

Monday, May 11, 2026

The Deuel County Zoning Board met on Monday, May 11, 2026, at 6:30 p.m., in the Commissioner's Room of the Courthouse in Clear Lake. Those present were members Dennis Kanengieter, Mike Lammers, Kevin DeBoer, alternate Scott Fieber, States Attorney Craig Evenson, Zoning Officer Jodi Theisen, and other members of the public.

Vice Chairman Kevin DeBoer called the meeting to order.

The minutes from the April 13, 2026, meeting were discussed. Motion by Lammers, seconded by Kanengieter, to approve the April 13, 2026, minutes. All voted in favor, and the motion carried unanimously.

DeBoer asked if the Board, or any staff member, had anything to add to the agenda, with none being offered.

DeBoer stated that if anyone from the public would like to speak about a topic not on the agenda, they would have up to five minutes to do so during the public comment session.

DeBoer asked if any seated Board member needed to recuse themselves from discussion or voting on any agenda items. DeBoer stated he had a conflict involving H-D Electric Cooperative and would recuse himself from voting on that agenda item.

Motion by Lammers, seconded by Fieber, to recess the Planning Commission and convene only as the Deuel County Board of Adjustment. All voted in favor, and the motion carried unanimously.

Item #1 – Variance – Aaron Kozlowski

The Board reviewed a variance request submitted by Aaron Kozlowski for property located at 19339 SD Highway 15, Toronto. The request was made under Section 1101.05.06 of the Zoning Ordinance to allow a second single-family dwelling on an existing farmstead within the Agricultural District.

Theisen explained that the property consists of approximately 12.2 acres and currently contains one dwelling occupied by the applicant's father-in-law, who assists with the farming operation. The applicant is proposing to place a second single-family dwelling on the property to accommodate his own family as part of a multi-generational farmstead. The applicant indicated the existing dwelling would be removed within approximately fifteen (15) years and that no additional dwellings are planned beyond the two residences.

The Board discussed the request in relation to Section 1101.05.06, noting that the parcel meets minimum lot size requirements, the proposed density does not exceed two dwellings, and the use is consistent with agricultural operations.

No public comments were offered.

Motion by Lammers, seconded by Fieber, to approve the variance request to allow a second single-family dwelling, subject to the following conditions: the dwelling shall be occupied by a relative or employee engaged in the agricultural operation; the additional dwelling shall be removed if no longer used for farm-related purposes; the total number of dwellings shall not exceed two (2); all applicable setbacks shall be met; and any future requests will require Board review. All voted in favor, and the motion carried unanimously. Please refer to the Findings of Fact and Conclusions of Law on file with this application.

Item #2 – Variance – Thad Krause

The Board reviewed a variance request submitted by Thad Krause for a shelterbelt planting within Section 1208 setback requirements in Clear Lake Township.

Theisen explained that the applicant is proposing a single row of lilacs to be planted within 50 feet of the road right-of-way, which does not meet the required 150-foot setback for a single-row shelterbelt. It was

noted that comments from the South Dakota Department of Transportation recommend plantings be no closer than 15 feet from the SD Highway 22 right-of-way.

The Board discussed the request and the intent of Section 1208, noting that the proposal does not meet the multi-row design typically intended for snow containment.

No public comments were offered.

Motion by Fieber, seconded by Kanengieter, to approve the variance to allow the single-row shelterbelt, with the condition that plantings be located no closer than 15 feet from the SD Highway 22 right-of-way, consistent with Department of Transportation recommendations. All voted in favor, and the motion carried unanimously. Please refer to the Findings of Fact and Conclusions of Law on file with this application.

Item #3 – Variance – Ryan Wells / Wells Trust

The Board reviewed a variance request submitted by Ryan Wells and Wells Trust for a shelterbelt setback in Altamont Township under Section 1208.

Theisen explained that the applicant is proposing a four-row shelterbelt to replace trees lost in recent storms. The request includes allowing the first row to be located approximately 30 feet from the county road right-of-way and allowing the windward row to be located within 150 feet of the right-of-way.

It was noted that the shelterbelt is designed to reduce wind and snow impacts and that the County Highway Superintendent has reviewed and supports the proposed placement.

The Board discussed the multi-row design, intent of the ordinance, and the benefit of replacing storm-damaged trees.

No public comments were offered.

Motion by Lammers, seconded by Fieber, to approve the variance from Section 1208 to allow the first row of the shelterbelt to be located no closer than 30 feet from the county road right-of-way and to allow the windward row to be located within 150 feet of the county road right-of-way, as proposed and as supported by the County Highway Superintendent. All voted in favor, and the motion carried unanimously. Please refer to the Findings of Fact and Conclusions of Law on file with this application.

Item #4 – Variance – H-D Electric Cooperative

The Board reviewed a variance request submitted by H-D Electric Cooperative for property located at 18240 SD Highway 15, Clear Lake, within the Commercial/Industrial District.

Theisen explained that the applicant is requesting two variances: one to increase the maximum allowable sign size from 80 square feet to 100 square feet, and another to reduce the required front yard setback from 100 feet to 50 feet from the Highway 15 right-of-way. The proposed sign includes both static and digital display components. It was noted that recent highway right-of-way changes impact visibility at the standard setback.

The Board discussed visibility, safety considerations, and consistency with the surrounding commercial/industrial area. The Board further discussed that locating the sign at approximately twenty-five (25) feet from the right-of-way may provide improved visibility and safety compared to a fifty (50) foot setback. It was also noted that H-D Electric Cooperative manager Matt Hotler indicated he would contact the South Dakota Department of Transportation (SDDOT) to confirm applicable regulations regarding sign placement from highway rights-of-way. No public comments were offered.

Motion by Kanengieter, seconded by Lammers, to approve the variances to allow a maximum sign size of one hundred (100) square feet and to allow the sign to be placed no closer than twenty-five (25) feet from the Highway 15 right-of-way, subject to compliance with all applicable safety standards, including clear view triangle requirements and South Dakota Department of Transportation regulations.

Three (3) votes were cast in favor. One member (DeBoer) abstained due to a conflict of interest with H-D Electric Cooperative.

Post-Meeting Administrative Review: Following the meeting, staff conducted a subsequent administrative review of Section 505 of the Deuel County Zoning Ordinance. It was confirmed that approval of a variance requires an affirmative vote of two-thirds (2/3) of the full membership of the Board of Adjustment (five-member board requiring four affirmative votes). The motion received three (3) affirmative votes with one abstention due to a declared conflict of interest. Based on the required voting threshold, the variance did not meet the required approval threshold and therefore did not constitute final approval.

The matter will be placed on the agenda for the next regular Board of Adjustment meeting for clarification and determination of appropriate procedural next steps.

Motion by Fieber, seconded by Lammers, to recess the Board of Adjustment and reconvene as the Planning Commission. All voted in favor, and the motion carried unanimously.

Theisen stated that there were no plats to be considered by the Planning Commission.

Motion by DeBoer, seconded by Lammers, to recess the Planning Commission and reconvene jointly as the Board of Adjustment and Planning Commission. All voted in favor, and the motion carried unanimously.

DeBoer opened the meeting for public comment. Val Trooien presented a draft ordinance proposal regarding setbacks and spacing requirements for major industrial power facilities. The proposal would establish scaled minimum separation distances between large power-related facilities, including utility-scale wind and solar projects, substations, transmission lines, battery energy storage systems, fossil fuel plants, and data centers.

Val stated the purpose of the ordinance was to prevent overindustrialization of agricultural land, preserve rural character and quality of life, improve grid security, and distribute industrial development more evenly throughout the county. The proposal would allow utility-scale energy development as a conditional use while limiting clustering of facilities.

Discussion included:

- Concerns regarding concentration of power infrastructure in specific townships;
- Potential impacts on property values, rural quality of life, and future development;
- National security and natural disaster concerns related to clustering power infrastructure;
- Economic impacts and tax revenue distribution among townships;
- Existing ordinances covering wind, solar, transmission lines, and future battery storage regulations; and
- Whether the proposed setbacks would be overly restrictive.

Board members acknowledged the proposal as a starting point for further discussion and review. Val indicated the ordinance draft was intended to begin conversation and could be modified as needed. Additional public comments supported continued review of potential regulations and expressed concerns regarding future industrial development and cumulative impacts in the county.

Theisen informed the Board that a petition was filed with the Deuel County Auditor on May 5, 2026, for a referendum on the rezoning application submitted by Missouri River Energy Services and property owner James E. Peterson (James E. Peterson Living Trust). The request is to rezone approximately 71 acres, described as the E1/2SE1/4, except the west 9 rods, of Section Seven (7), Township One Hundred Thirteen (113) North, Range Forty-Eight (48) West of the 5th P.M., Deuel County, South Dakota, from "AG" Agricultural District to "CI" Commercial/Industrial District. The rezoning request was approved by the Deuel County Commissioners on April 7, 2026. Theisen noted that the petition delays further consideration of the Conditional Use Permit request pending the outcome of the election. Discussion followed regarding election timing, notice requirements, and voting procedures for the referendum, including questions about absentee voting and how voters would be informed of the separate ballot. County staff stated the election process would follow state law and additional clarification would come from the County Auditor's Office.

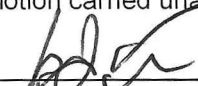
The board discussed interpretation of the county shelterbelt ordinance regarding planting within 25 feet of adjoining property lines. Discussion centered on whether a variance and public hearing are required when adjoining landowners provide written permission, or whether written permission alone satisfies ordinance requirements.

Board members generally agreed that the ordinance language appears to allow planting within 25 feet if adjoining landowners grant permission, without requiring a variance. Suggestions were made to require notarized signatures for documentation purposes.

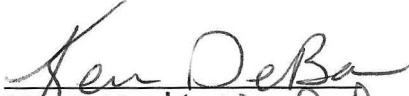
The board also discussed whether above-ground fuel pumps are considered structures under zoning regulations and agreed they are subject to standard setback requirements.

Theisen also stated that the next regular meeting will be held on June 8, 2026.

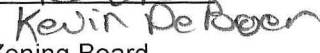
Motion by Lammers, seconded by Fieber, to adjourn the meeting at 8:20 p.m. All voted in favor, and the motion carried unanimously.



Jodi Theisen
Zoning Officer



Mike Dahl
Vice Chairman, Zoning Board


Kevin DeBoer