

Monday May 13, 2019

The Deuel County Zoning Board met on Monday, May 13, 2019, at 6:00 p.m., in the Commissioner's Room of the Courthouse in Clear Lake. Those present were members Dennis Kanengieter, Steve Rhody, Paul Brandt, Kevin DeBoer and Mike Dahl. Also present were States Attorney John Knight and Zoning Officer Jodi Theisen. Chairman Dennis Kanengieter called the meeting to order.

The minutes from the April 8, 2019, meeting was discussed. Motion by DeBoer, seconded by Rhody, to approve the April 8, 2019 minutes by amending them to include the findings for the Motion by Rhody, seconded by Dahl, to grant the Variance request to Article XIII Section 1304 (6) Established Residences and Private Wells: The applicant is requesting to build a Class "A" Concentrated Animal Feeding Operation with 3 buildings and manure storage within 2640' from an established residence and private well in the Agricultural Zoning District. The findings for this Variance are the established residence signed a letter and has no concerns about the proposed CAFO. East Dakota Water Development doesn't have concerns about the proposed CAFO. The road is a minimum maintenance road and is maintained by the applicant and will have no effect on the traffic for the existing residence. The minutes are further amended to include a finding for Shane & Sara Haman Variance by adding; the home could not be built further from the road right-of-way because an old barn was buried in the area and they wanted to avoid the site. All voted in favor and motion carried.

Motion by Rhody, seconded by Brandt, to approve the amended May 13, 2019, Agenda. All voted in favor and motion carried.

#### ITEM ONE

Shane & Sarah Haman applied for a Variance Permit of Article XI Section 1101.07.02. The request, if granted, would permit the applicant to use the following property: Lot 1 Bleeker Addition in the SE1/4 Less N210' S451' E250' in Section 8-115-50, Havana Township, Deuel County, South Dakota, to build a house which is closer than one-half (1/2) mile from existing Concentrated Animal Feeding Operation (CAFO) in an Agriculture Zoned District. Theisen stated that in the public notice it stated the Section was 1101.04. It should be 1101.07.02. Shane Haman stated that he read over the waiver and is willing to sign the waiver knowing he is building within 1/2 mile of an existing CAFO. The Zoning Office has a letter from the CAFO owners, Koopman's, and they are not protesting the project as long as the Haman's sign a waiver. The board waived the variance fee for the Haman's since they paid for a variance fee last month for the house having less than 150' of front yard. Motion by Rhody, seconded by Dahl, to grant the Variance to build a house which is closer than one-half (1/2) mile from existing Concentrated Animal Feeding Operation (CAFO) in an Agriculture Zoned Distri-



ct. All voted in favor and motion carried. The findings for this Variance are that the applicant signed the waiver and they have acknowledged the existing CAFO and that the owners of the existing CAFO are not protesting the project.

## ITEM TWO

John & Andrea Van Dyke applied for a Variance of Article XII Section 1208. The request, if granted, would permit the applicant to use the following property: E1231.5' N1070' in Gov Lot 1 Less Van Dyke in NE1/4NE1/4 of Section 4, Township 114 North, Range 48 West of the 5th P.M., Deuel County, South Dakota, to plant a shelter belt that is closer to the road right-of-way and closer to the adjoining property line than what the ordinance allows in an Agriculture Zoned District. Van Dyke stated that he would like to plant 2 rows of evergreens south of the existing shelterbelt. These trees would be 50' from the road right-of-way and approximately 60' from the adjoining property owners who have sent a letter of approval to the Zoning Office. Van Dyke stated that he would like to plant trees behind his cattle lots and they are approximately 140' from the same adjoining property owners. Van Dyke also stated that he would like to plant 3 trees within the controlled area between his house and the pole shed and they would be 50' from the road right-of-way.

Motion by DeBoer, seconded by Rhody, to grant the Variance to plant a shelter belt that is no closer than 50' from the road right-of-way and approximately 60' and 140' from the adjoining property. The findings for this Variance are there are buildings and existing shelterbelt closer to the road right-of-way and these trees will not cause any greater snow or safety concern. There is minimal public traffic on the township road. The adjoining property owner signed a letter that they are aware of the shelterbelts and they are ok with Van Dyke's planting them. All voted in favor of and the motion carried.

## ITEM THREE

Scott Gordon & Rebecca Lundy applied for a Special Exception Permit that was postponed on December 10, 2018. The request, if granted, would permit the applicant to use the following property: Lot 23 Lake Alice Shores in Gov Lots 2,3,4,5 & SE1/4 of SW1/4 in Section 7-116-48, Altamont Township, Deuel County, South Dakota, to alter the shoreline within the 35' from the high water mark in a Lake Park Zoned District. Gordon stated that he put a lawn seed blanket on the site and put up a silt fence. Gordon stated that he will pull up the lawn seed blanket and plant some grass seed and cover the site back up with the lawn seed blanket until the grass has grown. They would like to fix the shore where it has been washing out with field stone material and 6 to 10 inch rip rap. Motion by Dahl, seconded by Brandt, to grant the Special Exception to alter the shoreline within the 35' from the high watermark in a Lake Park Zoned



District, to notify the DENR about the project, and to follow the proposed landscaping plan presented to the Deuel County Zoning Board. All voted in favor of and the motion carried.

#### ITEM FOUR

Chad Boehnke applied for a Special Exception Permit that was postponed on October 15, 2018. The request, if granted, would permit the applicant to use the following property: Lot 7 Lake Alice Shores in Gov Lots 2,3,4,5 & SE1/4 of SW1/4 in Section 7-116-48, Altamont Township, Deuel County, South Dakota, to alter the shoreline within 35' from the high watermark in a Lake Park Zoned District. Boehnke stated that he would like to level the area to make it more accessible to the beach for the kids within 35 feet from the high water-mark and he might put some field rocks along the high-water-mark. Boehnke stated that he would like to haul in some dirt behind the high-water-mark to make it more level to slope the lot toward the lake and to plant grass there. Boehnke also stated that he would like to pour a 4' wide walkway from a cement pad toward the lake for his wife which will be approximately 10' from the high water-mark. The 40' x 50' cement pad would be approximately 50' from the high water-mark and he would like to put sewer, water and electricity in. Motion by Brandt, seconded by DeBoer, to grant the Special Exception to alter the shoreline within the 35' from the high water mark in a Lake Park Zoned District, to follow the proposed landscaping plan presented to the Deuel County Zoning Board, to notify the DENR about the project, and to use a silt fence during the project. All voted in favor of and the motion carried.

#### ITEM FIVE

Josh & Amanda Sanow applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lot 22 Lake Alice Shores in SW1/4 in 7-116-48 Altamont Township, to operate a private campground in a Lake Park District. Sanow would like to renew their special exception for a private campground so they can park their camper on their lot for the summer. Sanow's stated that they have parked one camper there and would like to continue. They bring the camper in May 1 and remove it by fall. Theisen stated the Zoning Office has had no complaints from the neighbors.

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 permit a private campground for one camper on said lot from May 1 to September 30, and no commercial camping is allowed. This special exception is good for two years and the

applicant would need to reapply before May 13, 2021. All voted in favor of and the motion carried.

Motion by DeBoer, seconded by Brandt to use the same findings that were used for the May 19, 2017 Special Exception for a private campground that was passed.

- 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 has sufficient access to the property and proposed structures 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's utilities are the same as the adjoining properties.
- d. Screening and buffering with reference to type, dimensions, and character. The lot provides adequate screening and buffering for the proposed use.
- 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: There are no signs or exterior lighting.
- f. Required yards and other open spaces: Applicant has sufficient yard and other open spaces.
- g. General compatibility with adjacent properties and other property: This development is in its early years of development and the 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's use involves common household garbage. No garbage is stored outside and applicants take their garbage home with them when they leave the property and they are looking at getting a dumpster.



## ITEM SIX

David Haas applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lot 8 Lake Alice Shores in SW1/4 in 7-116-48 Altamont Township, to operate a private campground in a Lake Park District. Haas would like to renew his special exception for a private campground so he can park his camper on their lot for the summer. Haas stated that he has parked one camper there and would like to continue. He brings the camper in May 1 and removes it in the fall. Theisen stated the Zoning Office has had no complaints from the neighbors.

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 Brandt, seconded by DeBoer, to grant the Special Exception to permit a private campground for one camper to be placed 75 feet from the high water from May 1 to September 30, and no commercial camping is allowed. This special exception is good for two years and the applicant would need to reapply before May 13, 2021. The same findings that were passed prior for the May 19, 2017 Special Exception that was for a private campground to use the findings for this Special Exception. 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: Applicants have sufficient access to the property and proposed structures 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's utilities are the same as the adjoining properties.

d. Screening and buffering with reference to type, dimensions, and character. The lot provides adequate screening and buffering for the proposed use.

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: There are no signs or exterior lighting.

f. Required yards and other open spaces: Applicant has sufficient yard and other open spaces.

g. General compatibility with adjacent properties and other property: This development is in its early years of development and the applicant 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. Applicants use involves common household garbage. No garbage is stored outside and applicants take their garbage home with them when they leave the property.

#### ITEM SEVEN

Ryan & Danya Johnson applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lot 21 Lake Alice Shores in SW1/4 in 7-116-48 Altamont Township, to operate a private campground in a Lake Park District. Johnson would like to renew their special exception for a private campground so they can park their camper on their lot for the summer. Johnson's stated that they have parked one camper there and would like to continue. They bring the camper in May 1 and remove it in the fall. Theisen stated the Zoning Office has had no complaints from the neighbors.

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 Rhody, to grant the Special Exception to permit a private campground for one camper on said lot from May 1 to September 30 and no commercial camping is allowed. This special exception is good for two years and the applicant would need to reapply before May 13, 2021. The same findings that were passed prior for the May 19, 2017 Special Exception that was for a private campground to use the findings for this Special Exception. 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 has sufficient access to the property



and proposed structures 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's utilities are the same as the adjoining properties.

d. Screening and buffering with reference to type, dimensions, and character. They are planning on planting trees to provide adequate screening and buffering for the proposed use.

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: There are no signs or exterior lighting.

f. Required yards and other open spaces: Applicant has sufficient yard and other open spaces.

g. General compatibility with adjacent properties and other property: This development is in its early years of development and the 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. Applicants use involves common household garbage. No garbage is stored outside and applicants take their garbage home with them when they leave the property, and they are looking at getting a dumpster.

#### ITEM EIGHT

Gerald & Loretta Kalsbeck Trust applied for a Variance Permit of Article XII Section 1208. The request, if granted, would permit the applicant to use the following property: Plat of Kalsbeck Addition in the S1/2 of Section 31, Township 113 North, Range 50 West of the 5th P.M., Deuel County, South Dakota, to retain trees that are closer to the road right-of-way and the adjoining property lines than what the ordinance allows in an Agriculture Zoned District. Zoning Officer Theisen stated that the existing shelterbelt is approximately 19' from the road right-of-way and the set back is 100' from the road right-of-way. The existing shelterbelt is up to the adjoining property line and the



property owner, Ron Gorder, is ok with the existing shelterbelt and will supply the office with a letter. Motion by Brandt, seconded by DeBoer, to grant the Variance to retain the existing shelterbelt approximately 19' from the road right-of-way and to retain the existing trees that are up to the adjoining property line. All voted in favor and motion carried. The findings for this Variance are that they are platting an existing property and granting the variance will not cause any greater snow or safety concern.

#### ITEM NINE

City of Clear Lake applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lots 1 Ulvens Addition in Outlot 3 Ulvens Summer Resort in Gov Lots 2-3 in Section 24-115-49 and Lots 1-23 in Blocks 1-2 Ulvens Summer Resort & Outlot 2 & Lots 1-26 Sunset Beach in Replat Outlot 1 Ulvens Summer in Gov Lots 2-3 in Section 24-115-49, Clear Lake Township, Deuel County, South Dakota, to have a Public Park and/or Playgrounds in a Natural Resource District. Ellen Schmahl stated that they acquired the property, Lot 1 Ulvens Addition, and they would like to place a sign on the property. The property where they would like to place the sign is zoned Natural Resources. The property that is currently being used as the City Park was purchased in 1951 and there was no Special Exception for Public Park and/or Playgrounds in a Natural Resource District. Lot 1 Ulvens Addition is partially zoned Natural Recourse District and Agricultural District. In the Agricultural District public parks and recreation areas are a permitted use. 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 Brandt, to grant the Special Exception to have a Public Park and/or Playgrounds in a Natural Resource District. In the Agricultural District public parks and recreation areas are a permitted use. 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 adequate parking and loading area.



- 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 has sufficient screening on both sides of the property.
- 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: Applicant will have a sign on Lot 1 Ulven Addition that will be for the public campground and park. There are not residents in the immediate area, and the sign is compatible with the district, and it will not interfere with the traffic.
- 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 Natural Resources District and the Agriculture 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. The applicant has garbage cans and a dumpster and they do their own pick up.

#### ITEM TEN

Dean & Connie Ackermann applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lot 9 Agnes Place Addition in Gov Lot 8 in Section 5-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota, to operate a private campground in a Lake Park District. Ackermann's would like to park their camper on their lot all year and use it during the summer and to store it on the lot in the winter. Ackermann stated that the camper is 5' from the side lot line. The Board asked them how far it is from the edge of the road. Ackermann's didn't exactly know, but they thought 20' to 30' feet. There is a tree in the back of the lot and that prevents them from placing the camper further back. The Board suggested that they measure the campers location from the edge of the road and report it back to the Zoning Officer, and, if it is closer than 30' they would have to apply for a variance if they want to keep the camper closer than the setback of 30'. Theisen stated the Zoning Office has received one letter of concern from the neighbor's, Norgaard, and they are ok with one camper temporarily.

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 Brandt, seconded by Rhody, to grant the Special Exception to permit a private campground for one camper on said lot to have the camper there all year and to have the private campground permit from May 1 to September 30. After October 1\* then the camper will be on said lot for storage until May 1 of the following year and no commercial camping is allowed. The location of camper must be within the Lake Park setbacks of 30' from the edge of the road, 50' from the high-water-mark, and 5' from the side lot. This special exception is good for two years and the applicant would need to reapply before May 13, 2021. 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's utilities are the same as the adjoining properties.
- d) Screening and buffering with reference to type, dimensions, and character: Applicant has compatible screening and buffering as the adjoining properties.
- 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: Does not apply.
- 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.

\* This was published September 1 and was corrected on July 8, 2019.



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 ELEVEN

Scott & Ashley Conner applied for a Special Exception Permit and Variance Permit. The request, if granted, would permit the applicant to use the following property: Lots 1,2,3 & 4 Shady Beach Addition in Gov Lot 7 in SE1/4 in Section 4-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota,

- to alter the shoreline within 35' from the high-water mark in the Lake Park Zoned District.; and
- to rebuild a walkway which is within 35' of the high-water mark in the Lake Park Zoned District

Conner stated that they removed the older wood slide because it gave way and they would like to extend the three current block retaining walls across this old slide area. They also would like fix the old concrete that was a partial wall on the north side of the property. They would remove the concrete and leave the fence posts and add the geogrid and use blocks to redo the wall. Then they will place a drainage tile and rock behind the wall to help with water runoff.

Theisen stated that in the Variance public notice it stated the Section was 1102.05. It should be 1103.05. The board is ok with continuing on with this request. Conner also stated that they would like to replace the wooden walkway that is in disrepair. They would like to rebuild the walkway with wood and to place a rail on the walkway.

Motion by DeBoer, seconded by Brandt, to grant the Special Exception to alter the shoreline by rebuilding a retaining wall on the north side of the property, to extend the 3 retaining walls located on south side of the property, and to follow the proposed landscaping plan presented to the Deuel County Zoning Board. Applicant will need to use a silt fence during construction to help with erosion. To grant the Variance to rebuild a walkway which is within 35' of the high-water-mark in the Lake Park Zoned District. The findings for this Variance are that the walkway was pre-existing; it doesn't extend past the landscaping, or retaining walls. The walkway is lower than the retaining walls, so it is less of an obstruction than the retaining walls. All voted in favor of and the motion carried.

## ITEM TWELVE

DeBoer Construction applied for a Variance of Article XI Section 1102.04 (2). The request, if granted, would permit the applicant to use the following property: N210' W300' of Lot 1 West Side Acres & S190' W300' of Lot 1 and Lot 8 of West Side Acres in SE1/4SE1/4 in Section 21-115-49, Clear Lake Township, Deuel County, South Dakota, to build an office and shop with less than 150 feet of front yard, which is closer than County zoning regulations allow in a Commercial Zoned District. Jerome DeBoer stated that part of the shed went down in the April 2019 snow storm. They would like to build a new building 100' from the road right-of-way and the set back is 150' front yard.

Motion by Dahl, seconded by Brandt, to grant the Variance to build an office and shop no closer than 100' from the road right-of-way in a Commercial Zoned District. The findings for this Variance are there are buildings and existing shelterbelt closer to the road right-of-way which is a State Hwy which has a larger road right-of-way and this building will not cause any greater snow or safety concern. Kevin DeBoer abstained from the voting. All voted in favor of and the motion carried.

## ITEM THIRTEEN

Krause Livestock & Riley Krause applied for a Variance Permit of Article XII Section 1208. The request, if granted, would permit the applicant to use the following property: Plat of Krause Second Addition in the NW1/4 of Section 14, Township 114 North, Range 49 West of the 5th P.M., Deuel County, South Dakota, to retain trees that are closer to the road right-of-way and to the adjoining property line and existing building Zoning Officer Theisen stated that the existing shelterbelt is approximately up to the road right-of-way and the set back is 100' from the road right-of-way. The existing shed is approximately 23' from the back lot line and the setback 50' from the back lot line. The existing shelterbelt is up to the adjoining property line and the property owner, Krause Livestock, sent email stating they are ok with the existing shelterbelt. Motion by Rhody, seconded by DeBoer, to grant the Variance to retain the existing shelterbelt that is approximately up to the the road right-of-way, to retain the existing trees that are up to the adjoining property line with written permission from the adjoining property owner, and to retain the existing shed that is approximately 23' from the back lot line. All voted in favor and motion carried. The findings for this Variance are that platting this property will not cause any greater snow or safety concern. Since the Krause Second Addition is owned by a partner of Krause Livestock and both parties use both properties it would not cause a problem to be within the ordinance setbacks.



#### ITEM FOURTEEN

Krause Livestock & Riley Krause applied for a Variance Permit of Article XI Section 1101.04. The request, if granted, would permit the applicant to use the following property: NW1/4 less Krause Second Addition and SW1/4SE1/4 of Section 14, Township 114 North, Range 49 West of the 5th P.M., Deuel County, South Dakota, to build a shed/shop that has less front yard and that is closer to the side lot line than what the ordinance allows in an Agriculture Zoned District. Krause stated that they would like to build a new shed/shop approximately 58' from the east property line which would be the side lot line and the setback is 25' and approximately 15' from the north property line which will be the front yard, and the set back is 150'. Motion by Brandt, seconded by Dahl, to grant the Variance to build 60' X 100' shed/shop approximately 15' from the north property line which is less than 150' of front yard approximately. All voted in favor and motion carried. The findings for this Variance are will not cause any greater snow or safety concern. Since the Krause Second Addition is owned by a partner of Krause Livestock and both parties use both properties it would not cause a problem to be within the ordinance setbacks.

#### ITEM Fifteen

Michael & Jennifer Hawley applied for a Variance of Article XII Section 1208. The request, if granted, would permit the applicant to use the following property: Lot 1 & 2 Hawley Addition in the E1/2NE1/4 of Section 20, Township 115 North, Range 50 West of the 5th P.M., Deuel County, South Dakota, to plant a shelter belt that is closer to the road right-of-way and closer to the adjoining property line than what the ordinance allows in an Agriculture Zoned District. Hawley stated that he would like to plant 6 rows of trees north of the existing shelterbelt. Hawley stated these trees would be approximately 75' from the road right-of-way and approximately 150' from the adjoining property line. Motion by DeBoer, seconded by Rhody, to grant the Variance to plant a shelterbelt that is no closer than 75' from the road right-of-way which is closer than the ordinance allows in an Agriculture Zoned District. The findings for this Variance are there is an existing shelterbelt closer to the road right-of-way and these trees will not cause any greater snow or safety concern. The road right-of-way is a county road and it has a larger road right-of-way. All voted in favor of and the motion carried.

#### ITEM SIXTEEN

Mr. Bothun would like to replat 4 lots that are platted as 50' lots into a 125' and a 75'. The property description is Lots 12-12A Marion Bay Sub in Gov Lot 7 in Section 5-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota (#3653 lot without house) & Lots 9-9A-10-10A-11-11A Marion Bay Sub in Gov Lot 7 in Section 5-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota (#3651 lot with house



and garage). Parcel 3653 is owned by four owners and Parcel 3651 is owned by two people and they are thinking about selling part of the land. The lot requirement for shoreline is frontage of not less than 75' in width in the Lake Park District and road frontage of not less than 50' in width. Bothun wants to replat the 4 lots into a lot of 125' and a lot of 75'. He stated that the buildings would still be 10' from the side lot lines. Bothun would like to know if this is possible.

#### ITEM SEVENTEEN

Mr. Homan stated he stopped in the office and sent a letter stating his concerns:

- Wording changes from what was stated and accepted in the letter of assurance, which was dated and signed at the zoning board meeting on Sept. 11, 2017.
- The letter of assurance the zoning board required and I signed states:

“1. Applicant hereby acknowledges that the only way to be guaranteed unrestricted access to the airspace over the neighboring property is to secure those rights from the adjacent property owners. By signing this letter of assurance, applicant does not waive any legal rights to which he is entitled.”

Homan stated that is what we agreed to in the letter of assurance. However, on the permit I received from the zoning office, you changed the language to read “if he needs unrestricted access to the airspace over the neighbor’s property, applicant is required to secure those rights from the adjacent property owners to use the property [ property description ], to build and operate an airplane landing strip.” Homan stated the wording on the permit itself needs to be changed to accurately represent the correct wording that was agreed upon by the zoning board and John Homan, and formalized by the signing dated on Sept. 11, 2017. Homan requested to be issued a new revised permit with the correct wording.

On the Special Exception Permit Theisen put the motion from the July 10, 2017 minutes which states, to grant a special exception on the condition that the applicant (John Homan) signs a letter of assurance acknowledging that if he needs unrestricted access to the airspace over the neighbor’s property, applicant is required to secure those rights from the adjacent property owners to use the following property W1/2 less portion lying north of Railroad in NE1/4NW1/4 Section 32-116-47, Glenwood Township, to build and operate an airplane landing strip for private use in an Ag zoning district.

Then on July 25, 2017 the Zoning Officer (Jodi Theisen) sent John Homan and the board of adjustment an email stating that the Zoning Officer (Jodi Theisen) handed John Homan the letter of assurance that the Zoning Officer (Jodi Theisen) prepared he night of the July 10, 2017 meeting. On July 28, 2017 the Zoning Office received an email



from Christina Kilby stated that they would like the language changed. September 11, 2017, the motion was made to change the language of the original letter of assurance, not to change the original motion to accept the applicants requested language in the letter of assurance, and to add that the applicant would communicate with adjacent property owners. Motion by Dahl, seconded by Rhody, to have Theisen change the language on the Special Exception 17-16 (approved 7-10-17) to match the current Letter of Assurance that was signed (on 9-11-17). This updated Special Exception will replace the Special Exception 17-16 and will have the same date as September 11, 2017. Kanengieter called a roll call vote: Dahl-yes, Rhody-yes, DeBoer-yes, Brandt-no Kanengieter-yes. Motion carried.

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

#### ITEM EIGHTEEN

Motion by Brandt, seconded by DeBoer, to approve Plat of Krause Second Addition in the NW1/4 of Section 14, Township 114 North, Range 49 West of the 5th P.M., Deuel County, South Dakota. All voted in favor and motion carried.

Kanengieter called the meeting.



---

Jodi Theisen

Zoning Officer



---

Dennis Kanengieter

Chairman, Zoning Board