

November 14, 2022 BOARD OF ADJUSTMENT/ PLANNING COMMISSION
DEUEL COUNTY
STAFF REPORT

Monday – November 14, 2022 – 6:30 p.m.

DEUEL COUNTY BOARD OF ADJUSTMENT

ITEM # 1

Applicants/Owners: Jayda & Justin Templeton

Property Description: Jayda Templeton Addition in Section 20-117-50, Rome Township, Deuel County, South Dakota

Action Items – Variance – (Section 1101.04 Side Yard)

Zoning Designation: AG – Agricultural

Request: Applicant requesting a Variance to have existing garage less than 25' from the side yard.

Specifics of Request:

1. Templeton's are requesting to have the existing garage less than 25' from the side yard.
2. They moved in an older garage approximately 20' from the side property line without a permit.
3. They thought the property line was in the tree line and which was further away.

Staff recommendation: If approved, staff recommendation - To grant the Variance to have the detached garage, no closer than 18' from the side lot line. 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 # 2 Variance

Applicants/Owners: Todd & Jody Ann Jongeling

Property Description: S1/2SE1/4 (to be known upon platting as Jongeling Addition in S1/2SE1/4) of the Section 28-113-49, Blom Township, Deuel County, South Dakota.

Action Items – Variance – (Section 1101.04 Area Regulations)

Zoning Designation: AG – Agricultural

Request: Applicant/Owner Applicant requesting a variance to plat a parcel of land, to retain existing building that that is closer to the road right-of-way than what the ordinance allows.

Specifics of Property/Request:

1. Todd & Jody Ann Jongeling platting a parcel of land which contains 14.10 acres with existing buildings to transfer.
2. The property currently has an older grain bin which is approximately 145 feet from the road right-of-way which is 33 feet.
3. This property is located west side of a township road.

Ordinance/Variance History regarding this request:

Section 1101.04

1. The Zoning Ordinance requires a minimum depth of the front yard shall be not less 150 feet.
2. The board received requests for plat a parcel of land, to retain existing building that is closer to the new property line than what the ordinance allows within the 150 feet from the road right-of-way and in the past the board has granted to plat a parcel and to retain the existing house that is approximately 101 feet from the road right-of-way. This Variance doesn't apply to any new structures that are built on the property.
3. Board members could question the need for the variance but note that with the proposed amendments to zoning ordinance this request would not be necessary in a few months.

Staff Summary

Section 1101.04

The Board has to decide whether the issuance of a plat a parcel of land, that retains existing building less than 150' of a public road right-of-way would not produce undue hardship or be substantial detriment to adjacent property.

Staff is unable to identify any physical hardships on the property that would deprive the applicant of rights enjoyed by other property owners in the area on (in the same zoning district).

Staff recommendation:

Variance Permit – Section 1101.04 Area Regulations: The application may be approved, postponed, or denied. If approved, approval would be based on the board:

1. Platting this property with an existing grain bin that is approximately 145 feet from the road right-of-way will not cause any greater snow or safety concern. This Variance does not apply to any new structures that are built on the property.

Denial would be based upon:

1. 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. A "no" vote, the property can be platted, but a deed restriction stating the structure that is too close cannot be rebuilt or added onto needs to be prepared and recorded.

Please refer to the Findings of Fact and Conclusions of Law on file with the application.

ITEM #3 VARIANCE

Applicants/Owners: Ginger Hanten & Leo Hanten Life Estates and Tamra Hanten Ching & Todd Hanten & Michael & Tara Gibson Living Trust

Property Description: Gov Lot 3-4 Less H-2 & Less OL A in Gov Lot 4 & S1/2 NW1/4 & SW1/4 Less that portion Lot 1 Goodwin Golf Course ADD & Less Chicago Ave in SW (to be known upon platting as Lot 1 Hanten Addition in SW1/4) of the Section 5-116-50, Goodwin Township, Deuel County, South Dakota.

Action Items – Variance – (Section 1101.04 Area Regulations)

Zoning Designation: AG – Agricultural

Request: Applicant/Owner Applicant seeks a variance to plat a parcel of land, to retain existing building that that is closer to the road right-of-way than what the ordinance allows.

Specifics of Property/Request:

1. Ginger Hanten & Leo Hanten Life Estates, Tamra Hanten Ching, Todd Hanten & Michael & Tara Gibson Living Trust platted a parcel of land which contains 9.66 acres with existing buildings to transfer.
2. The property currently has an existing house which is approximately 126 feet from the road right-of-way which is 40 feet.
3. This property is located north side of a township road that has a 40 feet road right-of-way, this property is located west of the Town of Goodwin.

Ordinance/Variance History regarding this request:

Section 1101.04

1. The Zoning Ordinance requires a minimum depth of the front yard shall be not less 150 feet.
2. The board received requests for plat a parcel of land, to retain existing building that is closer to the new property line than what the ordinance allows within the 150 feet from the road right-of-way and in the past the board has granted to plat a parcel and to retain the existing house that is approximately 101 feet from the road right-of-way. This Variance doesn't apply to any new structures that are built on the property.
3. Board members could question the need for the variance but note that with the proposed amendments to zoning ordinance this request would not be necessary in a few months.

Staff Summary

Section 1101.04

The Board has to decide whether the issuance of a plat a parcel of land, that retains existing building less than 150' of a public road right-of-way would not produce undue hardship or be substantial detriment to adjacent property.

Staff is unable to identify any physical hardships on the property that would deprive the applicant of rights enjoyed by other property owners in the area on (in the same zoning district).

Staff recommendation:

Variance Permit – Section 1101.04 Area Regulations: The application may be approved, postponed, or denied. If approved, approval would be based on the board:

1. Platting this property with an existing house that is approximately 126 feet from the road right-of-way will not cause any greater snow or safety concern. This Variance does not apply to any new structures that are built on the property.

Denial would be based upon:

1. 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. A "no" vote, the property can be platted, but a deed restriction stating the structure that is too close cannot be rebuilt or added onto needs to be prepared and recorded.

Please refer to the Findings of Fact and Conclusions of Law on file with the application.

ITEM # 4 VARIANCE

Applicants/Owners: Jon & Amber Peterreins

Property Description: Peterreins Addition in Section 21-115-47, Herrick Township, Deuel County, South Dakota

Action Items – Variance – (Section 1101.04 Side Yard)

Zoning Designation: AG – Agricultural

Request: Applicant requesting a Variance are requesting to have existing carport less than 25' from the side yard.

Specifics of Request:

1. Peterreins are requesting to have existing garage less than 25' from the side yard.
2. They erected a carport approximately 7' from the side property line.
3. They didn't realize that they need to be 25' from the side property line with a portable carport.

Staff recommendation: If approved, staff recommendation - To grant the Variance to have a carport, no closer than 7' from the side line. 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 # 5 PLAT

Applicants/Owners: Todd & Jody Ann Jongeling

Property Description: Jongeling Addition in S1/2SE1/4 of the Section 28-113-49, Blom Township, Deuel County, South Dakota.

Request: Plat a 14.10 acres irregularly shaped parcel for transfer purposes.

Action Item –Plat approval.

ITEM # 6 PLAT

Applicant/Owner: Josh Streich

Property Description: Streich Addition in NW1/4 of the Section 26-115-50, Havana Township, Deuel County, South Dakota.

Request: Plat Lot 1 which contains 3 acres which is an irregularly shaped parcel for transfer purposes, selling acreage, received a variance prior for the mobile home 60' from the front yard (road right-of-way) and garage also which was for the Clark Addition. Plat Lot 2 which contains 13.2 acres which also contains existing building site.

Action Item –Plat approval.

ITEM # 7 PLAT

Applicants/Owners: Ginger Hanten & Leo Hanten Life Estates, Tamra Hanten Ching, Todd Hanten & Michael & Tara Gibson Living Trust

Property Description: Lot 1 & Lot 2 Hanten Addition in SW1/4 of the Section 5-116-50, Goodwin Township, Deuel County, South Dakota.

Request: Plat Lot 1 which contains 9.66 acres which is an irregularly shaped parcel for transfer purposes, selling acreage, contingent it received a variance prior for the grain bin less than 150' from the front yard. Plat Lot 2 which contains 3.49 acres for transferring purposes.

Action Item –Plat approval.

ITEM # 8 PLAT

Applicant/Owner: Vincent D & Myrene F Weisel Irrevocable Trust

Property Description: Weisel Addition in S1/2 of the Section 2-117-49, Portland Township, Deuel County, South Dakota.

Request: Plat of Lot 1 which contains 113.5 acres which is an irregularly shaped parcel for transfer purposes (farmland), Lot 2 which contains 114.3 acres which is an irregularly shaped parcel for transfer purposes (pasture) and Lot 3 which contains 92.5 acres which is an irregularly shaped parcel for transfer purposes (farmland).

Action Item –Plat approval.

ITEM # 7 DISCUSSION

Theisen stated that she notices that a building permit that was granted on 11/16/2021 was not completed (they haven't moved the shipping container) and the building permit has an expiration date of 2 years which would be 11/16/2023.