

**August 10, 2026 BOARD OF ADJUSTMENT/ PLANNING COMMISSION DEUEL COUNTY  
STAFF REPORT**

**Monday – August 10, 2026 – 6:30 p.m.**

**DEUEL COUNTY BOARD OF ADJUSTMENT**

**ITEM #1 VARIANCE**

**Applicant/Owner:** Dustin & Lynelle Jorgensen

**Property Description:** W40' E80' Lot 13B (Replat of PT OL 34 & Lot 13A), Agnes Place Addition, Gov't Lot 8, Section 5-114-47, Norden Township, Lake Cochrane, Deuel County, South Dakota.

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

**Zoning Designation:** LP – Lake Park

**Request**

The applicants are requesting a Variance from the required 25-foot rear yard setback to allow an existing deck located approximately 21 feet from the rear property line to remain in its current location.

**Specifics of Request**

1. The subject property is located within the Lake Park (LP) District on Lake Cochrane in the Agnes Place Addition.
2. The property contains two campers, placed under a Special Permitted Use authorization valid until July 1, 2029.
3. A deck was constructed between the two campers, as shown on the applicants' submitted site plan and supporting documents.
4. Under Section 1103.06, the rear yard setback for lots not adjacent to the lake within the LP District is 25 feet.
5. The applicants stated the deck was located approximately 21 feet from the rear lot line.
6. Zoning Officer Theisen conducted a site visit and measured the deck:
  - The furthest corner of the deck is approximately 21 feet from the rear property line.
  - The closest portion (end) of the deck is approximately 20 feet from the rear property line.Thus, the rear-yard encroachment ranges between 4–5 feet, depending on the measurement point.
7. The deck is already constructed and remains structurally sound and functional.
8. The applicants state that removing or relocating the deck — including modifying the 5-foot section — would create undue hardship and is not practicable given the placement of the two approved campers and limited buildable space.
9. No additional encroachment is proposed, and the deck is not expanding beyond its current footprint.

**Ordinance / Variance History Regarding this Request**

**Section 1103.06 – Minimum Lot Area and Yard Requirements**

- 50-foot setback from established normal high-water mark
- 25-foot rear yard setback (for lots **not adjacent to lake**)
- Front yard setback:
  - 50 feet from State/Federal highways
  - 30 feet from local roads
- Side yard setback: 10 feet
- Exception: lots <75 feet wide platted prior to June 8, 1976 require side-yard setback = 10% of lot width, minimum 5 ft

The deck encroaches only into the rear yard setback. No other setback variances are requested.

**Zoning Context & Considerations**

- The LP District contains many smaller, irregular lots with nonstandard development patterns.

- The presence of two campers under Special Permitted Use limits placement of outdoor living space.
- The applicants' lot configuration creates practical difficulty, justifying variance consideration under Section 1103.06.

### **Staff Recommendation**

The applicants request a Variance to allow an existing deck located 21 feet from the rear property line to remain. The LP District requires a 25-foot rear setback for non-lake-front lots, creating a 4-foot encroachment.

Because:

- The deck is already constructed,
- The encroachment is minor and does not extend closer than it currently sits,
- Removal or relocation would create undue hardship due to camper placement and limited space, and
- The deck provides reasonable use of the property within its existing constraints,

**Staff recommends approval of the Variance to allow the deck to remain no closer than approximately 20 feet from the rear property line.**

The Board could deny the variance if it determines that the practical difficulty is not unique to the property or that the request would conflict with the intent of the Deuel County Zoning Ordinance.

### **ITEM #2 CONDITIONAL USE PERMITS AND VARIANCE REQUEST**

**Applicants:** Sterzinger Crushing Inc

**Landowners:**

- Nate Atyeo – Owner of the W $\frac{1}{2}$  W $\frac{1}{2}$  SE $\frac{1}{4}$ , E $\frac{1}{2}$  W $\frac{1}{2}$  SE $\frac{1}{4}$ , and E $\frac{1}{2}$  SE $\frac{1}{4}$  (entire SE $\frac{1}{4}$ )
- Chuck Atyeo – Owner of Government Lots 3 and 4 and the E $\frac{1}{2}$  SW $\frac{1}{4}$  (entire SW $\frac{1}{4}$ )

### **Property Description:**

SE 1/4 and SW 1/4 of Section 18-115-48, Clear Lake Township, Deuel County, South Dakota.

### **Action Items:**

- **Conditional Use Permit: Section 1101.04.04 – To allow sand, gravel, or quarry operations, mineral exploration and extraction, and the use of rock crushers, provided all requirements of Section 1219 are met.**
- **Variance Request: Section 1219.03 – To allow a gravel or quarry operation within 1,000 feet of the nearest residence.**

**Zoning Designation:** A – Agricultural; Zone B – Aquifer Protection Overlay District (Shallow Aquifer) & Zone A – Aquifer Protection Overlay District (Wellhead Aquifer)

### **Request:**

The applicant, Sterzinger Crushing Inc., and landowners Nate Atyeo and Chuck Atyeo request approval of a Conditional Use Permit to operate a gravel mining operation on the S $\frac{1}{2}$  of Section 18-115-48. Both landowners jointly submitted the CUP application, creating one unified mining site that allows excavation across the internal quarter-section boundary between the SE $\frac{1}{4}$  and SW $\frac{1}{4}$ .

A Variance is also requested under Section 1219.03 to mine within 1,000 feet of existing residences. **Both** landowners signed residence-setback waivers, allowing mining within the 1,000-foot distance.

The contractor proposes mining 10–14 feet deep, remaining above the natural water table.

### **Joint Ownership / Joint CUP Findings**

1. The SE 1/4 and SW 1/4 are owned by two different landowners.
2. Both landowners signed the same CUP application, allowing the S 1/2 to function legally as one unified mining site.
3. The CUP's legal description ("S 1/2 of Section 18-115-48") correctly identifies the unified operation area.
4. Excavating gravel does not require a building permit unless a structure is involved.
5. Both landowners jointly applied for the Conditional Use Permit, allowing the proposed mining operation to be reviewed as a single project encompassing both quarter sections.
6. No exterior property line exists between the two parcels included in the joint CUP application.

## History / Issues

### Specifics of Request:

1. Applicant intends to mine and crush gravel and utilize the site for equipment storage and maintenance.
2. Operation is projected to last several years.
3. No mining shall occur within 100 feet of public rights-of-way or 25 feet of exterior property lines; final slopes will not exceed 4:1.
4. Both Atyeo residences are located within 1,000 feet of the proposed mining area.
5. Zoning Office received both residence waivers, but ordinance still requires a formal Variance.
6. Applicant provided a haul road agreement with Clear Lake Township.
7. A reclamation plan has been submitted.
8. Fuel tanker will be stored in a steel two-foot containment barrier with tarp lining; equipment fueling will occur on a fuel containment tarp.
9. Mining depth is proposed at **10–14 feet**, remaining above the natural water table.

### Ordinance and Comprehensive Land Use Plan Regarding This Request:

#### 1. **Section 1219 – Setback Requirements for Mining Operations**

Mining and mineral extraction operations must maintain a minimum of 1,000 feet from existing residences. A Variance is required when this distance cannot be met. In this case, signed waivers were received from both affected residence owners (Nate and Chuck), allowing mining within the 1,000-foot separation; however, ordinance requires a formal Variance.

#### 2. **Aquifer Protection Overlay Districts – Zone A & Zone B**

The entire mining area lies within Zone B (Shallow Aquifer) and a mapped portion of Zone A (Wellhead Protection). Zone A is the most restrictive groundwater protection zone. Mining can occur only if all performance standards in Sections 1101, 1105, and 1219 are met.

#### 3. **Allowable Uses in Aquifer Protection Zones**

Gravel pits and mineral extraction are permissible in Zone B. However, per past Board CUP decisions and ordinance interpretation, no permanent rock crushing facilities, asphalt plants, or concrete batch plants are permitted within Zone A. Rock crushing may only be allowed in Zone B if contamination risks can be sufficiently mitigated.

#### 4. **Staff Recommendation Regarding Rock Crushing**

Because the entire mining area lies within Zone A and Zone B, and due to elevated contamination risks associated with rock crushing operations, staff recommends rock crushing be denied. If the Board elects to approve rock crushing, strict contamination-control measures must be imposed.

#### 5. **Section 1105.12 – Petroleum Storage & Containment**

Petroleum storage over 100 gallons must be elevated. Storage exceeding 1,000 gallons requires approved secondary containment. Temporary fueling must occur within fully contained areas compliant with aquifer protection standards.

#### 6. **Fuel Storage Plan (Applicant Proposal)**

Applicant proposes:

- Steel two-foot containment barrier around tanker
- Tarp lining containment walls to catch spills
- All fueling performed on a fuel containment tarp

These measures are consistent with Section 1105.12.

#### 7. **General Aquifer Protection Considerations**

County may require:

- Soil borings to verify water-table depth
- Installation of monitoring wells for future sampling
- Compliance with all current and future State and Federal groundwater protection regulations

Drainage must be evaluated to ensure no runoff containing crop spray or manure enters the pit.

#### 8. **Mining Depth / Water Table Protection (Findings of Fact Requirement)**

Mining depth (10–14 feet) will stay above the natural water table. This limit should be included in Findings of Fact and enforced as a CUP condition. Mining below the natural water table is not part of this request.

## 9. **Rock Crushing Context**

Rock crushing is commonly associated with aggregate mining (reducing larger stones into smaller sizes). However, due to the location within Zone A, staff recommends rock crushing be denied unless strict groundwater-protection requirements are imposed.

## 10. **Existing State Permit – SD DANR Mining Permit (Portable Statewide Coverage)**

Sterzinger Crushing Inc. currently holds an active South Dakota Department of Agriculture and Natural Resources (SD DANR) Mining Permit, which is a portable state mining permit. Portable mining permits are not tied to one specific quarter-section; they allow the operator to mine at approved locations across South Dakota as long as the operator submits the required site-specific applications to SD DANR. Sterzinger Crushing Inc. intend to use this portable permit for mining operations on the SW 1/4 of the subject section, and the permit covers the Atyeo pit under the standard portable permit rules.

Because this Conditional Use Permit request involves mining the entire S 1/2 (SE 1/4 + SW 1/4), Sterzinger Crushing Inc. has spoken with SD DANR and is currently in the process of applying for site authorization for the S 1/2, including the SE 1/4 portion of the operation. State mining authorization must match the full scope of the permitted mining area.

In addition to the mining permit, the applicant also holds the following SD DANR permits applicable to the Atyeo site:

- SD DANR Industrial Stormwater General Permit
- SD DANR Rock Crusher Permit
- SD DANR Authorization-to-Discharge Approval Letter

These permits verify that the operator already meets the applicable State environmental permitting requirements.

### **Setback Requirements:**

#### **Residence Setback Waivers:**

- Signed by both Nate and Chuck — authorizing mining within the required 1,000-foot setback of both residences.

#### **Property Line Waiver:**

- Only **Chuck** signed a property line waiver — applies ONLY to **exterior** SW 1/4 boundaries.
- Nate did NOT sign a property-line waiver — SE 1/4 must maintain:
  - 25 ft exterior setback
  - 5 ft no-excavation buffer

#### **Internal Quarter Line:**

- No setback required due to joint CUP application.

### **Staff Summary and Recommendation:**

The applicant, along with information available to the Board through the zoning office, has provided required information for a permit application and proposes to meet specified requirements of the ordinance. Conditions recommended by staff were based on conditions applied to previously approved mining operations.

Staff recognizes that the subject parcel is located within both Zone B (Shallow Aquifer) and Zone A (Wellhead Aquifer) and therefore recommends approval of gravel mining only, as the entire mining area is located inside both aquifer protection zones. Rock crushing is NOT recommended by staff due to the elevated groundwater protection concerns associated with operations located entirely within Zone A.

However, if the Board approves rock crushing, staff notes that rock crushing is a typical component of aggregate mining operations, in which larger stone is crushed down to smaller dimensions and blended with gravel and sand to create aggregate mixes. Any approval of crushing must include strict groundwater, dust, fuel containment, and drainage protection conditions as outlined in this report to minimize potential impacts to the wellhead protection area and shallow aquifer. Conditions recommended by staff are intended to allow the proposed mining operation while minimizing potential impacts to groundwater resources and ensuring compliance with applicable aquifer protection standards.

**Variance #1 – 1000' setback from residence:** The Board may table the request, deny the request or approve the request. If approved, staff recommends approval be based upon the submittal of a waiver to the setback requirement by the affected landowner.

Conditional Use Permit – **Gravel Pits [with rock crushing]...** The Board may postpone the request, deny the request or approve the request. If approved staff recommends the following conditions be agreed to in a letter of assurance signed by the applicant(s):

1) Effective Date:

Signing of the Letter of Assurance

Submittal of Haul Road Agreements(s) with applicable road authorities.

2) General Requirements:

- a. No asphalt mixing plant and no concrete mixing/batch plant shall be permitted on this site under any circumstance
- b. There shall be no storage of junk, construction or demolition materials, solid waste, or waste products on the site.
- c. There shall be no discharge of industrial processed water on the site.
- d. Mining depth must remain above the natural water table at all times.
- e. Permanent fuel storage, if utilized, shall be located within an approved containment system and shall comply with Section 1105.12.

Temporary fueling shall use:

- Fuel tanker shall be stored within a steel containment barrier with a minimum height of two feet and lined with an impermeable tarp,
  - Interior tarp draped to catch spills,
  - Equipment fueling only on a fuel-containment tarp, and
  - Spill kits onsite.
- f. The applicant shall be aware that vehicles or equipment containing more than 100 gallons of fuel may pose additional risk due to aquifer conditions.
  - g. DANR mining permit and stormwater permit required prior to excavation and must be maintained throughout operations.
  - h. The applicant shall comply with all Federal, State, and Local laws and obtain all required permits.
  - i. The site shall be reclaimed according to DANR standards.
  - j. Reclamation shall be progressive, with areas reclaimed as mining advances.
  - k. No mining shall occur within 100 feet of public rights-of-way and 25 feet from exterior property lines unless otherwise approved.
  - l. Excavation slopes shall not exceed 4:1 near property lines and roads.
  - m. Hours of operation: 6:00 a.m.–7:00 p.m., Monday through Saturday.
  - n. Berms shall be constructed prior to commencement of mining activities.
  - o. The applicant shall provide updated local contact information for a site supervisor with authority to implement dust control and mitigation measures.
  - p. Rock crushing requirements
    - Rock crushing equipment must comply with all fuel containment requirements above.
    - Dust control must be actively maintained during crushing operations.
    - Noise control measures must be used as needed.
    - Drainage controls must prevent any runoff toward aquifer-protection areas.
    - No permanent rock-crushing facilities are permitted; only temporary/portable units.
    - Rock crushing equipment must operate above the natural water table.

3) Haul Road Agreements:

- a) Grantor shall provide a haul road agreement with Clear Lake Township prior to any mining activities on the above described property.

Violation and Penalties:

- a) Violation of the terms of this conditional use permit will be determined by the Deuel County Zoning Officer. The first violation substantiated by the Zoning Officer of this conditional use permit may result in a notification letter stating the violation and a prescribed period of time to remove the violation. A second violation occurring within one calendar year of the previous violation may result in a review of the validity of the conditional use permit and potential revocation of said permit. A third violation within one calendar year of the initial violation may result in revocation of the conditional use permit and cessation of all feeder operations within forty-five days (45) of notice of revocation.

- b) The applicant may make appeal from the decision of the Zoning Officer or other agent of the Deuel County Board of Adjustment to the Deuel County Board of Adjustment. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. Appeals from the Board of Adjustment shall be taken to Circuit Court.
- c) Failure to comply with the decision of the Zoning Officer or other agent of the Deuel County Board of Adjustment may be deemed a separate violation.

### ITEM #3 CONDITIONAL USE PERMIT

**Applicant/Owner:** Ronald Ruud

**Property Description:** Lot 9 Grabow Addition in NE1/4, Section 5, Township 114 North, Range 47 West, Norden Township, Deuel County, South Dakota.

**Action Items – CONDITIONAL USE – (1103.05.8 – Accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road)**

**Zoning Designation:** LP – Lake Park

**Request:** The applicant requests a Conditional Use Permit to construct a wood framed shed for storage on property separated from the principal residence by Edgewater Drive.

**History/Issue(s):**

**Specifics of Request:**

1. **Ownership:** Ronald Ruud owns both the subject lot (Lot 9, Grabow Addition) and the principal residence located across Edgewater Drive on Lots 18-19-20, Severson Bay, in Government Lot 5.
2. **Proposed Structure:** The applicant proposes to construct a 48' x 50' (2,688 sq. ft.) pole shed with 12-foot sidewalls for storage.
3. **Location:** The accessory structure will be located directly across Edgewater Drive from the primary residence.
4. **Ordinance Requirement:**  
Under Section 1103.05.8 of the Deuel County Zoning Ordinance, accessory structures on lots adjacent to the principal use—but separated by a public or private roadway—require Conditional Use Permit approval in the Lake Park (LP) District.
5. **Use of Structure:** The shed will be used for storage of a boat, pontoon, trailer, mowers, and miscellaneous items.
6. **Utilities:** No bathroom or plumbing is proposed at this time.

**Ordinance and Comprehensive Land Use Plan regarding this request:**

**a) Access & Circulation:** Access to the proposed structure will be provided from Edgewater Drive, a county-maintained roadway.

**b) Parking:** Adequate off-street parking is available. No parking within the public right-of-way is anticipated.

**c) Utilities:**

- Water: None proposed
- Sewer: None proposed
- Electric: H-D Electric Cooperative
- Trash: Regular trash service is currently provided.

**d) Screening and Buffering:** The existing vegetation is expected to assist in meeting applicable screening and buffering requirements of the LP Zoning District.

**e) Signage:** No signage is proposed.

**f) Setbacks:** The proposed building meets and exceeds all LP District setback requirements:

- Front yard: More than 50 feet
- Side yard: More than 10 feet
- Rear yard: More than 25 feet (to preserve existing tree line)

## **Staff Summary**

### **Conditional Use Permit – Accessory Structure**

The applicant seeks approval of a Conditional Use Permit for an accessory structure located on a lot adjacent to—but separated from—the principal residence by a public road, as allowed under Section 1103.05.8 of the Deuel County Zoning Ordinance.

The Board may approve, approve with conditions, continue, or deny the application.

## **Staff Recommendation**

Staff recommends approval of the Conditional Use Permit to allow construction of the accessory storage building on Lot 9, Grabow Addition, subject to compliance with all applicable LP District regulations and the Deuel County Zoning Ordinance.

If the Board finds that the request meets the criteria of Section 1103.05.8 and does not adversely impact the public interest, the Board may approve the permit. Proposed Findings of Fact and Conclusions of Law have been provided for the Board's consideration.

## **ITEM #4 CONDITIONAL USE PERMIT**

**Applicant/Owner: Bonnie & Robert Merritt & Brent & Toni Merritt**

**Property Description: Lot 8A (Replat of Outlot 34), Agnes Place Addition, located in Government Lot 8, Section 5, Township 114 North, Range 47 West, Norden Township, Deuel County, South Dakota..**

**Action Items – CONDITIONAL USE – (1103.05.8 – Accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road)**

**Zoning Designation: LP – Lake Park**

**Request: The applicants request approval of a Conditional Use Permit to relocate and place a 12' x 16' storage shed (accessory structure) on the above-described property. The shed is currently located at 2636 Edgewater Drive (Lake Cochrane) and will be moved to 2522 Lake Cochrane Drive West.**

**The accessory structure would be located on a lot containing a camper that already has an approved permitted use permit.**

## **History/Issue(s):**

### **Specifics of Request:**

1. **Ownership:** The applicants own Lot 8A and the associated camper located on Lot 8, Agnes Place.
2. **Structure Details:** The applicants propose to relocate a 12' x 16' wood storage shed to the property. No plumbing is proposed, and the shed will be used for general storage.
  - **Location & Setbacks:**
    - Rear yard setback: Approximately 25 feet (Per Theisen sight visit)
    - Side yard setback (east/right side): Approximately 11 feet (Per Theisen sight visit)
    - Lot width: 80 feet

The proposed structure meets or exceeds LP District minimum setback standards.
3. **Ordinance Requirement:** Per Section 1103.05.8 of the Deuel County Zoning Ordinance, accessory structures located on a lot adjacent to the principal structure and separated by a public or private road require Conditional Use Permit approval within the Lake Park District.
4. **Use of Structure:** The shed will be used for storage of miscellaneous personal items associated with lake residence and camper use.

## **Ordinance and Comprehensive Land Use Plan regarding this request:**

**a) Access & Circulation:** Access to the proposed structure will be provided from Edgewater Drive, a county-maintained roadway.

**b) Parking:** Adequate off-street parking is available. No parking within the public right-of-way is anticipated.

### **c) Utilities:**

- Water: None proposed
- Sewer: None proposed

- Electric: H-D Electric Cooperative. Applicants state they will eventually connect electricity.
- Trash: No regular trash service; the applicants take their trash home.

**d) Screening and Buffering:** The shed will be placed behind the existing camper area and within normal accessory-structure placement patterns for lakeshore properties. Existing vegetation provides partial natural screening.

**e) Signage:** No signage is proposed.

**f) Setbacks:** The shed meets or exceeds the required setback standards for the LP District. Placement does not encroach into any rights-of-way or easements.

## Staff Summary

### Conditional Use Permit – Accessory Structure

The applicants request a Conditional Use Permit to place a relocated storage shed on Lot 8A in the Agnes Place Addition. The structure qualifies as an accessory structure under Section 1103.05.8 of the Deuel County Zoning Ordinance because the lot is associated with a principal camper use and is separated by a roadway from connected residential use.

The Board of Adjustment may approve, approve with conditions, continue, or deny the request.

## Staff Recommendation

Staff recommends approval of the Conditional Use Permit for the relocation and placement of the 12' x 16' storage shed on Lot 8A, Agnes Place Addition, subject to compliance with all applicable Lake Park District regulations and the Deuel County Zoning Ordinance.

If the Board finds the request meets the criteria of Section 1103.05.8 and does not adversely impact surrounding properties or public interest, approval is appropriate. Proposed Findings of Fact and Conclusions of Law can be prepared upon request.

## ITEM #5 – CONDITIONAL USE PERMIT & VARIANCE

**Applicant/Owner:** Parkwin LLC

**Property Description:** Lot 12A of Shady Beach in Government Lot 7, Section 4, Township 114 North, Range 47 West, Norden Township, Deuel County, South Dakota.

**Zoning District:** LP – Lake Park District

**Request:** The applicant requests approval of both a **Conditional Use Permit** and a **Variance** to construct a twin home on Lot 12A in the Shady Beach Addition.

### Action Items – Conditional Use Permit (CUP) Requested under Section 1103.05.06 – Multiple Family Dwelling.

A twin home, consisting of two attached dwelling units, qualifies as a multiple-family dwelling and therefore requires CUP approval in the LP District.

**Variance:** Requested under Section 1103.06 – Minimum Lot Area and Yard Regulations to:

- Reduce the required side yard setbacks from 10 feet to 9 feet (1-foot reduction on each side)
- Reduce the required rear setback from the established high-water-mark from 50 feet to 44 feet (6-foot variance) to allow two cantilevered balconies (*Rear-yard variance originally requested—now withdrawn due to updated field measurements.*)

## History / Specifics of the Request

1. Parkwin LLC proposes to construct a twin home consisting of two attached units intended for personal use by the two families who jointly own Parkwin LLC.
2. The lot is 90 feet wide. LP District regulations require two 10-foot side yard setbacks, leaving 70 feet of buildable width.
3. The applicants state all workable twin home floor plans exceed 70 feet; the narrowest acceptable plan is 72 feet.
4. A 2-foot width variance (1 foot from each side yard setback) is therefore required.
5. The twin home is approximately 72 feet by 45 feet.
6. The original plan included two (2) 6×16 cantilevered balconies extending 6 feet into the 50-foot high-water-mark setback, requiring a 6-foot variance.
7. The decks are cantilevered from the main floor trusses and are part of the principal structure, not freestanding.
8. The dwelling will be used seasonally, typically May through mid-September.

9. A twin home is an allowed Conditional Use in the LP District but requires setback variances due to lot width constraints.
10. Updated Field Measurements (New Information)  
After the initial draft layout was submitted, Theisen and Parkwin LLC representative James Winterboer conducted an on-site verification of the staked building location marked by the surveyor. The draft placement had positioned the proposed twin home approximately 30 feet from the front property line, which resulted in both cantilevered balconies extending into the required 50-foot high-water-mark setback.

During the field review, Winterboer shifted the staked building footprint approximately six (6) feet toward Edgewater Drive. Following this adjustment:

- The main structure now sits approximately 26 feet from the front property line, and
- Approximately 62 feet from the edge of the road.

With this corrected placement, both balconies are now fully outside the required 50-foot high-water-mark setback, eliminating the need for the previously requested rear-yard variance related to balcony encroachment.

## **Ordinance Review**

### **Section 1103.05.06 – Multiple Family Dwellings**

Twin homes are allowed in the LP District only with Conditional Use approval. Review factors include:

- Compatibility with surrounding uses
- Adequacy of access and parking
- Lot size and configuration
- Compliance with LP District regulations
- Availability of utilities and services

### **Section 1103.06 – Minimum Yard Requirements**

- Required side yard setback: 10 feet
- Requested side yard variance: 1 foot each side (remaining setbacks: 9 feet)
- Required rear setback from high-water-mark: 50 feet
- Requested rear variance: 6 feet for two balconies (remaining setback: 44 feet) (*Rear-yard variance no longer needed due to field-verified corrective placement.*)

## **Ordinance & Comprehensive Plan Considerations**

- a) **Access & Circulation:** Access will remain from Edgewater Drive (County Hwy 516).
- b) **Parking:** Twin home design allows for private driveway parking on each unit's side. No right-of-way parking anticipated.
- c) **Utilities:** Existing utility services (water, sewer, electric) are available in Shady Beach Addition. Applicant will coordinate connections during construction.
- d) **Impact on Surrounding Area:** A twin home is consistent with other mixed residential uses within Shady Beach Addition and aligns with LP District allowances under CUP.
- e) **Setbacks:** Variance required for: • Both side yard setbacks, • Rear yard setback now compliant with the 50-foot high-water-mark requirement after updated site placement • Front yard setback also compliant.

## **Staff Summary**

Parkwin LLC requests approval to construct a twin home requiring both a Conditional Use Permit and Variances. Due to lot width constraints, the twin home design requires minor side yard setback reductions (from 10 feet to 9 feet on each side).

Updated field measurements confirm that the previously proposed 6-foot balcony encroachment into the high-water-mark setback has been eliminated. The corrected building placement fully satisfies the required 50-foot high-water-mark setback, and the rear-yard variance is no longer needed.

The applicants have demonstrated:

- Practical difficulty caused by the 90-foot lot width
- Minimal nature of requested side yard variances
- Compliance with high-water-mark setback after field adjustments
- Compatibility with neighboring properties
- The CUP is the correct mechanism to authorize the twin home in the LP District

## **Staff Recommendation**

### **Conditional Use Permit – Multiple Family Dwelling**

Staff recommends approval of the CUP under Section 1103.05.06, subject to compliance with all LP District regulations.

### **Variance – Side Yard Setbacks Only**

Staff recommends approval of the side yard Variances to allow the twin home no closer than 9 feet from the side lot lines.

### **Rear-Yard Variance**

The rear-yard variance for balcony encroachment is no longer needed due to the corrected building placement verified on-site.

The Board may approve, approve with conditions, continue, or deny the requests based on findings made during the hearing.

## **ITEM #6 – PLAT**

**Applicants/Owners:** Wayne & Collen Boeke & Neal Boeke

**Property Description:** Boeke's Second Addition in E1/2NW1/4 of Section 29 Township 115 North, Range 48 West, Clear Lake Township, Deuel County, South Dakota.

**Request:** The applicants propose to replat Lot 1, Boeke Addition, into Boeke's Second Addition, totaling 8.51 acres. The purpose of the replat is to expand the acreage and consolidate all existing buildings onto a single parcel for clearer property boundaries and more functional use.

**Action Item:** Review and consider approval of the proposed Boeke's Second Addition plat. If approved, the Board of Adjustment shall refer the plat to the Deuel County Commissioners for final action.

## **ITEM #7 – PLAT**

**Applicants/Owners:** Gary & Lucille Miller, Walter Iverson, Jillene & Chad Smith and Austin & Suleima Adeo

**Property Description:** Lot 1A Tolrud Addition in NW1/4 of Section 19 Township 113 North, Range 48 West, Scandinavia Township, Deuel County, South Dakota..

**Request:** The applicants propose to replat Lot 1A, Tolrud Addition, into a new Lot 1A, Tolrud Addition, totaling 27.4 acres. The Millers, Iversons, and Smiths recently sold land surrounding the Tolrud Addition. As part of that transaction, additional land was offered to the Adees to provide more space between their residence and the adjacent farmland. The Adees agreed to incorporate this additional land into the replat.

**Action Item:** Review and consider approval of the proposed Lot 1A Tolrud Addition plat. If approved, the Board of Adjustment shall refer the plat to the Deuel County Commissioners for final action.

## **ITEM #8 – PLAT**

**Applicants/Owners:** Darlene Schmidt

**Property Description:** Schmidt's Addition in SE1/4 of Section 26 Township 114 North, Range 48 West, Norden Township, Deuel County, South Dakota.

**Request:** The applicant proposes to plat an acreage totaling 5.18 acres. The intent of the plat is to formally establish the parcel for future estate planning purposes.

**Action Item:** Review and consider approval of the proposed Schmidt's Addition plat. If approved, the Board of Adjustment shall refer the plat to the Deuel County Commissioners for final action.

## **ITEM #9 – PLAT**

**Applicants/Owners:** Gary & Gail Jaeger

**Property Description:** Jaeger Pasture Addition in the NW1/4 of Section 27, Township 117 North, Range 50 West, Rome Township, Deuel County, South Dakota.

**Request:** The applicants propose to plat an acreage totaling 33.64 acres. The intent of the plat is to formally establish and separate the pasture land from the remaining farm ground and to prepare the property for future estate-planning purposes.

**Action Item:** Review and consider approval of the proposed Jaeger Pasture Addition plat. If approved, the Board of Adjustment shall refer the plat to the Deuel County Commissioners for final action.

**ITEM #10 – PLAT**

**Applicants/Owners:** Leila Kruse LE & Kruse Family LLP

**Property Description:** Kruse Second Addition in the SW1/4 of Section 20, Township 117 North, Range 47 West, Antelope Valley Township, Deuel County, South Dakota.

**Request:** The applicants propose to plat an acreage totaling 20.268 acres. The intent of the plat is to formally establish the acreage separate from the remaining land for future estate-planning purposes.

**Action Item:** Review and consider approval of the proposed Kruse Second Addition plat. If approved, the Board of Adjustment shall refer the plat to the Deuel County Commissioners for final action.

**ITEM #11– PLAT**

**Applicants/Owners:** Gregory & Joan Gibson

**Property Description:** Hazy Moon Ranch Second Addition in the NW1/4 of Section 15, Township 116 North, Range 50 West, Goodwin Township, Deuel County, South Dakota.

**Request:** The applicants propose to plat an acreage totaling 20.26 acres. The original platted acreage was 20.20 acres, and additional square footage is now being added to accommodate the replacement of a shed that was damaged during a storm. The expanded plat area allows the new structure to be constructed at a larger size while still meeting the required side yard setback standards of the Deuel County Zoning Ordinance.

**Action Item:** Review and consider approval of the proposed Hazy Moon Ranch Second Addition plat. If approved, the Board of Adjustment shall refer the plat to the Deuel County Commissioners for final action.