

**January 18, 2023 BOARD OF ADJUSTMENT/ PLANNING COMMISSION
DEUEL COUNTY
STAFF REPORT**

Monday – January 18, 2023 – 6:00 p.m.

DEUEL COUNTY BOARD OF ADJUSTMENT

ITEM #1

Replat of Joyce Grong and Barbara Fluttum properties located in Shady Beach Addition at Lake Cochrane. Part of Grong's garage is located on Fluttum's property (Lot 31). John Knight will talk to the board about transferring the property and replatting Grong's property and that portion of Lot 31 into one lot.

ITEM #2 CONDITIONAL USE PERMIT

Applicant/Owner: Joel & Jennifer Morgan/Flow Control Automation Inc

Property Description: OJ Addition in SE1/4 of Section 10-115-49, Clear Lake Township, Deuel County, South Dakota.

Action Items – Special Exception – (1101.04.16 – Section 1210) Extended Home Occupation (to operate a manufacturer's representative/distributor of valves, valve actuators and flow measurement instruments business)

Zoning Designation: AG – Agricultural

Request: Applicant/Owner to operate an Extended Home Occupation (to operate a manufacturer's representative/distributor of valves, valve actuators and flow measurement instruments business)

History/Issue(s):

Specifics of Request:

1. Morgan's purchased this property on 5-10-2021 and it contains 23.92 acres.
2. Access to this property is Hwy 22 which is a state road.
3. Due to change in previous ownership the existing buildings were used for a CAFO (chickens and eggs).
4. The applicant is requesting to operate an Extended Home Occupation (to operate a manufacturer's representative/distributor of valves, valve actuators and flow measurement instruments) in existing accessory building.
 - a) Location of existing pole shed meets the setback requirement. They would like to remodel and add on to the existing pole shed. The addition would be shop/warehouse.
 - b) Work would include receiving valve parts and assembly.
5. This property is located on the Zone B which is mapped as a shallow aquifer and will have meet the Performance Standards as outlined for the Aquifer Protection Overlay Zones areas #1, #3 and #4 (Section 1105.12 page 84-85).
6. Deuel County Ordinance requires that a landowner go through the Conditional Use Permit Process to to operate an Extended Home Occupation in the "AG" District.

Ordinance and Comprehensive Land Use Plan regarding this request:

- o This lot will have access off of SD Hwy 15 which is maintained by South Dakota DOT;
- o The site has room for off street parking;
- o They have efficient utilities; water is provided by Brookings-Deuel Rural Water, they have to have a septic tank for business and remodeling of the existing pole shed. They have a dumpster for the trash service. They have electricity provided by H-D.
- o They have efficient Screening and Buffering and the existing shed is located approximately 165' from the road right-of-way and there are existing trees located to north and west;
- o They are going to have an on-site Signs – either on the building or a metal sign located outside of the road right-of-way. The maximum cumulative amount of all on-premise signage allowed shall not exceed eighty (80) square feet.
- o They have have efficient yard space and other open space, the shed is approximately 165' from the road right-of-way, approximately 280' from side lot line to the south, approximately 400' from side lot line to the north.

Staff recommendation:

Condition Use Permit – **Extended Home Occupation (to operate a manufacturer’s representative/distributor of valves, valve actuators and flow measurement instruments business):** The application may be approved, postponed, or denied. If approved, approval would be based on the board being empowered to issue the permit due to the proposal meeting the definition of an Extended Home Occupation and Uses and the applicant's ability to meet the requirements for a special exception described in ordinance. Staff recommends the following conditions be agreed to in a letter of assurance signed by the applicant(s):

- a. An extended home occupation may not be changed to another home occupation except by the issuance of a separate conditional use permit.
- b. Individuals engaged in such occupation shall consist of family members residing on the premises and up to three (3) non-family employees.
- c. There shall be no change in the outside appearance of the buildings or premises, or other visible evidence of the conduct of such home occupation other than one on-premise sign, not to exceed eighty (80) square feet in area, non-illuminated.
- d. Off premise signage for extended home occupations shall be limited to South Dakota Department of Transportation (SDDOT) commercial, directional signs, also known as “TOD Signs”. These signs, with SDDOT approval, may be located adjacent to State and Federal Highways.
- e. The only retail sales allowed shall consist of the sale of commodities/products prepared on the premises in connection with such occupation or activity. Exception: Seed Sales.
- f. Extended home occupations should be agriculturally related and be conducted in an accessory building.
- g. No traffic shall be generated by such extended home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need of parking generated by the conduct of such extended home occupation shall be provided off the street and other than in a required front yard.
- h. No equipment or process shall be used in such extended home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

Section 1105.12 Performance Standards For Aquifer Protection Overlay Zones: The following standards shall apply to land uses in Zones A and B of the Aquifer Protection Overlay Districts:

1. New or replacement septic tanks and associated drain fields for containment of human wastes must conform with regulations established by the State Department of Environment Agriculture and Natural Resources.

3. Storage of petroleum products in quantities exceeding (100) gallons at one locality in one tank or series of tanks must be in elevated tanks; such tanks larger than one thousand (1,000) gallons must have secondary containment system where it is deemed necessary by the County Zoning Office.

4. Any commercial or industrial facility, not addressed by (2) or (3) above, involving collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste, except for spreading of manure, in excess of one thousand (1,000) pounds and/or one hundred (100) gallons which has the potential to contaminate ground water must have a secondary containment system which is easily inspected and whose purpose is to intercept any leak or discharge from the primary containment vessel or structure. Underground tanks or buried pipes carrying such materials must have double walls and inspectable sumps.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. Please see Findings of Fact and Conclusions of Law on file with this application.

ITEM #3 VARIANCE

**Applicant: Erik Peterson
Owners: James and Jane Peterson Trust**

Property Description: S1/2 Less Lot 1 Adolph Subdivision & Less H-4 of the Section 14-117-48, Lowe Township, Deuel County, South Dakota

Action Items – Variance – (Section 1101.05 Front Yard)

Zoning Designation: AG – Agricultural

Request: Applicant requesting a Variance to erected new bin that is closer to the road right-of-way than what the ordinance allows.

Specifics of Request:

1. Peterson is requesting a Variance to erected new bin less than 65' from the front yard.
2. No record exists of permits for the above reference bin, previous building permits were from 1998 on.
3. They replaced an existing bin that was damaged by the May 2022 storms which was located approximately 27' from the road right-of-way. They replaced the bin with the same size without a permit and less than 65' from the front yard. According to the the applicant the new bin is approximately 27' from the ROW which is approximately 127' from the center of the road with a 100' ROW (SD State Hwy 212).
4. The bin will be located on the currently described as the S1/2 Less Lot 1 Adolph Subdivision & Less H-4 in (to be known upon platting as Peterson Farms Bins Site Addition in SW1/4) of the Section 14-117-48, Lowe Township, Deuel County, South Dakota.
5. This property after the plat is filed it will be transferred to the applicant.

Staff recommendation: If approved, staff recommendation - To grant the Variance to erected new bin, no closer than 20' from the road right-of-way. Which this property Please see Findings of Fact and Conclusions of Law on file with the application.

The Board could deny the Variance on the basis that the circumstances surrounding this request are not so unique in nature to necessitate granting special privilege to this applicant which is denied to other properties in this zoning district.

ITEM # 4 PLAT

Applicants/Owners: James and Jane Peterson Trust

Property Description: Peterson Farms Bin Site Addition in SW1/4 of Section 14, Township 117 North, Range 48 West of the 5th P.M., Deuel County, South Dakota.

Request: Plat 4.20 acres parcel for estate planning purposes. The existing shed that is split by the property line may not receive a building permit to be replaced or added onto in any way.

Action Item –Plat approval.

ITEM # 4 PLAT

Applicants/Owners: Jim Thorpe

Property Description: Block 1 Thorpe Addition in SE1/4 of Section 21, Township 115 North, Range 47 West of the 5th P.M., Deuel County, South Dakota.

Request: Plat 26.5 acres irregular parcel for transferring purposes.

Action Item –Plat approval.