

**April 17, 2023 BOARD OF ADJUSTMENT/ PLANNING COMMISSION
DEUEL COUNTY
STAFF REPORT**

Monday – April 17, 2023 – 6:30 p.m.

DEUEL COUNTY BOARD OF ADJUSTMENT

ITEM #1 VARIANCE

Applicant/Owners: Krause Livestock LLC

Property Description: Lots 1 & 3 Moring View Addition in S1/2 (to be known upon platting as Lot 6 Morning View Addition in SW1/4) of the Section 14-114-49, Brandt Township, Deuel County, South Dakota.

Action Items – Variance – (1101.05 Area Regulations)

Zoning Designation: AG – Agricultural

Request: Applicant requesting a Variance to replat existing Lot 1 Moring View Addition into two lots and to retain existing structure that is closer to the rear yard than what the ordinance allows.

Specifics of Request:

1. Krause Livestock LLC recently purchased Lot 1, Lot 2 and Lot 3 Morning View Addition and are wanting to replat Lot 1 into 2 lots.
2. The proposed new lot which is Lot 6 Morning View Addition would be transferred to a son (Landon) that is a partner in family LLC.
3. They are requesting the existing house and garage to be located in the Lot 6 Morning View Addition and the rest of the building be located on the remaining Lot 1 Morning View Addition.
4. The existing garage is within the rear yard setback of 25', it is approximately 11 from the new rear yard lot line.
5. The existing garage and house are located more than 65' which meets the front yard setback and approximately 25' from the side property line.

Ordinance/Variance History regarding this request:

Section 1101.05 Area Regulations

1. The Zoning Ordinance requires that all residential lots shall be a minimum of three (3) acres the minimum depth of the front yard shall be not less than sixty-five (65) feet, side yard, the minimum width of a side yard shall be twenty-five (25) feet and the minimum depth of a rear yard shall be twenty-five (25) feet.
2. The Board has history of granting numerous variance requests in the Ag District of similar or greater relaxation of rules (Jaeger, Crume, Parker, etc.)

Staff recommendation: If approved, staff recommendation - To grant the Variance to retain the existing building that is approximately 11' from the new adjoining rear property line. This Variance does not apply to any new structures that are built on the property. All voted in favor and the motion carried. Please see Findings of Fact and Conclusions of Law on file with this application.

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.

ITEM #2 VARIANCE

Applicant/Owners: Evan Grong, Tyler Grong & Aron Grong

Property Description: Lot 28 except W1/2, all Lots 29 & 30 & westerly 8' of the southerly 35' Lot 31 of Shady Beach (to be known upon platting as Lot 29A of Shady Beach in Gov't Lot 7) of the Section 4-114-47, Norden Township, Deuel County, South Dakota.

Action Items – Variance – (1103.06 Minimum Lot Area and Yard)

Zoning Designation: LP – Lake Park

Request: Applicant requesting a Variance to replat existing lots of Shady Beach Addition into one lot having shoreline frontage less than 75' in width, less than 150' in depth and to retain existing structure that is closer to the side lot lines than what the ordinance allows.

Specifics of Request:

1. Evan Grong, Tyler Grong & Aron Grong recently purchased these lots from their mother and they realize the property lines were not located where they thought they were.
2. Grong's garage and part of the house was located on Fluttum-Black's property (Lot 31). The parties correct this issue by transferring some of Fluttum-Black's property to the Grongs.
3. They replatting Grong's property with the transferred portion of Lot 31 into one lot.
4. The existing garage is within the side yard setback of 10', it is approximately 2.7' and the existing house approximately 2.33' new side yard lot line.
5. The existing garage has received an easement to be in the ROW from the Deuel County Commissioners and the house received a variance prior (2004) to be located within the 50' from the high-water-mark.

Ordinance/Variance History regarding this request:

Section 1103.06 Minimum Lot Area and Yard

1. The Zoning Ordinance requires that each lot shall have a lot depth of not less than one hundred and fifty (150) feet, each lot shall have a shoreline frontage of not less than seventy-five (75) feet in width, and each lot shall have a road frontage of not less than fifty (50) feet in width
2. Each building shall be set back not less than fifty (50) feet from the right-of-way of State or Federal highways. For all other roads, the front yard setback shall at least thirty (30) feet from the edge of the road, but in no circumstance shall the structure be located within the right-of-way. Side yards shall have a ten (10) foot setback from the side yard property line. Exception: On those lots platted prior to June 8, 1976, which have a lot width of less than seventy-five (75) feet, each building shall have a side yard of not less than a distance equal to ten (10) percent of the lot width. Under no circumstances shall a building have a side yard of less than five (5) feet. Roof overhangs may infringe upon the side yard requirements no more than one and one-half (1.5) feet.
3. The Board has history of granting some variance requests in the Lake Park District of similar relaxation of rules. This situation is unique since the property owner thought they knew where the property lines were located but was mistaken. (Oswald, etc.)
4. This property is located out of the floodplain.

Staff recommendation: If approved, staff recommendation - To grant the Variance to replat existing lots of Shady Beach Addition into one lot having shoreline frontage less than 75' in width, less than 150' in depth and to retain existing structure that is approximately 2.7' and approximately 2.33' from the side lot line. This Variance does not apply to any new structures that are built on the property. All voted in favor and the motion carried. Please see Findings of Fact and Conclusions of Law on file with this application.

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.

ITEM # 3 PLAT

Applicants/Owners: Krause Livestock

Property Description: Lot 6 Morning View Addition in SW1/4 of Section 14, T114N, R49W, Deuel County, SD.

Request: Plat 5.32 acres parcel for transferring purposes. They applied for a variance to replat and to retain existing structure (garage) that is closer to the rear yard (25') than what the ordinance allows. The existing shed that located on Lot 3 Morning View Addition to the north of this new property line may not receive a building permit to be replaced or added onto in any way unless they granted a variance.

Action Item –Plat approval.

ITEM # 4 PLAT

Applicants/Owners: Even Grong, Tyler Grong & Aron Grong

Property Description: Lot 29A of Shady Beach in Gov't Lot 7 of Section 4, T114N, R47W, Deuel County, SD.

Request: Replat 3 lots and some footage into an irregular parcel for transferring purposes and to clear up property line issues.

Action Item –Plat approval.

ITEM # 5 PLAT

Applicants/Owners: Robert & Wanda Eilers

Property Description: Plat of Lots 1 and 2 of Mamer's Third Addition in NE1/4 of Section 21, T114N, R47W.

Request: Plat Lot 1 which contains 59.1 acres irregular parcel for transferring purposes. Plat Lot 2 which contains 81.3 acres irregular parcel for transferring purposes.

Action Item –Plat approval.

ITEM #6 VARIANCE

Applicant: Jeff Boer

Owners: Dorothy M Hayek Living Trust

Property Description: Lots 13-14 & SE 80' of NW 260' Lot 17 Clear Water Beach in Gov't Lot 6 in NE1/4 of the Section 4-114-47, Norden Township, Deuel County, South Dakota.

Action Items – Variance – (1103.06 Minimum Lot Area and Yard)

Zoning Designation: LP – Lake Park

Request: Applicant requesting a Variance variance to build a garage less than 30' from the road and easement.

Specifics of Request:

1. Jeff Boer is in the process of purchasing these lots from the Dorothy M Hayek Living Trust
2. Boer would like to build a garage on the back side of these lots, which is Lot 17.
3. There is an existing 20' easement that runs between Lots 13-14 and Lot 17.
4. The existing cabin/house is located up to the 20' easement, and they would like to build the garage within the 30' from edge of the road and easement. The irregular lot size and the existing easement the proposed garage would be located up to the existing easement and approximately XXX from the edge of the road and approximately XXX' from the platted road right-of-way (Lakeview Drive). **(WITH THE SNOW AND THE WEATHER WILL MEASURE THE MORNING OF APRIL 17, 2023 AFTER THE SURVEYOR HAS STAKED THE LOT)**

Ordinance/Variance History regarding this request:

1103.06 Minimum Lot Area and Yard

1. The Zoning Ordinance requires that each lot shall have a lot depth of not less than one hundred and fifty (150) feet, each lot shall have a shoreline frontage of not less than seventy-five (75) feet in width, and each lot shall have a road frontage of not less than fifty (50) feet in width
2. Each building shall be set back not less than fifty (50) feet from the right-of-way of State or Federal highways. For all other roads, the front yard setback shall at least thirty (30) feet from the edge of the road, but in no circumstance shall the structure be located within the right-of-way. Side yards shall have a ten (10) foot setback from the side yard property line. Exception: On those lots platted prior to June 8, 1976, which have a lot width of less than seventy-five (75) feet, each building shall have a side yard of not less than a distance equal to ten (10) percent of the lot width. Under no circumstances shall a building have a side yard of less than five (5) feet. Roof overhangs may infringe upon the side yard requirements no more than one and one-half (1.5) feet.
3. The Board has history of granting some variance requests in the Lake Park District of similar relaxation of rules. This situation is unique with the since the easement going through the middle of their property. (Kooima, Jelen, Pederson, etc.)
4. This property is located out of the floodplain.

Staff recommendation: If approved, staff recommendation - To grant the Variance to build and accessory building would be located up to the existing easement and and no closer than XXX from the edge of the road and approximately XXX from the platted road right-of-way (Lakeview Drive). All voted in favor and the motion carried. Please see Findings of Fact and Conclusions of Law on file with this application.

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.