

Monday, March 8, 2021

The Deuel County Zoning Board met on Monday, March 8, 2021, at 6:30 p.m., in the Commissioner's Room of the Courthouse in Clear Lake. Those present were members Dennis Kanengieter, Judith Homan, Paul Brandt, Kevin DeBoer, Mike Dahl, and Zoning Officer Jodi Theisen.

Chairman Dennis Kanengieter called the meeting to order.

The minutes from the February 10, 2021, meetings were discussed. Motion by Dahl, seconded by Brandt, to approve the amended February 10, 2021, minutes. All voted in favor and motion carried.

The minutes from the February 16, 2021 & February 24, 2021, meetings were discussed. Motion by Dahl, seconded by DeBoer, to approve the amended February 16, 2021 & February 24, 2021, minutes. All voted in favor and motion carried.

Motion by DeBoer, seconded by Homan, to approve the March 8, 2021, Agenda. All voted in favor and motion carried.

#### ITEM ONE

NorthWestern Energy, applicant, and James & Linda Dailey Living Trust, owners, applied for a Variance of Section 1102.04 Area Regulations. The request, if granted, would permit the applicant to use the following property: Property is located in Lot X in SE1/4 (to be known upon platting as Lot 1 of NWE in Lot X in the SE1/4) of the Section 34-117-49, Portland Township, Deuel County, South Dakota, to plat a parcel of land less than 3 acres for a gas regulator station with a security fence along the perimeter, and a control building closer than 50 feet from the side lot line and back lot line. A security fence and a control house that are closer than 150 feet from the road right-of-way which is closer than the ordinance allows in a Commercial District.

Robert Gehm, representing NorthWestern Energy, stated that they are platting out a 100' x 100' parcel of land which is .23 acres and purchasing it from the Dailey's for a regulator station. The site would be less than 3 acres which is required in the Commercial District. NorthWestern plans to install a natural gas regulator station for the town of Goodwin and surrounding areas in order to eliminate existing farm taps in the area. Being able to move the existing farm tap distribution system into a gas regulator station will increase the safety, reliability, and integrity of NorthWestern's gas delivery system. Once the gas regulator station is completely installed and operational, NorthWestern will tie the farm tap distribution systems into the gas regulator station and then remove the farm taps out of the public right-of-way.

Gehm stated that the control house is 10' x 15' and would be located approximately 25' from the side lot line, approximately 15' from the back lot and approximately 120' from the road right-of-way. The security fence would be approximately 50' from the road right-of-way and the fence would be located on new a platted property line. Brandt asked what the road right-of-way on US Hwy 212 was and it is 200'.

Motion by DeBoer, seconded by Dahl, To grant the Variance to plat and purchase a .23 acre site which is less than the required 3 acres site requirement. Variance to build a control building approximately 120' from the road right-of-way and to install a security fence approximately 50' from the road right-of-way (front yard). To have the control building

approximately 25' from the side yard and approximately 15' from the rear yard and to have the security fence with no setback from the side and back lot setbacks in a Commercially Zoned District. Kanengieter called for a roll call vote; DeBoer-yes, Brandt-yes, Homan-yes, Dahl-yes, and Kanengieter-yes and the motion carried. Please see Findings of Fact and Conclusions of Law on file with this application.

#### ITEM TWO

NorthWestern Energy, applicant, and James & Linda Dailey Living Trust, owners applied for a Special Exception Permit Pursuant to 1102.03.7 Public and Private Utilities. The request, if granted, would permit the applicant to use the following property: Lot X in SE1/4 (to be known upon platting as Lot 1 of NWE Addition in Lot X in the SE1/4) of the Section 34-117-49, Portland Township, Deuel County, South Dakota, requesting to build a gas regulator station for gas service to local property owners.

Motion by DeBoer, seconded by Dahl, to grant the Special Exception to permit a Special Exemption for a natural gas regulator station (public utility use) in a Commercial Zoned District. All voted in favor of and the motion carried.

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 THREE

Tucker Parker & Courtney Parker, applicants, and Vincent & Roberta Parker Trust, owners, applied for a Variance of Section 1101.04 Area Regulations. The request, if granted, would permit the applicant to use the following property: SE1/4 (to be known upon platting as Parker Second Addition in SE1/4) of the Section 4-114-50, Hidewood Township, Deuel County, South Dakota, to plat a parcel of land, to retain existing building that is closer to the new property line than what the ordinance allows.

Parker stated they would like to place the new property line approximately 10' from the existing shed. Vincent and Roberta are going to be transferring the Parker Second Addition to Tucker and Courtney to build on. The hardship for the location of the new property line to meet the 25' setback from the existing shed is the location of the current drain field and septic tank, they will be attaching the new home to the current system. If the new property line met the 25' setback from the existing shed and the new home met the 25' setback from the new property line this would put the new house over the top of the existing drain field and septic tank. Also, the water table is higher on the farm ground located to the south and there is a main water line and trees located to the west; this then prevents them to build in those areas.

Motion by DeBoer, seconded by Brandt, To grant the Variance to plat a parcel of land and to retain the existing shed approximately 10' from the new property line. This Variance doesn't apply to any new structures that are built on the property. Kanengieter called for a roll call vote; DeBoer-yes, Brandt-yes, Homan-yes, Dahl-yes, and Kanengieter-yes and the motion carried. Please see Findings of Fact and Conclusions of Law on file with this application.

#### ITEM FOUR

Jason & Amanda Saathoff, applicant/owner applied for a Variance of Section 1101.04 Area Regulations. The request, if granted, would permit the applicant to use the following property: Block 1 Bjorklund Addition SW1/4 of the Section 32-113-50, Grange Township, Deuel County, South Dakota, to build a shed with less than 150' of front yard.

Saathoff's would like to build a shed approximately 114' from the road right-of-way and they would like to attach it to the existing shed and use it for storage. Saathoff stated that the hardship is the steep terrain on the back side of their property and it would require too much fill which was the hardship for the variance for their home 13 years ago. Dahl asked if the addition would have living area and Saathoff stated it would be a man cave and it will not have a bathroom as of now. Saathoff stated that they maintain the road and that this shed would not cause a snow or safety issue. Theisen stated she received a phone call from the township board member and they were ok with the location of the new shed.

Motion by Dahl, seconded by Homan, to grant the Variance to build a 44' x 56' shed & approximately 28' x 24' addition approximately 110' from the road right-of-way. All voted in favor and motion carried. Please see Findings of Fact and Conclusions of Law on file with this application.

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

#### ITEM FIVE

Motion by DeBoer, seconded by Brandt, to approve the Lot 1 of NWE Addition in Lot X in the SE1/4 of the Section 34, Township 117 North, Range 49 West of the 5th P.M., Portland Township, Deuel County, South Dakota that was granted a variance earlier in the meeting. All voted in favor and motion carried.

#### ITEM SIX

Motion by Dahl, seconded by DeBoer, to approve the Parker Second Addition in SE1/4 of the Section 4, Township 114 North, Range 50 West of the 5<sup>th</sup> P.M., Hidewood Township, Deuel County, South Dakota that was granted a variance earlier in the meeting. All voted in favor and motion carried.

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

#### ITEM SEVEN

Jon Gorder stated he purchased some land in the NE1/4 Section 8-114-47 south and southwest of Lake Cochrane and would like to develop it. He would like to develop back lots allow the county highway. The subdivision would consist of 32 lots minimal 75' wide and minimal 150' in depth and possible 2 lots for storage area.

Gorder stated he has been in contact with the Lake Cochrane Sanitary District and J & J Associated, who are working on the sewer system for each lot. He has also contacted H-D Electric and Brookings Deuel Rural Water. He contacted Jamie Broksieck with the Deuel County Highway about approaches and doing an approach for each lot off the county highway. Gorder stated this would help with all the congestion on that road during the summer with people parking on it.

These lots would have a covenant and would be for houses and sheds. Theisen stated that they should look at the buildable lot size and take that into consideration of the size of the lots.

The first process is a sketch plan and an informal review of the project which includes discussion and comments. The next step is the preliminary plat which needs to include all the information from Article III and it shall require review by the Administrative Official and Highway Superintendent and approval of the Planning and Zoning Commission and County Commission. The final step is the final plat and shall provide all the information indicated in Article IV and shall require approval of the Planning and Zoning Commission and County Commission along with a letter of assurance from the subdivider and covenants.

#### ITEM EIGHT

Theisen stated she received a phone call and texts with pictures on Saturday, February 27, 2021 about some trees removed out at Lake Cochrane. A member of the Lake Cochrane Association texted pictures of two properties at Lake Cochrane that showed tree removal along the shoreline. The one property was Wiley's and they had a special exception that was granted on 7-13-2020 to remove 2 trees and to do some landscaping (patio) within the 35' from the high-water-mark and to replace each tree with a new tree. The other property is Thomas Farrell and it appears that two or more trees were removed without a permit that were located within 35' from the high-water-mark. In 2014 the States Attorney sent a violation letter to a Lake Cochrane property owner and the Board charged him \$300 for each tree and he was to replace them with at least 1-1/2 inch diameter tree. That property was sold right after the violation occurred so the Board fined the previous property owner \$400 for each tree since the previous owner couldn't plant trees on the current lot he didn't own anymore.

The Board advised Theisen to send a letter to the property owner and inform them that it appears that they are in violation and to have them come to the upcoming meetings to discuss this action.

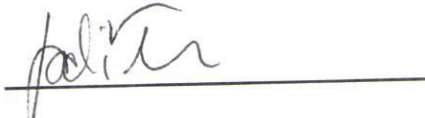
Jim Dailey was present for comments. Dailey would like to see more input from leaders and citizens within the community before the Zoning Ordinances are rewritten rather than just Zoning Board approval. He believes the ordinance is too restrictive and over kill. The Board stated that the ordinance review meetings with 1<sup>st</sup> District are open to the public.

#### ITEM NINE

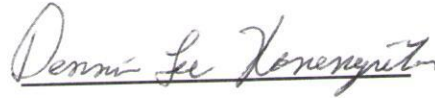
Theisen stated she sent out a violation letter to a property owner and the owner responded back and applied for a permit. Theisen stated she had another property owner replace a structure without a permit, the Board advised her to send a letter.

Theisen stated that there will be a Joint meeting with the Commissioners about rezoning for the Stone's property on Tuesday, March 16, 2021 at 10:30 a.m. There will be a meeting with 1st District to discuss about updating the Ordinance B-2004-01 the Zoning Regulations for Deuel County on March 8, 2021 at 6:00 p.m.

Kanengieter called the meeting at 9:40 pm.



Jodi Theisen  
Deuel County Zoning Officer



Dennis Kanengieter  
Chairman, Zoning Board

---