The Deuel County Ground Water Protection Zones Map shows the site to be located in an area included in a Zone B which is a swallow aquifer. All voted in favor and motion carried.

Motion by DeBoer, seconded by Rhody, to approve the March 11, 2019 Agenda. All voted in favor and motion carried.

Otter Tail Power Company applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: N1/2NW1/4 Except Lots H-1, H-2, & H-3 (to be platted as "Otter Tail Power Addition") in Section 27-113-48, Scandinavia Township, Deuel County, South Dakota, for Essential Services in order to construct substation in an Agriculture Zoned District. Michael Walls, from Otter Tail Power Company, stated that the site will be 5.77 acres and it will have a fence surrounding the substation. They are planning on purchasing the land for the proposed site from Gary L & Sherri Johnson. The proposed substation will provide construction and start up power to the Astoria natural gas plant and backup power to the Astoria control building. They will remove the pole substation that is located along the south highway right-of-way line and replace it with the proposed substation approximately 150 feet south of the highway right-of-way. A road access permit was submitted to the South Dakota DOT for access from Hwy 28 as shown on the survey map attached to the application. The proposed substation is on a wellhead protection area. The site is eligible for a substation as a permitted facility within the meaning of Deuel County Zoning Ordinance. It will have a petroleum storage of less than 1,500 gallons in an above-ground storage tank. The substation will be designed to prevent contamination of groundwater according to the Zoning Ordinance. They will meet all performance standards as set forth in 1105.12 (3) including a concrete secondary containment system. 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 Dahl, seconded by DeBoer, to grant the Special Exception for Essential Services in

order to construct substation 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 by the South Dakota DOT.

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 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: Does not apply.

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 there are no residences within close proximity 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. Does not apply.

Prairie View Golf LLC and John Appelen applied for a Variance Permit of Section 101.04. The request, if granted, would permit the applicant to use the following property: Lot 1 Grabow Fourth Addition in Gov Lot 1 in the NE1/4 in Section 5-114-47, Norden Township, Deuel County, South Dakota, to move in a double garage for golf carts with less than 150 feet of front yard, which is closer than County zoning regulations allow in an Agriculture Zoned District. John Appelen couldn't attend the meeting and Dean Maeyaert represented the applicant. Zoning Officer Theisen stated that she and Zoning Board Member Mike Dahl visited the site were the applicant staked the proposed site. The proposed garage would be approximately 56' from the road right-of-way and the ordinance set back is 150' for the minimum depth of the front yard. The applicant stated on his drawing and application that the proposed garage would be approximately 56' from the road right-of-way. Motion by Brandt, seconded by Rhody,

to grant the Variance to move in a double garage for golf carts no closer than 50' from the road right-of-way. All voted in favor and motion carried. The findings for this Variance are the proposed building will not cause any greater snow or safety concern.

John Lentz and Casey Namken applied for a Special Exception Permit and a Variance. The request, if granted, would permit the applicant to use the following property: Lot 13 Shady Beach Addition in Gov Lot 7 in the SE1/4 in Section 4-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota.

- In the following manner: To apply for a Special Exception Permit for Shoreline Alterations and for a Variance to remove and replace a stairway within 35' of the high-water mark which is closer than the County zoning regulations allows in Lake Park Zoned District.
- In the following manner: To apply for Special Exception Permit to operate a private campground in a Lake Park Zoned District.

John Lentz owns the property but Casey Namken is the one applying and would do the work for the stairway and it would be his Ice Castle/camper on the lot. Namken stated that he has a written agreement for the use of the property with the agreement Namken will maintain the property and rebuild the stairs. Namken stated that the stairs leading to the water are unusable and he would like to replace them with treated lumber and new posts. He will remove the old post and dig new holes for the new posts. The stairway will be within the 35' from the high-water mark. Namken would like to park his Ice Castle/camper on the lot during the summer months. The Board asked Namken if the site had a septic tank or hooked up the Lake Cochrane Sanitary System. Namken stated no and that his Ice Castle doesn't have a bathroom. They will be using their friends house if they need to use the restroom and he stated that they probably won't be spending the evening there. 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 Dahl, seconded by Rhody, to grant the Special Exception to permit a private campground for one camper on said lot; no commercial camping is allowed. This special exception is good for one year and the applicant would need to reapply before May 1, 2020. 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 the camper located 50' from the road which 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 adequate parking.

- c) Utilities, with reference to locations, availability, and compatibility: No extra utilities are required.
- d) Screening and buffering with reference to type, dimensions, and character: Applicant has sufficient screening on both sides of Lentz's 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: Does not apply.
- 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.

Motion by Dahl, seconded by DeBoer, to grant the Special Exception Permit for Shoreline Alterations and for a Variance permit of Article XI Section 1102.04 Rear Yard: to remove and replace the stairway with the requirement that mesh or landscape fabric is installed under the new stairway to prevent erosion.

Steve & Lisa Hauswedell applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lot 18 Grabow Addition in the NE1/4 in Section 5-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota, to operate a private campground in a Lake Park Zoned District. Hauswedell would like to renew their special exception for a private park exception so they can park their camper on the lot for the summer. Hauswedell stated that he is working on his permanent structure and would like to park his camper there while he is working. Theisen stated the Zoning Office has had no complaints from the neighbors. 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 one camper on said lot; no commercial camping is allowed. This special exception is good for two years and the applicant would need to reapply before May 1, 2021. 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 adequate parking

c) Utilities, with reference to locations, availability, and compatibility: No extra utilities are required.

d) Screening and buffering with reference to type, dimensions, and character: Applicant has sufficient screening on both sides of their 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: Does not apply.

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.

Dennis Renkly applied for a Special Exception and Variances. The request, if granted, would permit the applicant to use the following property: S1/2 Lot 39, Lots 40, 41, 42, & 43 Severson Bay in Gov Lot 5 in the NE1/4 in Section 5-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota.

- In the following manner: The applicant is requesting permission to alter the shoreline by removing some bushes and a tree within 35' of the high-water mark in the Lake Park Zoned District.

- In the following manner: The applicant is requesting permission to remove a 2nd stairway and replace a stairway which is within 35' of the high-water mark in the Lake Park Zoned District.

- In the following manner: The applicant is requesting permission to build a deck extending into the 50' of the high-water mark which is closer than County zoning regulations allows in the Lake Park Zoned District.

Renkly stated that he would like to build a house, garage, deck and a walk out basement with a patio that is within 35' off the high-water mark. Renkly would like to remove two trees and some bushes that are within the 35' of the high-water mark. Renkly stated that he has two stairways going to the shoreline and he would like to remove one of the stairways that is located toward the north of his property. Renkly would like to keep the stairway that is in the middle of his lot if it lines up with the walk out patio. Renkly stated that part of the patio he would like to build is within 35' off the high-water mark; they would like to remove about 25 to 30 yards of dirt and pour a concrete pad. Renkly stated that they measured off of google earth and the proposed deck would be right at the 50' from the high-water mark, but he isn't 100% sure that the deck will be 50' from the high-water mark, so he applied for a variance. The Board stated that Renkly should come back to the board with a detailed plan for the shoreline alterations and dirt removal. The Board would like to have a topographic map with the elevations to determine the amount of dirt that would be removed. Also they would like to know the distance the deck would be from the high-water mark to know if a variance would be needed. Motion by Brandt, seconded by Dahl, to postpone the Special Exception to alter the shoreline by removing some bushes, 2 trees, and some dirt for a patio within 35' of the high-water mark in the Lake Park Zoned District.

Motion by Brandt, seconded by Dahl, to postpone the Special Exception and Variance permit to alter the shoreline by removing the 2nd stairway and to replace stairway which is within 35' of the high-water mark in the Lake Park Zoned District.

Motion by Brandt, seconded by Dahl, to postpone the Variance to build a deck within 50' of the high-water.

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

Motion by Rhody, seconded by DeBoer, to approve Plat of Lot 1 Pheasant Ridge Addition in the N1/2 of Section 12, T116N, R49W of the 5th P.M., Deuel County, South Dakota. All voted in favor and motion carried.

Motion by DeBoer, seconded by Brandt, to approve Plat of Otter Tail Power Addition in a part of the NW1/4 of Section 27, T113N, R48W of the 5th P.M., 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.

Modak Dairy, Jacob and Jim Moes, came and talked to the board about the possibility to build a Class A CAFO and would like to know the requirements if they would have 3999 animal units. Jacob stated that they will apply for a State Permit and they would have a lagoon. This CAFO would be for baby dairy calves up to springers. They have these animals at multiple different sites and they would like to have them all together. This CAFO would be within the set back from a residence and a well. They have talked

to that property owner and they will have a letter stating that they are ok with the proposed CAFO. Moes are aware that there are proposed wind turbines to the north, south, and east of this proposed site.

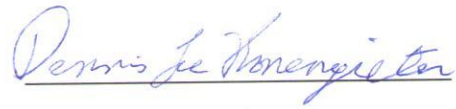
Motion by Dahl, seconded by DeBoer, that a CAFO (Concentrated Animal Feeding Operation) is considered an Agricultural use not a "business" under Section 1215 Wind Energy Systems (WES) of the ordinance. All voted in favor and motion carried.

Kanengieter called the meeting.



Jodi Theisen

Zoning Officer



Dennis Kanengieter

Chairman, Zoning Board