

July 8, 2019

The Deuel County Zoning Board met on Monday, July 8, 2019, at 6:15 p.m., in the Commissioner's Room of the Courthouse in Clear Lake. Those present were members Dennis Kanengieter, Steve Rhody, Kevin DeBoer, Mike Dahl, Judith Homan, and Gary DeJong. Also present were States Attorney John Knight and Zoning Officer Jodi Theisen.

Chairman Dennis Kanengieter called the meeting to order.

Kanengieter appointed Gary DeJong and Judith Homan to be on the Deuel County Board of Adjustment to take the places of Dahl and Brandt.

Motion by Homan, seconded by DeBoer, to approve the July 8 2019 Agenda. All voted in favor and motion carried.

The minutes from the June 10, 2019, meeting was discussed. Motion by Rhody, seconded by DeJong to approved the June 10, 2019 minutes. All voted in favor and motion carried.

Kanengieter and Dahl recused themselves and Motion by Rhody seconded by DeJong, to appoint Kevin DeBoer the Acting Chairman to approve the Minutes from June 11, 2019 and for the approval of the Findings of Fact for the Tatanka Ridge Wind. All voted in favor and motion carried.

The minutes from the June 11, 2019, meeting were discussed. Motion by DeJong, seconded by Rhody, to approve the June 11, 2019 minutes. Acting Chairman DeBoer then called for a roll call vote: Rhody-yes, Homan-yes, DeJong-yes, DeBoer-yes and motion carried

ITEM ONE

The Deuel County Board of Adjustment considered the adoption of findings related to the special exceptions for Tatanka Ridge Wind Project that was approved at the June 11, 2019 meeting.

Theisen presented the Board with suggested findings for the special exception. The findings were prepared and reviewed by legal counsel based on the requirements of the ordinance as the Board requested after voting on approval of the special exception permit. The County's legal counsel is comfortable with the findings as drafted having been at the meeting.

After reviewing the proposed findings for the Tatanka Ridge Wind project Acting Chairman DeBoer called for a motion to approve and adopt the proposed findings for the north project as follows:

SEE ATTACHED

A motion was made by Homan and seconded by DeJong. Acting Chairman DeBoer then called for a roll call vote: DeJong-yes, Homan-yes, Rhody-yes and DeBoer-yes and motion carried.

After reviewing the proposed Letter of Assurance for the Tatanka Ridge Wind project Acting Chairman DeBoer called for a motion to approve the Letter of Assurance. Motion by Rhody,

seconded by Homan, to approve the Letter of Assurance for the North project. All voted in favor and motion carried.

Motion by DeBoer, seconded by Rhody to excuse Gary DeJong and to appoint Dahl and Kannengieter for the rest of the Board of Adjustment meeting. All voted in favor and motion carried

The minutes from the June 9, 2019, meeting were discussed. Motion by DeBoer, seconded by Rhody, to approve the June 9, 2019 minutes. All voted in favor and motion carried.

Motion by Dahl, seconded by Rhody, to amend the June 10, 2019 minutes. All voted in favor and motion carried..

ITEM TWO

Otter Tail and Joan Krause Myers applied for a Special Exception for an Essential Services. The request, if granted, would allow to construct a switching station to allow for interconnection of Deuel Harvest Wind to Big Stone South to Brookings 345 kV transmission line on the property described as SW1/4SW1/4 in Section 12-T116N-R48W, Glenwood Township, Deuel County, South Dakota. Wayne Preston, representative of Otter Tail, stated that they would like to construct a switching station to allow for interconnection of Deuel Harvest Wind to Big Stone South to Brookings 345 kV transmission line. Otter Tail Power has secured an option to purchase 40 acres, the company will own the land and maintain and operate the facilities related to the new, three-breaker Switching Station. Deuel Harvest will connect to our the switching station through their transmission interconnection line, which they have independently applied for. Access will be approximately 800 feet north of the intersection of 175th St and 483rd Ave in Glenwood Township. They stated that they have contracts with the wind companies and they will build this switching station with or without wind turbines in the area. They are working on getting the project done by late 2020. Mark Schmidt, representing the Glenwood Township, stated he has concerns about the township roads during construction. He would like to have Otter Tail have haul road agreements with the township and the county. He also stated he is in favor of the project.

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 a switching station. 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. Applicant needs to have haul road agreements with the township and the county.

- 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 has adequate 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 provided the property owner transfers the land to Otter Tail.
- 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 Agriculture 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 a roll off service at the temporary laydown yard.

ITEM THREE

Chris Ludvigson applied for a Variance. The request, if granted, would permit the applicant to use the following property: Outlot 2 (Replat of Outlot 1) in SW1/4 of Section 19-T115N-R48W, Clear Lake Township, Deuel County, South Dakota, to build a 10' x 20' deck with less than 150' of front yard in an Agriculture Zoned District. Theisen stated that she went and inspected the site and the house is approximately 114' from the road right-of-way, the proposed deck will be approximately 104' from the road right-of-way. Ludvigson also would like to put a 12' x 44' concrete pad behind his house. Motion by DeBoer, seconded by Dahl, to grant the Variance to build a 10' x 20' deck to existing house no closer than 100' from the road right-of-way in an Agriculture Zoned District. The findings for this Variance are it will not cause any greater snow or safety concern. It is an extra wide road right-of-way and there are trees located closer to the road right-of-way. All voted in favor of and the motion carried.

ITEM FOUR

Lyndon R & Kathleen M Limberg Trust applied for a Variance. The request, if granted, would permit the applicant to use the following property: SE1/4 of Section 30-T117N-R47W, Antelope Valley Township, Deuel County, South Dakota, to move in a 12' x 16' shed with less than 150'

of both front yards. Limberg stated the shed is approximately 141' away from the road right-of-way to the south & 128' away from the road right-of-way to the east. Motion by Dahl, seconded by DeBoer, to grant the Variance to move in 12' x 16' shed no closer than 140' from the road right-of-way to the south and no closer than 125' from the road right-of-way to the east in an Agriculture Zoned District. All voted in favor and motion carried. The findings for this Variance are it will not cause any greater snow or safety concern there is an existing shelterbelt located to the west and there are existing buildings closer to the road right-of-way.

ITEM FIVE

Douglas Stohr applied for a Special Exception Permit and Variance. The request, if granted, would permit the applicant to use the following property: E1/2NE1/4 & N1/2NE1/4SE1/4 Less W246' E346' N120' & Less S70' N190' E200' of Section 9-T115N-R49W, Clear Lake Township, Deuel County, South Dakota, to build shed with less than 150' of front yard and a Special Exception request for an Extended Home Occupation for seed sales out of proposed shed in an Agriculture Zoned District. Stohr stated he could not move the shed any further back because there is a gas line and power lines to the west of the proposed site. Stohr stated that he sells seed and that the shed will be storage and seed storage. It will not have an office. The shed is approximately 109' from the road right-of-way. Motion by DeBoer, seconded by Dahl, to grant a Variance to build a shed no closer than 100' from the road right-of-way and a Special Exception for Extended Home Occupation for seed sales. The findings for this Variance are it will not cause any greater snow or safety concern. There are existing buildings and trees located closer to the road right-of-way. There are power and gas lines located behind the proposed shed. 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. 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 has preexisting access to the property and proposed structures 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 has adequate screening.

- 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 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 a commercial garage service.

ITEM SIX

Michael J Magedanz & Gary L Magedanz applied for a Variance. The request, if granted, would permit the applicant to use the following property: S1/2 Less Lot 1 M-L Magedanz Sub in SW1/4 & Less H-1 in the SW1/4 & Less Lot H-1 in SE1/4 & Less HWY Row in S1/2 (Hwy 212) in Section 17-T117N-R48W, Lowe Township, Deuel County, South Dakota, to build a shed with less than 25' of side lot yard in an Agriculture Zoned District. Theisen stated that she drove past their property and noticed a shed with new siding. Michael stated that he removed an older shed and built a new shed in the same location. Magedanz platted out 3 acres for the the house and the rest of the land is under his name and his brother. Magedanz stated that the new shed is 2' to 5' from the house lot line to the west. Motion by DeBoer, seconded by Rhody, to grant the Variance to have a 36' x 40' shed approximately 5' from the west property line. The findings for this Variance are it will not cause any greater snow or safety concern. The adjoining lots are owned by the same property owner and they replaced the existing structure in the same foot print it would not cause a problem to be within the ordinance setbacks. The board advised the Zoning Officer not to charge Magedanz for Article VIII section 808 Violation and Penalty. All voted in favor of and the motion carried.

ITEM SEVEN

Larry & Janice Eining applied for Variances. The request, if granted, would permit the applicant to use the following property: Lot 1 LJ Eining Addition in NE1/4 in Section 27-T115N-R49W, Clear Lake Township, Deuel County, South Dakota, to plat a parcel and to retain existing building that is closer to the road right-of-way and the shelterbelts that are closer to the property line than what the ordinance allows. Eining stated that he applied for a variance prior for the shed that is approximately 76' from the road right-of-way. The trees are approximately 50' from the road right-of-way and up to the adjoining property lines to the north, west, and south. Eining stated that he got permission from the ITC and from Duke Frtiz to have existing trees up to adjoining property line. Motion by DeBoer, seconded by Rhody, to grant the Variance for the proposed plat with an existing building approximately 76' from the road right-of-way and the existing trees that are approximately 50' from the road right-of-way and up to the adjoining

property lines to the north, west, and south. The findings for this Variance are that they are platting this property. The variance will not cause any greater snow or safety concern. This property is a transition area next to city limits. It is an extra wide road right-of-way and there are trees located closer to the road right-of-way. All voted in favor of and the motion carried.

ITEM EIGHT

Daniel & Mary Loge applied for Variances. The request, if granted, would permit the applicant to use the following property: existing Lot 39 of Shady Beach Addition & Rhea 5th Addition in Gov Lot 7 in SE1/4 in Section 4-T114N-R47W, Lake Cochrane, Norden Township, Deuel County, South Dakota, to replat existing Lot 39 of Shady Beach Addition & Rhea 5th Addition into one lot having shoreline frontage less than 75' in width and to have an existing structure located within 50' from the high-water-mark. Dan Loge attended the meeting to talk about his property at Lake Cochrane. Loge stated that he and Rhea's realized when the Rhea Addition was platted the neighbor's deck was built over the lot lines. Rhea's sold the Rhea Fifth Addition to the Loge's to correct the property line issue. Loge would like to sell 25', Lot 38, to his neighbors the Finnegan's and is wondering how he could sell this property and be in compliance with the zoning ordinance. Loge replated the Rhea Fifth Addition and Lot 39 into one lot. He applied for a variance to have a lot with less than 75' of Lake Frontage to correct the property lot lines. Motion by Dahl, seconded by DeBoer, to grant the Variance for the proposed plat with one lot with 50' lake front frontage, to have existing building no closer than 4' from the side lot line, and existing structure no closer than 25' from the high-water-mark. The findings for this Variance are that it is correcting lots pursuant to a surveyor to correct the property lines and encroachments. They are moving any existing buildings or structures. All voted in favor of and the motion carried.

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

ISSUE ONE

Motion by DeBoer, seconded by Homan, to approve the Plat of Loge First Addition in Gov Lot 7 of Section 4-T114N-R47W of the 5th P.M., Norden Township, Deuel County, South Dakota,. All voted in favor and motion carried.

ISSUE TWO

Motion by DeBoer, seconded by Kanengieter, to approve the Plat of Lot 1 LJ Eining Addition in NE1/4 of Section 27-T115N-R49W of the 5th P.M., Deuel County, South Dakota. All voted in favor and motion carried.

ISSUE THREE

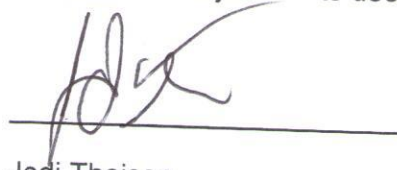
Motion by Dahl, seconded by DeBoer, to approve the Plat of Pederson Addition in the SW1/4 of Section 7-T114N-R50W of the 5th P.M., Deuel County, South Dakota. All voted in favor and motion carried.

ISSUE FOUR

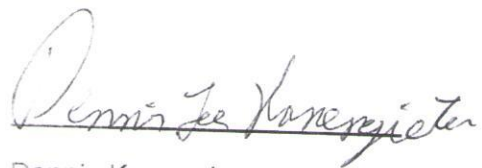
Motion by Dahl, seconded by Rhody, to approve the Plat of Tract 1 of Lot AB1 in portion of Lot H1 in The SE1/4 of Section 21-T115N-R47W of the 5th P.M., Deuel County, South Dakota contingent upon a determination that the proposed legal is a correct legal description. All voted in favor and motion carried.

ISSUE FIVE

Gerald & Victoria Jelen met with the board about their property at Lake Cochrane. Gelen's stated that they have ties to Lake Cochrane. They were wondering about the definition of, Section 242. Garage, Private, and the size of the garage door. They stated that the structure is mostly storage, work shop, and to hold excess family and it is not a dwelling. They don't cook in there and there is no kitchen sink. They stated that the current walk thru door is 40 inches and they had to remove the old garage door because of the slope of the roof line. They board stated that the roof change, the roof overhang, the concrete underneath, and the removal of the garage door were not included in building permit and variance application they applied for. The board discussed the removal of the garage door, definition of private garage in the ordinance, and the issue of more than one dwelling on the same lot. The board refers back to the Zoning Ordinance to determine whether the property is in compliance. The board discussed that this structure has bedrooms, a bathroom, a refrigerator, kitchen cabinets, and a utility sink. It doesn't fit the definition of Section 242. Garage, Private – An accessory building used for the storage of not more than four (4) vehicles owned and used by the occupant of the building to which it is necessary. Vehicles include cars, pickups, and boats. Motion by Dahl, seconded by Rhody, that the Jelen's have two options to have the structure attached to the existing house or make the structure appear more like a garage by installing at least a 7' door so it can be accessible by a vehicle and to come back to the board within 6 months with a plan. Chairman Kanengieter then called for a roll call vote: Dahl-yes, Homan-yes, Rhody-yes, DeBoer-no, and Kanengieter-yes and motion carried. States Attorney Knight stated that the Jalen's can appeal the Board of Adjustments decision to the circuit court.



Jodi Theisen
Zoning Officer



Dennis Kanengieter
Chairman, Zoning Board