

Monday October 15, 2018

The Deuel County Zoning Board met on Monday, October 15, 2018, at 6:30 p.m., in the Commissioner's Room of the Courthouse in Clear Lake. Those present were members Dennis Kanengieter, Mike Dahl, Steve Rhody, Paul Brandt, and Kevin DeBoer. Also present were States Attorney John Knight and Zoning Officer Jodi Theisen.

Chairman Dennis Kanengieter called the meeting to order.

Motion by Rhody, seconded by Brandt, to approve the Agenda for October 15, 2018. All voted in favor and motion carried.

Motion by Dahl, seconded by Rhody, to approve the September 20, 2018, minutes. All voted in favor and motion carried.

Motion by Rhody, seconded by Kanengieter, to amend the August 13, 2018 minutes. The legal for Will Stone's Special Exception was incorrect. The legal should read Lots 19 & 20 Grabow 2nd Addition in Gov Lot 2 in NE1/4 & SW1/4NE1/4, Lake Cochrane, in Section 5-114-47, Norden Township, Deuel County, South Dakota. All voted in favor and motion carried.

David Haas applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lot 8 Lake Alice Shores in Gov Lots 2,3,4,5 & SE1/4 of SW1/4 in Section 7-116-48, Altamont Township, Deuel County, South Dakota, to alter the shoreline within 35' from the high water mark in a Lake Park District. Kim Mitchell stated that David Haas could not attend the meeting. Mitchell stated that the shoreline has an aggressive ridge and rocks at the entry of the water. They are looking to slope the land, making a smoother transition into the water. There will be no destruction of the water way and only the land will be altered. They would remove all the current vegetation and plant grass. Motion by Brandt, seconded by Dahl, to grant the Special Exception to reshape the shoreline within the 35' from the high water mark within the Lake Park District. They cannot remove the rocks; they can only relocate the rocks along the shoreline, and they cannot commence the project until the spring of 2019. All voted in favor of and the motion carried.

Chad Boehnke applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lot 7 Lake Alice Shores in Gov Lots 2,3,4,5 & SE1/4 of SW1/4 in Section 7-116-48, Altamont Township, Deuel County, South Dakota, to alter the shoreline within 35 from the high water mark in a Lake Park District. Chad Boehnke could not attend the meeting. Motion by Brandt, seconded by Rhody, to table the Special Exception request to alter the shoreline within 35 from the high water mark in a Lake Park District. All voted in favor and motion carried.

Ottertail Power Company applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property which is owned by East River Electric: SW1/4SW1/4 in Section 16-116-47, Glenwood Township, Deuel County,

South Dakota, for Essential Services to continue operation of an existing substation. Wayne Preston stated that they would like to build an accessory equipment shed that is 16' x 32' on the property that is owned by East River Electric. Theisen stated that the property was purchased in 1970 by East River and there was no Special Exception for Essential Services. However, on June 22, 1979 there was a Special Exception for "Towers" issued to East River. Regardless of the issuance of building permits since that time, 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. Ottetail has entered into a Transmission Interconnection Agreement with East River and has purchased some equipment in the Blair Substation. East River has consented to the building of the proposed accessory building. 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 Rhody, seconded by Brandt, to grant the Special Exception for Essential Services to continue operation of an existing substation in an AG Zoned 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 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: 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: 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 AG 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. They would not need any commercial services.

Ronald Golden from East River Electric Coop., Inc. and H-D Electric Cooperative, Inc. applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: SW1/4SW1/4 in Section 16-116-47, Glenwood Township, Deuel County, South Dakota, for Essential Services to continue operation of an existing substation. Golden stated that they would build an accessory equipment shed that is 28' x 48' on the property that they own. The property was purchased in 1970 by East River and there was no Special Exception for Essential Services. However, on June 22, 1979 there was a Special Exception for "Towers" issued to East River. Regardless of the issuance of building permits since that time, 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 DeBoer, seconded by Dahl, to grant the Special Exception for Essential Services to continue operation of an existing substation in an AG Zoned 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 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: 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: 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 Commercial 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. They would not need any commercial services.

Mike Wengler applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lot 21 Bostic Beach in Gov Lots 3 - 5 in Section 4-114-47, Norden Township, Lake Cochrane, Deuel County, South Dakota. Wengler stated that his shoreline is washing away and he would like to place fabric and rock along the shoreline to help stop erosion. Wengler stated he wouldn't remove any dirt. He will use the same fabric and rock that his neighbor Kenneth Tekrony used. Motion by DeBoer, seconded by Rhody to grant the Special Exception to alter the shoreline within the 35' from the high water mark with fabric and field rock to help stop erosion. All voted in favor of and the motion carried.

Doris Myers applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lot 18 Bostic Beach in Gov Lots 3 - 5 in Section 4-114-47, Norden Township, Lake Cochrane, Deuel County, South Dakota. Myers stated that her shoreline is washing away and she would like to place fabric and rock along the shoreline to help stop erosion. Myers stated that they have applied to help stop the erosion twice before and the high water is damaging the shoreline. Myers stated they are going to do their own work and they are going to do the project when the ground is frozen. They are going to place fabric down, place large field rock, and then place blocks on top toward the grass. They are not going to remove any dirt. Motion by Dahl, seconded by DeBoer, to grant the Special Exception to alter the shoreline within the 35' from the high water mark with fabric and larger field rock to help stop erosion. All voted in favor of and the motion carried.

Tom Flicek Representing the Estate of Robert J Flicek applied for a Variance Permit. The request, if granted, would permit the applicant to use the following property: Lots 35-36-37 in Severson Bay in Gov Lot 5, in NE1/4 Section 5-114-47, Lake Cochrane to replat three lots into two lots with Lake Frontage less than the ordinance requires which is 75 feet of lake footage in a Lake Park Zone District. Tom Flicek, stated that Flicek's built the original cabin on a 60' lot, then they purchased 20' in 1976, and the additional 40' in 1986. Flicek stated that the ordinance was changed in 1982 so the original cabin was built before that. The variance would allow two 60' lake frontages and would allow the lots to be sold at a lower price and to have more growth for the county. The two lots would have the ability to have two homes on them instead of only one home. Flicek stated that he would remove the garage on the one lot and would remove the mudroom

on the house on the other lot. Flicek stated the board has granted variances in the past to split lots, creating lots with less than 75 foot of Lake Frontage. The board stated that one particular variance was granted because the two owners purchased the lot to split in the future to have their own lots. The other variance was commercial land and split into two lots for residential. The board stated that they do not like to split contiguous lots into smaller lots because houses are not getting any smaller. Motion by Dahl, seconded by Brandt, to table the Variance to replat three lots into two lots with lake footage less than 75 feet until the board can find out when the ordinance changed. All voted in favor of and the motion carried.

Global Dairy and Poinsett Hutterian Brethren applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: SE1/4 Less Lot H-1 & Less Arieon & Sherman Addition in Section 21-113-50, Grange Township, Deuel County, South Dakota, to build an Anaerobic Digester in an Ag Zoned District. Michael Crinion stated that Global Dairy is purchasing the land from the Poinsett Hutterian Brethren. The manure/process wastewater would go from the dairy to the digester and then come back to the dairy's manure management system. They might sell or flare off the gas. Duane Toenges stated that the Anaerobic Digester will be owned by his company Dynamic and they would lease the ground from Global Dairy. Toenges stated that Global Dairy would be part owners and they would be the first to purchase the digester when the lease is completed. Crinion stated that the footprint would be around 31 acres. The tanks will be bolted stainless steel. The returning liquid from the digester would be used for fertilizer for the neighbors. Rhody had questions about the taxes. Crinion stated that the taxes would go to the county and other entities. Crinion stated that this digester will reduce the odor from the lagoon. Kanengieter opened it up to public comments. Ben Stout stated that he is building a dairy by Bryant and he encourages the board to pass this application. Tim Thompson from Toronto stated that this project would decrease the odor from the lagoons.

- 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 Kanengieter, to grant the Special Exception for Essential Services to build an Anaerobic Digester in an Ag Zoned District contingent they get a permit from DENR. 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 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: Does not apply.

c) Utilities, with reference to locations, availability, and compatibility: Does not apply.

d) Screening and buffering with reference to type, dimensions, and character: Applicant has adequate screening and 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: 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 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. Does not apply

City of Clear Lake and Douglas Feten applied for a Variance Permit. The request, if granted, would permit the applicant to use the following property: City Park Addition to the City of Clear Lake located in SE1/4 of Section 15-115-49, Clear Lake Township, Deuel County, South Dakota, to plat a lot less than 3 acres in an AG Zone District. Ellen Schmahl & Mayor Gary Eide stated that the city would like to buy this property from Douglas Feten to add on to the existing city park. This plat would be connected to the existing park for the use of the public. Motion by Brandt, seconded by DeBoer, to grant the Variance to plat a lot less than 3 acres in an AG Zone District and to waive the \$200 Variance fee for another governmental entity. All voted in favor and motion carried.

Jeremy Wipf came and talked to the board about his property and some property he is interested in purchasing in Scandinavia Township. Wipf stated that he owns around 13 acres and would like to purchase some more land from the neighbors. He was inquiring about the steps needed to have an Insulation Business on the land he would like purchase. Wipf was wondering about rezoning the land and the permits he would have to apply for. The board stated that the seller would have to plat the land since it is less than 20 acres. He would then have to rezone the property from an Ag District to a Commercial District and apply for a Special Exception for a contractor's shop and yard for an Insulation Business.

The board asked Dale Heilman to come and talk about Jason Halverson's lot at Lake Alice. The Zoning Officer, Jodi Theisen was notified of some digging near the high water mark. The Zoning Officer notified Heilman about the dirt disturbance within the 35' from the high water mark. Theisen and Dahl went to the site before any dirt work

was done and measured the distance from the staked house to the high water mark and the side lot lines. Heilman and the zoning officer didn't have any conversations about the walkout basement and the dirt work. After the office received the call about the dirt work Theisen and Dahl went to inspect the lot and confirmed significant dirt work was done without a permit within 35' from the high water mark. Heilman via phone stated that he told the excavator to stay 35' from the high water mark. Heilman stated the basement has 4' footings and the dirt will be back filled toward the footings. Heilman stated that he put up a silt fence to help stop any erosion during the construction. Heilman stated that he submitted an application to alter the shoreline within 35' from the high water mark. Heilman stated that the owner would like to slope the shoreline to look like the neighbors. The board stated that they would like to have the dirt placed back in the hole that was dug by the excavator. They suggested placing straw or something to help stop any future erosion. The board stated they need to have a plan for the shoreline alteration for the next meeting and they will continue the discussion about the dirt work that was done without a permit.

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

Motion by DeBoer, seconded by Brandt, to approve the Plat of City Park Addition to the City of Clear Lake located in SE1/4 of Section 15-115-49, Clear Lake Township with approval of variance. All voted in favor and motion carried.

Motion by DeBoer, seconded by Brandt, to approve the Plat of Lot 1 Joseph and Clarice Uckert Addition in NE1/4 of the SE1/4 in Section 8-115-49, Clear Lake Township contingent upon application for a variance prior to recording the plat. All voted in favor and motion carried.

Motion by DeBoer, seconded by Brandt, to approve the Plat of Adam and Taylor Krause Addition in S1/2S1/2 in Section 18-115-49, Havana Township contingent upon application for a variance prior to recording the plat. All voted in favor and motion carried.

Kanengieter called the meeting.



Jodi Theisen

Zoning Officer



Dennis Kanengieter

Chairman, Zoning Board