

Monday, April 12, 2021

The Deuel County Zoning Board met on Monday, April 12, 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, Gary Jaeger, Mike Dahl, and Zoning Officer Jodi Theisen.

Chairman Dennis Kanengieter called the meeting to order.

The minutes from the March 8, 2021 & March 16, 2021, meetings were discussed. Motion by Brandt, seconded by Dahl, to approve the amended March 8, 2021 & March 16, 2021, minutes. All voted in favor and motion carried.

The minutes from the March 24, 2021 & March 31, 2021, meetings were discussed. Motion by Brandt, seconded by Homan, to approve the March 24, 2021 & March 31, 2021, minutes. All voted in favor and motion carried.

Motion by Dahl, seconded by Kanengieter, to approve the April 12, 2021, Agenda. All voted in favor and motion carried.

#### ITEM ONE

Robert & Lori Jelen, applicants, Lori Jelen Revocable Trust, owners, applied for Special Exception Permit Pursuant to Section 1103.4.5 Shoreline Alterations. The request, if granted, would permit the applicant to use the following property: Lots 2, 2A and 2B United Methodist Bay Addition in Outlot A of Gov Lot 10 of Section 4-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota, by adding more rock, building 2 retaining walls, removing existing stairs, and doing landscaping within 35' from the high-water-mark.

Jelen's seeks a Special Exception to remove existing stairway and decks and replace it with two retaining walls, new stairway and to place more rock and a sand area within 35' from the high-water-mark. Jelen's stated they have been in contact with Rhett Russell with DENR about getting a shoreline permit through his department and putting sand along the shoreline.

Jelen's stated that they want to remove the existing stairway and deck and they want to build 2 retaining walls and put tile behind them for drainage. They would like to build a new stairway and place rock along the shoreline and the side hill. Jelen's stated they would like to have an 8' x 15' area of sand near the shoreline which will be contained by a block berm. Jelen stated that they would remove approximately 30 yard of dirt and he is using company out of Sioux falls for the engineering.

Motion by Brandt seconded by Jaeger, to postpone the Special Exception to allow the applicant to alter the shoreline within 35' from the high-water-mark by rebuilding the stairway and by building two retaining walls. To add rock to the embankment and to have an approximate 8' x 15' area of sand near the shoreline which will be contained by a block berm until they have a more defined plan. All voted in favor and the motion carried.

#### ITEM TWO

Robert & Lori Jelen, applicants, Lori Jelen Revocable Trust, owners, applied for Variance of Section 1103.5 Area Regulations. The request, if granted, would permit the applicant to use the following property: Lots 2, 2A and 2B United Methodist Bay Addition in Outlot A of Gov Lot 10 of Section 4-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota, to build steps within 35 feet high-water-mark and to build a house addition within 10 feet from the side yard property line on their property .

Jelen's stated they would like to remove existing stairway and to build a new stairway within 35 feet high-water-mark and to build a house addition within 10 feet from the side yard property line on their property. Jelen's would like to build an 18' x 24' house addition with basement approximately 8 feet from the side property line

Motion by Jaeger, seconded by Homan, to grant the Variance to build a new stairway within 35 feet high-water-mark and to build an 18' x 24' house addition with basement not closer than 8 feet from the side yard property line on their property. All voted in favor and motion carried. Please see Findings of Fact and Conclusions of Law on file with this application.

#### ITEM THREE

Scot Mack & Richard Mack, applicants/owners, applied for Special Exception Permit Pursuant to Section 1103.4.5 Shoreline Alterations. The request, if granted, would permit the applicant to use the following property: Lot 11 Lake Alice Shores in SW1/4 in Section 7-116-48, Lake Alice, Altamont Township, Deuel County, South Dakota, alter the shoreline within 35 feet of the high-water-mark on their property.

Mack's stated that they want to remove some shoreline and to build a 12' x 34' concrete ramp to help with pulling in and out of the dock. The center of the ramp would have concrete steps to be used for dock access. Mack Concrete will be performing all of the work including the removal of maybe 85 cubic yards of clay, sand, dirt and rock from the shoreline where the ramp would be located. They would use 1 ½' rock to back fill along the sides of the ramp with additional large rock, including the rock that will be excavated from the shoreline, being placed over the top, matching the remainder of the shoreline which would help prevent future erosion. Mack's stated they have been in contact with Rhett Russell with DENR about getting a shoreline permit through his department and putting sand along the shoreline.

Motion by Dahl seconded by Brandt, to grant the Special Exception to alter the shoreline within 35 feet from the high-water-mark by building a 12' x 34' concrete ramp and to follow the landscaping plan that was provided and to use a silt fence during construction. All voted in favor and the motion carried. Please see Findings of Fact and Conclusions of Law on file with this application.

#### ITEM FOUR

Kevin Nielsen, applicants, and Carol Anderson & Kevin Nielsen, owners, applied for a Special Exception of Section 1102.03 Others which, in the 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: Block 2 Nielsen Addition in SW1/4SW1/4 of the Section 24-114-49, Brandt Township, Deuel County, South Dakota, are requesting to operate a meat processing and retail business on their property.

Nielsen stated that he platted and rezoned their property to commercial they would like operate a meat processing and retail business. Their septic system was approved by SD DENR they have been in contact with the Animal Industry Board. Kevin has completed a course in HACCP, Sanitation and Auditing Workshop.

Motion by Brandt, seconded by Homan, To grant the Special Exception to operate a meat processing and retail business on their property in their existing building in a Commercial Zoned District; contingent upon receiving state permits and state licenses. All voted in favor and the motion carried. Please see Findings of Fact and Conclusions of Law on file with this application.



#### ITEM FIVE

Jeramie Bartels, applicant, Stephen Everson, owners, applied for a Special Exception Permit Pursuant to Section 1103.4.8 Accessory Structure located on a lot adjacent to lot with principal structure which is separated by public or private road. The request, if granted, would permit the applicant to use the following property: Lot 29B Agnes Place Addition in Gov Lot 8 of Section 5-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota, to build a garage on his property across from the principal structure.

Everson stated that he wants to build a 26' x 26' garage and they would like to place the shed on the back lot and they have applied for a variance to have the garage located 26' from the back property line. Everson stated they have an existing pole shed on their property but they would like another garage for more storage.

Motion by DeBoer, seconded by Jaeger, to grant the Special Exception to allow the applicant to build a 26' x 26' garage located on a lot adjacent to lot with principal structure which is separated by a public or private road on their property. All voted in favor of and the motion carried. Please see Findings of Fact and Conclusions of Law on file with this application.

#### ITEM SIX

Jeramie Bartels, applicant, Stephen Everson, owners, applied for Variance of Section 1103.5.4 Area Regulations. The request, if granted, would permit the applicant to use the following property: Lot 29B Agnes Place Addition in Gov Lot 8 of Section 5-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota, to build a garage within 50' from rear yard property line on their property

Everson stated he wants to build a 26' x 26' garage and they would like to place the shed on the back lot and have it located 26' from the back property line. The garage will be located more than 10' from the side property line and more than 30' from the road.

Motion by Dahl, seconded by Jaeger, to grant the Variance to build a 26' x 26' garage approximately 26' from back property line. The board recommends that a letter of acknowledgment be sent to the neighbors to inform them that this variance was applied for and was granted from the applicant. All voted in favor and the motion carried. Please see Findings of Fact and Conclusions of Law on file with this application.

#### ITEM SEVEN

Theisen sent a letter to Farrell's and they informed the Zoning Office that they talked to the tree removal company and no mention of needing a permit to have the trees removed. Farrell stated that they had the tree removal company come and look at the trees and they stated all three trees were hollow and rotten. Farrell's stated in a letter to the Zoning Board that they did not want these trees removed as they provided excellent shade and cover, they were a real positive to them when they purchased the property. However, the hollowed-out trunk areas were a concern for them falling and causing damage.

The Board had discussion with Farrell and the Board charged him \$300 for the trees that were removed without a permit and they required to plant one tree back in the area. To contact a landscaper to find out what species that would fit the conditions, to have an established tree not a

sapling, and to leave the existing stump and roots to not cause erosion. The Board informed the Zoning Officer to send a letter to the tree removal company to inform them of the Deuel County Ordinance for shoreline alterations.

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

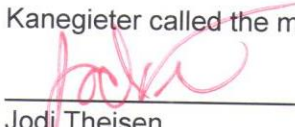
#### ITEM EIGHT

The board discussed how they treated previous plats with existing trees that were closer than the shelterbelt ordinance allows and that we had them apply for a variance. Gass wrote a memorandum to the board stating that his official opinion as the Deuel County State's Attorney is that no, the owner of a newly platted parcel of land does not need a variance for pre-established shelterbelts. Gass stated in the memorandum that shelterbelts established before August 12, 2004 that do not meet the zoning setback requirements would not be a nonconforming use and may be continued without the restriction of the zoning ordinance so long as the use is of a continuous matter. Shelterbelts are a continuous use until they are removed. There is no language in the zoning ordinance or statues that require a variance prior to the Effective Date of the zoning ordinance. The act of platting or parceling out a piece of land from the whole does not trigger a variance requirement in this instant. Motion by Dahl, seconded by Homan, to approve the Lot 1 of Krause First Addition in Gov Lot 1 of Section 31, Township 116 North, Range 50 West of the 5th P.M., Goodwin 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.

Theisen stated that there will be a meeting with 1st District to discuss updating the Ordinance B-2004-01 the Zoning Regulations for Deuel County on Thursday, April 15 at 6:00 p.m. Theisen also informed the board about the next regular meeting which will be held on May 10, 2021 at 6:30 p.m. and some of the agenda items.

Kanengieter called the meeting at 9:40 pm.

  
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Jodi Theisen  
Zoning Officer

  
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Dennis Kanengieter  
Chairman, Zoning Board