

**April 4, 2022 BOARD OF ADJUSTMENT/ PLANNING COMMISSION  
DEUEL COUNTY  
STAFF REPORT**

Monday – April 4, 2022 – 6:30 p.m.

**DEUEL COUNTY BOARD OF ADJUSTMENT**

**ITEM #1 SPECIAL EXCEPTION**

**Applicants/Owner: Mark & Beth Jessen**

**Property Description: Lot 1 in Block 4 Dakota Bluffs Addition in Gov Lot 1 of Section 8-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota.**

**Action Items – Special Exception – (1103.4.8 – Accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road)**

**Zoning Designation: LP – Lake Park**

**Request: Applicant/Owner (moved a storage shed) Accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road.**

**History/Issue(s):**

1. The applicant is requesting to have a 8' x 12' personal shed on their back lot.
  - a) Location of storage shed meets the setback requirement.
2. Deuel County Ordinance requires that a landowner go through the Special Exception Process to have accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road in the "LP" District.

**Ordinance and Comprehensive Land Use Plan regarding this request:**

- o This lot will have access off of Edgewater Drive which is maintained by Deuel County
- o The site has room for off street parking;
- o They have efficient utilities; Water is provided by Brookings-Deuel Rural Water, they have been in contact with Lake Cochrane Sanitary District. They did not provide a plan for trash. Electricity is provided by H-D.
- o They have efficient Screening and Buffering and the shed will be located approximately 10' from the side lot line; they have trees located to the north applicant does not intend to plant trees or build a fence for screening.
- o They are not having any Signs;
- o They have have efficient yard space and other open space, the shed is approximately 83' from the edge of the road, approximately more than 50' from the back lot line and approximately 20' from the side lot line;

**Staff Summary**

**Special Exceptions Permit – Accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road: The application may be approved, postponed, or denied.**

**Staff recommendation:**

**Special Exceptions Permit – Accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road (1103.4.8): 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 Accessory Buildings and Uses and the applicant's ability to meet the requirements for a special exception described in ordinance.**

**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. Please see Findings of Fact and Conclusions of Law on file with this application.**

## **ITEM # 2 SPECIAL EXCEPTION**

**Applicants/Owners: Jeffrey & Darlene Abraham**

**Property Description: Lots 13 & 14 Lake Alice Shores in SW1/4 of Section 7-116-48, Lake Alice, Altamont Township, Deuel County, South Dakota.**

**Action Items – Special Exception – (1103.4.9 – Storage)**

**Zoning Designation: LP – Lake Park**

**Request: Applicants/Owners to build a storage shed on their property.**

### **History/Issue(s):**

1. The applicant is requesting to build 36' x 56' personal storage shed.
  - a) Location of storage shed meets the setback requirement.
2. Deuel County Ordinance requires that a landowner go through the Special Exception Process to have storage in the "LP" District.

### **Ordinance and Comprehensive Land Use Plan regarding this request:**

- o This lot has an existing access off of Lake Alice Drive which is maintained by property owners;
- o The site has room for off street parking;
- o They have efficient utilities; water is provided by Brookings-Deuel Rural Water, they have a septic tank. They take their trash home. Electricity is provided by H-D.
- o They have efficient trees planted for Screening and Buffering;
- o They are not having any Signs;
- o They have have efficient yard space and other open space, the shed is approximately 150' from the road, approximately 137' from the high water mark and approximately 10' from the side lot line;

### **Staff Summary**

**Special Exceptions Permit – Storage: The application may be approved, postponed, or denied.**

### **Staff recommendation:**

**Special Exceptions Permit – Storage (1103.4.9): 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 a Storage and the applicant's ability to meet the requirements for a special exception described in ordinance.**

**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. Please see Findings of Fact and Conclusions of Law on file with this application.**

## **ITEM #3 VARIANCE**

**Applicants/Owners: Craig & Darla Jelen**

**Property Description: Rhyne Third Addition in E1/2SW1/4 of Section 18-116-49, Goodwin Township, Deuel County, South Dakota.**

**Action Items – Variance – ( 1208 – Shelterbelt Setback Requirements)**

**Zoning Designation: AG – Agricultural**

**Request: Applicants/Owners to plant a shelterbelt that is closer than the ordinance allows.**

**Specifics of Property/Request:**

1. The Jelen's recently purchased the platted land of 12 acres with existing shelterbelt from family.
2. The Jelen's would like to build a house and some outbuildings in the future on this property behind the existing shelterbelt.
3. They seek to plant 4 rows of trees starting approximately 108' north the road right-of-way in front of the existing older shelterbelt that looks rough.
4. This property is located north of a county road that has a 50' road right-of-way.
5. The Jelen's have received written permission from south, north and west property owners. The property owners to the west and north are also aware that shelterbelt will be located within 150' from the adjoining property line (approximately 25' from the property lines).

**Ordinance/Variance History regarding this request:**

## Section 1208

1. The Zoning Ordinance requires a 150' of a public road right-of-way on the north and west sides of roads. Shelterbelts shall not be established within 150' of adjoining property lines without written permission of adjoining property owners.
2. The board received requests for planting within the 150' from the road right-of-way and in the past the board has granted to plant a shelterbelt 50' of a public road right-of-way on the north side of road.

**Staff Summary**

## Section 1208

The Board has to decide whether the issuance of a shelterbelt less than 150' of a public road right-of-way on the north side of road would not produce undue hardship or be substantial detriment to adjacent property.

**Staff recommendation:**

**Variance Permit – Shelterbelt Setback Requirements (1208): The application may be approved, postponed, or denied. If approved, approval would be based on the board:**

1. That the intent of a shelterbelt is to protect yard, lots, buildings, livestock and residences recreation and wildlife from wind. This shelterbelt would also prior screening with reference to this request and warrants relaxation of the road right-of-way setback requirements.

**Denial** would be based upon:

1. Granting this variance would confer special privilege that is denied by this ordinance to other property in the district.

**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. Please refer to the Findings of Fact and Conclusions of Law on file with the application.**

**ITEM #4 SPECIAL EXCEPTION**

**Applicant/Owner:** Joel Wipf

**Property Description:** S270' E1030' & N280' S550' W555' E1030' in S1/2NE1/4 of Section 25-113-48, Scandinavia Township, Deuel County, South Dakota.

**Action Items – Special Exception – (1101.03.16 – Section 1210) Extended Home Occupation (Metal Fabrication Shop)**

**Zoning Designation:** AG – Agricultural

**Request:** Applicant/Owner to operate an Extended Home Occupation (Metal Fabrication Shop)

**History/Issue(s):**

Specifics of Request:

1. Wipf purchased this property in 2013 and it contains 9.92 acres.
2. Access to this property is 484<sup>th</sup> Ave which is a township road.
3. Due to change in previous occupation, which was construction, he would like to pursue work from home.
4. The applicant is requesting to operate an Extended Home Occupation (Metal Fabrication Shop) in existing accessory building.
  - a) Location of existing shed meets the setback requirement.
  - b) Work would include forming, welding and assembly.
5. No new accessory buildings are proposed at this time.
6. Deuel County Ordinance requires that a landowner go through the Special Exception 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 484<sup>th</sup> Ave which is maintained by Scandinavia Township;
- o The site has room for off street parking;
- o They have efficient utilities; water is provided by Brookings-Deuel Rural Water, they have to have a septic tank for future house. They will burn/have a trash service for trash. Electricity- 3 phase power is provided by H-D.
- o They have efficient Screening and Buffering and the existing shed is located approximately 500' from the road right-of-way and there are existing trees located to north and west;
- o They are going to have an on-site Signs – 8' x 8' located outside of the road right-of-way.
- o They have have efficient yard space and other open space, the shed is approximately 500' from the road right-of-way, approximately 140' from side lot line to the south, approximately 200' from side lot line to the north and approximately 90' from the side lot line to the east.

**Staff recommendation:**

**Special Exceptions Permit – Extended Home Occupation (Metal Fabrication Shop): 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):**

1. Individuals engaged in such occupation shall consist of family members residing on the premises and near the residence and up to three (3) non -family members.
2. Off-premises signage associated with the extended home occupation will be limited to South Dakota Department of Transportation (SDDOT) commercial, directional signs, also know as "Blue Signs".
3. On-premises signage may be permitted by the Zoning Officer subject to the following:
  - a) A maximum of 16 square feet of sign area will be allowed.
  - b) Sign will be non-illuminated.
4. 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.
5. 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.
6. The Conditional Use permit for the extended home occupation is non-transferable. Subsequent owners/operators will be required obtain a separate conditional use permit in order to continue the use for which this permit is granted.
7. Any failure to comply with the terms of this agreement will be deemed a violation of the terms of this Conditional Use permit. Violations will be determined by the Deuel County Zoning Officer. If violations are substantiated the Board of Adjustment may hold a hearing to consider revocation of this Special Exception Permit.

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. Please see Findings of Fact and Conclusions of Law on file with this application.

#### ITEM #5 VARIANCE

**Applicant/Owner:** Tyler Broksieck

**Property Description:** Outlot 2 & N'LY 50' Railroad ROW in NW1/4 of Section 28-116-50, Goodwin Township, Deuel County, South Dakota

**Action Items – Variance – (Section 1101.04 Area Regulations)**

**Zoning Designation:** AG – Agricultural

**Request:** Applicants/Owners to build a new machine shed and breezeway to an existing house with less than 150' from the front yard.

#### **Specifics of Property/Request:**

1. Broksieck has owned this parcel which contains 10.55 acres since 2007.
2. Broksiecks would like to build a new machine shed and breezeway to an existing house with less than 150' from the front yard.
3. The existing house is approximately 30' from the ROW and they would like to add approximately 16' x 20' breezeway to house and then an approximately 40' x 60' machine shed/garage that will not be closer to the road right-of-way than other property lines.
4. This property is located east of a county road that has a 50' road right-of-way.

#### **Ordinance/Variance History regarding this request:**

Section 1101.04.2 Area Regulations requires the setback to be 150 feet from road right-of-way. However, Section 1101.04.8 gives the Board the authority to decrease that setback if *building additions that are no closer to the right-of-way or other property lines* occurs. The Board is working on updating the current ordinance and will have this section clearer and more defined.

#### **Staff Summary**

Section 1101.04 Area Regulations

The Board has to decide whether the issuance of a new machine shed and breezeway to an existing house with less than 150' from the front yard on the east side of road would not produce undue hardship or be substantial detriment to adjacent property.

#### **Staff recommendation:**

**Variance Permit – Section 1101.04 (Area Regulations): The application may be approved, postponed, denied or disregard. If approved, approval would be based on the board:**

1. That the intent of a 150' setback from a road right-of-way is a visual and safety issue. However, in this situation the proposed breezeway and machine shed/garage additions to the house which are no closer to the right-of-way or other property lines occurs than existing structure (house).

Denial would be based upon:

2. Denial of this variance application due to the breezeway and machine shed/garage additions are no closer to the right-of-way or other property lines than existing structure (house).

**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. Please refer to the Findings of Fact and Conclusions of Law on file with the application.**

**ITEM # 6 PLAT**

**Applicants/Owners: Antony Weber, William T Weber and Mary Spartz**

**Property Description: Weber Addition in SE1/4 of Section 22, Township 117 North, Range 49 West of the 5th P.M., Deuel County, South Dakota.**

**Request: Plat a 8.25 acres irregular shaped parcel for estate planning purposes.**

**Action Item –Plat approval.**

**ITEM # 7 PLAT**

**Applicant/Owner: Toben Limited Partnership**

**Property Description: Magedanz Second Addition in SE1/4 of Section 32, Township 117 North, Range 48 West of the 5th P.M., Deuel County, South Dakota.**

**Request: Plat 15.41 acres for estate transferring purposes.**

**Action Item –Plat approval.**

**ITEM # 8 VACATION OF PLATS**

**Applicant/Owner: Global Dairy Limited Partnership**

**Property Descriptions:**

**GLOBAL DAIRY ADDITION LOCATED IN THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 113 NORTH, RANGE 50 WEST OF THE 5TH P.M., DEUEL COUNTY, SOUTH DAKOTA.**

**Request:**

The affiant, as the owner of Global Dairy Addition Located in the Southwest Quarter and the Southeast Quarter of Section 21, Township 113 North, Range 50 West of the 5th P.M., Deuel County, South Dakota, recorded in Packet 40E in the Office of the Register of Deeds, Deuel County, South Dakota, hereby executes this instrument to vacate said Global Dairy Addition Located in the Southwest Quarter and the Southeast Quarter of Section 21, Township 113 North, Range 50 West of the 5th P.M., Deuel County, South Dakota. The said property is 111.67 Acres in size and it is the intention of this affiant to vacate said property.

**Property Descriptions:**

**ARIEAN AND SHERMAN SECOND ADDITION LOCATED IN THE SOUTHEAST QUARTER AND THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 113 NORTH, RANGE 50 WEST OF THE 5TH P.M., DEUEL COUNTY, SOUTH DAKOTA.**

**Request:**

The affiant, as the owner of Arieian and Sherman Second Addition Located in the Southeast Quarter and the Southwest Quarter of Section 21, Township 113 North, Range 50 West of the 5th P.M., Deuel County, South Dakota, recorded in Packet 50F in the Office of the Register of Deeds, Deuel County, South Dakota, hereby executes this instrument to vacate said Arieian and Sherman Second Addition Located in the Southeast Quarter and the Southwest Quarter of Section 21, Township 113 North, Range 50 West of the 5th P.M., Deuel County, South Dakota. The said property is 37.4 Acres in size and it is the intention of this affiant to vacate said property.

**Action Item –Vacations approval.**

**ITEM # 9 PLAT**

**Applicant/Owner: Global Dairy Limited Partnership**

**Property Description: Global Dairy Second Addition Located in the S1/2 of the NW1/4, SW1/4 and the SE1/4 of Section 21, Township 113 North, Range 50 West of the 5th P.M., Deuel County, South Dakota.**

**Request: Plat 388.57 acres for CAFO planning.**

**Action Item –Plat approval.**

**ITEM # 10 STATES ATTORNEY**

**Discussion about burn ordinance, Altamont Deed and tree violation.**

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