

Monday January 30, 2023

The Deuel County Zoning Board met on Monday January 30, 2023 at 6:00 p.m., at the Deuel County Complex at 47494 SD Hwy 22, Clear Lake, SD. Those present were members Jay Grabow, Paul Brandt, Kevin DeBoer, Mike Dahl, Dennis Kanengieter, States Attorney Craig Evenson, Zoning Officer Jodi Theisen, Steve Westerbuhr, Ben Stout and others from A1 Development. There were other numerous Deuel County property owners present.

Chairman Dennis Kanengieter called the meeting to order.

Chairman Kanengieter stated that he and other board members have had conversations with the public and hopefully some of them are here and they state their concerns and have discussion. Chairman Kanengieter stated that the board has no prior conclusions and will take everything in consideration.

The minutes from the January 18, 2023 meeting were discussed. Motion by DeBoer, seconded by Brandt, to approve the January 18, 2023 minutes with the corrections. All voted in favor and motion carried.

Motion by Brandt, seconded by Dahl, to approve the January 30, 2023, Agenda. All voted in favor and motion carried.

Variance request to Section 1304.06 CAFO Requirements Setback and Separation Distance. The applicant, Hollywood Feeders, LLC/Gary Balbach Family Trust Feedlot, land owners, Chad A Olsen & Pamela J Olsen Trust Agreement, Sandra Balbach Trust and Daniel Rhody Living Trust, are requesting to expand their Class "A" Concentrated Animal Feeding Operation with less than 2,640' from several private wells and an established residence. The property property described as N1/2 of Section 17-113-49, Blom Township, Deuel County, South Dakota.

Special Exception Conditional Use Permit Pursuant to Section 1101.03 – Concentrated Animal Feeding Operations. The applicant, Hollywood Feeders, LLC/Gary Balbach Family Trust Feedlot, land owners, Chad A Olsen & Pamela J Olsen Trust Agreement, Sandra Balbach Trust and Daniel Rhody Living Trust, are requesting to expand its Class "A" Concentrated Animal Feeding Operation (CAFO from 3,499 animal units to 13,585 animal units which is 9,500 mature cattle) which is a new dairy facility in the Ag District on the property described as N1/2 of Section 17-113-49, Blom Township, Deuel County, South Dakota.

There was discussion on the expansion of the CAFO along with the variance requests.

Ben Stout, A1 Development Solutions, representing Chad Olsen and Michael Vander Dussen stated that they would like to expand their CAFO from 3,499 animal units to 13,585 animal units, of which are 9,500 mature cattle) which is a new dairy facility in the Ag District. The expansion will consist of construction of a shop, commodity barn, hay barn, feed pad, feed pad runoff holding pond, solids building, stacking pad, four stormwater basins, large dairy freestall barn, milk center (parlor), four manure storage ponds. Digester System, proposed separator building, covered pond to the north of the CAFO.

Stout stated the site described N1/2 of Section 17-113-49, Blom Township, Deuel County, South Dakota. The proposed expansion of the CAFO will be located within the 2,640 feet of unregistered wells to the south and north. Albert Moore's unregistered wells to the north, are approximately 439' and 555' from the existing CAFO barns. Variance is not required from Mr. Lennings well as a variance was previously granted the proposed expansion will not get any closer to Mr. Lennings's well. The expansion would be outside the 2640' from Mr. Lennings

existing well. Albert Moore provided a setback letter stating that he is ok with the expansion of the existing CAFO that is within ½ mile of the private well.

The proposed expansion of the CAFO will be located approximately 570' west of Daniel Rhody Living Trust residence. Daniel Rhody Living Trust provided a setback letter stating he is ok with the expansion of the existing CAFO that is within ½ mile of the residence.

Stout stated that they will have a haul road agreement with Blom Township. Stout stated that they have inquired with Local Transportation Assistance Program at SDSU and they did analysis of the 473rd Ave to the south and it would cost approximately \$350,000 to build up the road and that is a onetime cost. The road would additionally need maintenance through the years. They are willing to meet with the county and any of the townships about haul road agreement. They would like to do one for the main road 473rd Ave and one for silage and other maintenance issues as they arise. There was conversation about the upcoming Hwy 28 construction and alternate routes.

Stout stated that they have an existing nutrient management plan and manure management plan through their current DANR permit. Stout stated that they will update the fields and current plan if the expansion is granted. Currently they have 5,494 acres with additional acres in Minnesota and the total acres are 12,948 acres. Stout stated these management plans were prepared manure acres using the state permit standards. Stout stated that they have solid manure now and with the dairy it would be more liquid and perhaps a digester would be utilized in the future. The composting process will still continue and would perhaps be decreased in the future.

Stout and Olsen stated that they use rural water now and a well that they use. They have been in contact with Brookings-Deuel Rural and they believe they would be able to handle water usage with the expansion.

They stated that Olson would sell the operation to Michael Vander Dussen and he would be the new owner of the Dairy. Vander Dussen stated that he helps operate a family dairy in Iowa of about 10,000 Jersey cattle and in California also. Vander Dussen stated that the young calves will be shipped to the south for raising then returned at milking age. Vander Dussen stated that they would employ 30 to 40 people and no onsite housing. Dussen stated that Kees Knevelbaard will be the manager.

There was talk about the traffic and the semi's and along Hwy 15 especially in the town of Clear Lake.

The board opened it up to public comments.

Tammy Krein – when she worked for DADI they did a bus tour visited 3 dairies, Valley Queen and they dairy by Bryant all the dairies were very clear not a lot of odor, Mayor Bryant spoke highly of the new dairy by their town.

Dwight Hasselquist – was a manager of a large dairy in NW Iowa, now working in dairy equipment stated Vander Dussen are great people to work with a great asset and they dairies are always clean.

Brad Jochum – custom manure applicator for Vander Dussen in Iowa, stated that 6-7 miles is pushing it likes fields closer, stated that the Rock River Jersey Dairy picks up extra manure acres every year, and concurs with Hasselquist about Vander Dussen.

Jake Fanken – does custom chopping for Brett Kirkley, manager of Rock River Jersey Dairy, stated very clean, good on dust control, and stewards of the community.

Tim Froehkle- concerned about the employees, rent going up, more crime, social concerns, long term problems and how big is too big.

Jason Mischel - Vice President Sales and Procurement of Valley Queen, Vander Dussen are wonderful people, they gave high standards of operation, will be benefit for Deuel County and Valley Queen expansion and he helped to have the Vander Dussen to relocate a dairy in SD.

Howard Mansfield – from MN works in the large dairy development and ration management, stated that the Rock River Jersey Dairy clean, good management in fly and odor and lives in an area with large dairies and the local town and school has benefit from the dairies.

Linda Svec – Grange Township, her concerns are about the water quantity, how the aquifer will be affected, water demands, and having manure pumped and stored by the aquifer. She also voiced a concern about the future of the area.

Warren Wiesner – his concerns were about his well located in SW1/4 of section 9-113-49 which is NE of the proposed site that is approximate .37 miles from the site that is within the set back. He stated that the applicants should have inform the neighbors about the application. Stated the well is 70 years old and used it about 12 years ago, it has a windmill located by it and concerned about contamination and drain the aquifer.

John Roelofsen- lives NE of the project. His concerns are for his daughter with asthma and the air quality.

Mitch Peterson – a lawyer, shares comments about the Wiesner well, the 2004 ordinance, Lenning well, and they two well violations of setbacks.

Troy Lenning – owns the land south of the site with the well. His concerns were the natural waterway, Section 1101.01.05 (maximum lot coverage), the digester is commercial and not AG, the size of the animal units, and the granting of variances for wells.

Bruce Harringa – Blom Townhsip Officer, concerns about the traffic and the semis, the haul road agreements, manure management and manure piping.

Tim Czmowski – have worked in the cheese production and dairy development. Have helped develop cheese plants in other states and countries and the main concerns are odor, roads and water. Cheese and dairy are valued added Ag industry which brings money back to the community, and Vander Dussen is good operator.

Al Moore – stated that township hasn't been notified by a formal letter from the applicant, would like an engineer's plan for traffic and other dairies have had traffic accidents in the past and concerns about the manure management

Dennis Stroschein – lives 1 mile north Danny Rhody. His concerns were about the roads, hauling the manure, chopping silage and dust.

Sara Tipler – concerns on zoning information and feedback about the younger generation, cost of the land, community support, road during silage season and younger family continuation in the rural area.

Jim Slaney – lives 3 miles east. His concerns were about the number of animals and the what is the new to protect human & environmental risks, and stock piling of manure on field.

Casey Magedanz – lives north by Lake Alice. Is in favor and understands the people's concerns and the state does a very thorough job on regulations, his only concerns were about the manure and silage haul road agreements.

Scott Lawler – His questions were about the permitting – done equally, property values around dairies, liquid manure and the testing in the fields and the dry manure.

Ty Eschenbaum – family farm and looking to the future, work to together with the dairy for manure and feed option.

Chad Olson – he has helped with the community with donations to the Deubrook, FFA to help the make the community better.

The board asked the public if they had anymore comments, the board closed the public comments and opened it back up to the applicants.

The board had discussion about the Wiesner's well and the setback. Stout stated that the well is not registered through the state and they did not know about it. Mary Ann Wiesner stated that Balbach and the board knew about from the hearing in 2009 and the applicants should have contacted all the neighbors within 2 miles.

They also discussed Lennings concern about the Section 1101.04.05 – Maximum Lot Coverage: Dwellings and buildings accessory there to shall cover not more than 25% of the lot area. The board discussed and stated that under Section 1301 Class of Concentrated Animal Feeding Operations has its own required setback and separation distance and Section 1101.04.05 – Maximum Lot Coverage does not pertain to this situation.

The board discussed the health issues and asthma and living in a rural district with farming practices. Kostboth, A1 Development Solutions, stated they could put down a chemical on the intersections and by driveways during silage cutting time to help with dust control. Stout and the townships would have to sit down and talk about that. There was a question about who the contact person at the dairy, Mr. Vander Dussen stated it would be Kees Knevelbaard.

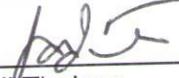
Discussion was held about the Troy and Betsy Lenning well and whether the CAFO/Dairy expansion would need a variance from the well separation requirements. Brandt stated that the Board had already granted a variance from that well for a Class A CAFO in 2009 and that variance still applies to the current CUP request. Further, the proposed CUP expansion exceeds the 2,640' separation distance requirement and variance granted in 2009. Board agreed with Brandt.

Motion by Dahl, seconded by Grabow, to grant the Variance from the County's well separation requirement subject to a waiver being signed by Albert Moore. The variance would allow the proposed dairy facilities to be located approximately 439' and 555' from each respective well belonging to Albert Moore. Albert Moore signed a waiver from the required separation setback. All voted in favor and motion carried. Please see Findings of Fact and Conclusions of Law on file with this application.

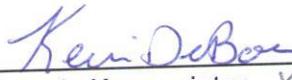
Motion by Brandt, seconded by Kanengieter, to grant the Variance from the County's residence separation requirement subject to a waiver being signed by Daniel Rhody. The variance would allow the proposed dairy facilities to be located approximately 570' the residence belonging to Daniel Rhody. Daniel Rhody signed a waiver from the required separation setback. All voted in favor and motion carried. Please see Findings of Fact and Conclusions of Law on file with this application.

Motion by Grabow, seconded by DeBoer, to grant the Special Exception/Conditional Use for a Class "A" Concentrated Animal Feeding Operation (CAFO from 3,400 animal units – up to 13,585 animal units which is 9,500 mature cows which is a Dairy Facility in an Ag District, contingent that they meet all the setbacks with the expansion, or they received a waiver from the Wiesner's for the well in SW1/4 of section 9-113-49 and shall obtain State CAFO Permit with the expansion. A Letter of Assurance shall be signed and filed with the Deuel County Zoning Office. Kanengieter called for a roll call vote; DeBoer-yes, Brandt-yes, Grabow-yes, Dahl-no, and Kanengieter -yes and the motion carried. The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception/conditional use and that granting the special exception/conditional will not adversely affect the public interest. Please see Findings of Fact and Conclusions of Law on file with this application.

Kanengieter called the meeting to adjourn.



Jody Theisen
Zoning Officer



~~Dennis Kanengieter~~ Kevin DeBoer
Vice Chairman, Zoning Board