

October 15, 2019

The Deuel County Zoning Board met on Tuesday, October 15, 2019, at 6:30 p.m., in the Commissioner's Room of the Courthouse in Clear Lake. Those present were members Judith Homan, Steve Rhody, Kevin DeBoer, Mike Dahl, and Paul Brandt. Also present was States Attorney John Knight.

Vice Chairman Paul Brandt called the meeting to order.

Motion by Rhody, seconded by DeBoer, to approve the October 15, 2019 Agenda. All voted in favor and motion carried.

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

The minutes from the September 30, 2019, meeting were discussed. Motion by Rhody, seconded by DeBoer to approve the September 30, 2019 minutes. All voted in favor of and motion carried.

ITEM ONE

Jerry & Debora Broksieck applied for a Variance of Section 1101.04.02 Front Yard. The request, if granted, would permit the applicant to use the following property: S157' E200' in the NE1/4 & N600' E650' in the SE1/4 of Section 29-T116N-R50W, Goodwin Township, Deuel County, South Dakota, to build a deck to existing house with less than 150' of front yard in an Agriculture Zoned District. Jodi Theisen, Deuel County Zoning Officer, stated that Broksieck would like to build an approximate 18' x 31' wood deck in front of her existing house and patio. The proposed deck would be elevated and it would be approximately 30' from the road right-of-way. Motion by DeBoer, seconded by Homan, to grant the Variance to build an approximate 18' x 31' wood deck in front of her existing house and patio that is no closer than 29' from the road right-of-way. The findings for this Variance are the deck is 16" to 24" off the ground with no railing and it will not cause any greater snow or safety concern. There are existing buildings to the north and west. The road has an extra wide road right-of-way which is 50' instead of 33'. All voted in favor of and the motion carried.

ITEM TWO

Darin & Teresa Namken applied for Special Exception Section 1103.4.9 Storage. The request, if granted, would permit the applicant to use the following property: Lot 3, E1/2 Lot 4, Lot 3A & Lot 4A in Severson Bay in Gov Lot 5 in NE1/4 in Section 5-T114N-R47W, Lake Cochrane, Norden Township, Deuel County, South Dakota, to build a detached garage with living above on their property in the Lake Park District. Namken stated that he would like to build a detached garage with living space above. The upstairs of the proposed garage would just be bedroom space and bathroom. They would like to have it for more storage and a garage below and for more living area so they can use this space all year long. The current A frame cabin is not a year round cabin and they would like to use this property in the winter. Namken stated that there is a main

sewer line located behind the existing cabin so it would be hard to attach a garage or to add on to the cabin.

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 Homan, to grant the Special Exception to build a detached garage with a living space above on their property in the Lake Park District and to approve the staff report findings with the changes made by the board. Brandt called for votes; Four - yes and 1 - no and the motion carried. The additional findings on this Special exception for this garage and living space above are that: the upstairs will only have 2 bedrooms, bathroom and washer & dryer. The main floor will be a garage with a sink and refrigerator and this structure doesn't have a living room and kitchen. This will allow them to use the property all year long as a garage and as long as the upstairs will not to be used additional living space on a regular basis.

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 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 and will upgrade the sanitary system to the standards of the Lake Cochrane Sanitary District.

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: 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 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.

ITEM THREE

Jami Roos Trust Agreement applied for Special Exception of Section 1103.4.9 Storage. The request, if granted, would permit the applicant to use the following property: Lot 7 in Bostic Beach in Gov Lot 5 in NW1/4 in Section 4-T114N-R47W, Lake Cochrane, Norden Township, Deuel County, South Dakota, to move in a storage shed on their property in the Lake Park District. Theisen stated the storage shed would be 10' x 12' and it will be 5' from the side property line and more than 30' from the edge of the road. The board questioned the area where the shed will be located and the water issue that was in the area this spring.

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 Dahl, to grant the Special Exception to move in 10' x 12' storage shed on their property in the Lake Park District and to approve the staff report findings with the changes made by the board. 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 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: Doesn't apply.

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: 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 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. Doesn't apply.

ITEM FOUR

Richard Lounsbery applied for a Variance Permit of Section 1208 Shelterbelt and 1101.04.02 Front Yard. The request, if granted, would permit the applicant to use the following property: NE1/4 (Plat of Lounsbery Addition in NE1/4 in Addition) in Section 12-T117N-R48W, Lowe Township, Deuel County, South Dakota, to plat a parcel of land, to retain existing buildings that are closer to the road right-of-way and shelterbelts that are closer to the road right-of-way and the adjoining property lines than what the ordinance allows in an Agriculture Zoned District. Theisen stated that the existing shelterbelt is approximately 40' from the road right-of-way to the east and approximately 23' to 62' from the north road right-of-way. The existing shelterbelt is up to the adjoining property line and the property owner, which is Richard Lounsbery. The existing silo is approximately 30', the barn is approximately 85', and the house is approximately 92' from the road right-of-way to the east which is a section line right-of-way. The board stated that the section line right-of-way is a minimum maintenance road. Motion by Dahl, seconded by Rhody, to grant the Variance to retain the existing silo, existing barn, and existing house, that the closest building is approximately 30' from the road right-of-way and to retain the existing shelterbelts that are approximately 60' and 40' from the road right-of-ways and up to the property line. Also to remove the volunteer trees that are approximately 23' from the north road right-of-way. This Variance doesn't apply to any new structures that are built on the property. The findings for this Variance are that platting this property will not cause any greater snow or safety concern and the road to the east is a minimum maintenance road.

ITEM FIVE

Matt Wagner applied for Special Exception of Section 1103.4.9 Storage. The request, if granted, would permit the applicant to use the following property: Lot 2A, 2D, 2E Rhea 4th Addition in Section 4-T114N-R47W, Lake Cochrane, Norden Township, Deuel County, South Dakota, to move in a storage shed on his property in the Lake Park District. Wagner stated the storage shed would be 9' x 14', and it will be 10' from the side property line and more than 30' from the edge of the road.

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 DeBoer, to grant the Special Exception to move in a 9' x 14' storage shed on his property in the Lake Park

District and to approve the staff report findings with the changes made by the board. 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 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: Doesn't apply.
- 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: 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 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. Doesn't apply.

The board brought up the pouring of concrete for a driveway across the easements for the outlet and for public access. Wagner stated that he is not blocking the easements, and yes, he poured concrete over the easements. John Knight, Deuel County States Attorney, stated that there was a prior easement granted by the prior owner that granted an easement for the public access and that they couldn't deny access to Lake Cochrane. The platted easement on the newest plat is not historically where the easement is located, so Wagner cannot deny any access. Since the zoning officer doesn't grant permits for flat work, example driveways, this is not a Zoning Board issue. Wagner stated that he will bring in gravel to level out the driveway to make it useable. John Appelen, Lake Cochrane resident, stated that he had concerns about the tile from the outlet toward the ditch to the east and contacted the South Dakota Game and Fish to make sure the tile wasn't damaged. Appelen was concerned about the concrete drive and how it was higher than the existing easement and that there is a drop off.

ITEM SIX

Paul & Brenda Shea applied for Special Exception of Section 1102.3.18 Storage- others which, in opinion of the Board of Adjustment would not conflict with adjoining land uses. The request, if granted, would permit the applicant to use the following property: Lot 3 Shea Addition in the NW1/4 in Section 13-T115N-R50W, Havana Township, Deuel County, South Dakota, to build a pole shed for storage on their property in the Commercial District. Shea stated the pole shed would be 30' x 60' and it will be more than 50' from the back & side lot lines and more than 150' from the road right-of-way. Shea stated that they would use the shed for a garage and storage. Shea was confused and thought that they rezoned this property back to an Agricultural District when they platted his property into 3 lots and they moved in an older house on Lot 3 Shea Addition. The board stated that if he had rezoned Lot 3 Shea Addition to Agricultural District he would have had to apply for rezoning application which is not on file. Shea thought that is what they did was rezone but they applied for a Special Exception to have an older home moved on to Lot 3 Shea Addition. Shea stated that he rezoned his property to Commercial prior because of his business he has on Lot 2 Shea Addition. The Board suggested if he wants to rezone Lot 3 Shea Addition from Commercial to Agricultural he would have to apply or he could leave the zoning as Commercial.

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 to build a 30' x 60' pole shed for a garage and storage on their property in the Commercial District and to approve the staff report findings with the changes made by the board. 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 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: 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 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 has a dumpster service.

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

Motion by Rhody, seconded by Homan, to approve Plat of Plat of Lounsbery Addition in NE1/4 in Addition) in Section 12, Township 117 North, Range 48 West of the 5th P.M., Lowe Township, 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.

ITEM SEVEN

Jim Dailey stated that the buildings on his property that adjoins Lake Alice are assessed as Commercial and it is zoned as Agricultural. He stated that they should be the same. John Knight, States Attorney, stated the Director of Equalization has different criteria to look at when assessing property. The Zoning Ordinance has different criteria for the permitted uses in each district. They are two different governmental identities and they have different rules. The zoning goes by the land use and the equalization goes by state regulations.

ITEM EIGHT

On 10-7-19 the zoning office received a phone call from Brian Gunderson, a neighbor to Doris & Denny Vandendriessche, who received a building permit on 7-23-19. This permit was to remove the existing cabin & shed and to build a new house and garage which would be more than 30' from the edge of the road, more than 5' from the property line and more than 50' from the high-water mark. I talked to the board at the July 8 meeting about the proposed concrete slab in front of the new house and the board stated if it was flat they wouldn't need a variance.

Brian informed the Zoning Office that there was some dirt work done in front of the new house. The morning of October 7, 2019, Zoning Officer, Jodi Theisen, went and inspected the site. The house footings were 75' from the HWM; however, the dirt work to raise the slab was in the 35' from the high-water mark and the beginning of the dirt work was 29' from the high-water mark.

Gunderson had concerns about the fill and that there was no meeting about this dirt work within the 35' from the high-water mark. Theisen informed Gunderson that Vandendriessche didn't need a public hearing because the house met the setbacks and the slab was going to be level with the ground.

On 10-8-19 Jodi Theisen, Zoning Officer, called the Vandendriessche's and explained the situation and sent them the pictures of the dirt work. Theisen explained that they were in violation of dirt work within 35' of the high-water mark and that there were concerns about drainage and snow accumulation. Vandendriessche responded with an email about misunderstanding the contractor about the amount of fill that was needed to make the slab even with the first floor. Vandendriessche sent an email about how they were going to fix this situation. They are going to remove the 24" of fill in front of the house to the original elevation of neighbor's yards and to pour a 12' x 34' slab even with the neighbor's yard. They are going to have 3 concrete stone steps in front of the sliding glass door. They will do whatever the board suggests to help stop erosion.



Jodi Theisen

Zoning Officer



Paul Brandt

Vice Chairman, Zoning Board