

Tuesday November 12, 2024

The Deuel County Zoning Board met on Tuesday November 12, 2024 at 6:30 p.m., in the Commissioner's Room of the Courthouse in Clear Lake. Those present were members, Dennis Kanengieter, Jay Grabow, Mike Dahl, Mike Lammers, Kevin DeBoer, Zoning Officer Jodi Theisen, other members of the public and Via phone States Attorney Craig Evenson.

Chairman Dennis Kanengieter called the meeting to order.

Kanengieter asked if the board, or any staff member, had anything to add to the agenda with none being offered.

Kanengieter asked for any seated board member if they think they need to recuse themselves from any discussion topics on the agenda, or from voting on an agenda item with no board member responding.

Motion by Grabow, seconded by Lammers, to approve the November 15, 2024, Agenda. All voted in favor and motion carried.

The minutes from October 15, 2024 meetings were discussed. Motion by Dahl, seconded by Grabow, to approve the amended October 15, 2024 minutes. All voted in favor and motion carried.

Motion by Grabow, seconded by Lammers to adjourn as the Deuel County Planning Commission and convene as the Deuel County Board of Adjustment. Motion passed unanimously.

ITEM ONE

Buffalo Ridge Concrete, applicant, Plainview Dairy, LLC, land owner, are requesting Conditional Uses Permit Pursuant to Section 1101.04.04 Sand, gravel or quarry operation, Mineral exploration and extraction, rock crushers, concrete and asphalt mixing plants provided that they meet requirements of Section 1219. The applicant, Buffalo Ridge Concrete, owner, Plainview Dairy, LLC are requesting to have a portable ready mix concrete plant. Property is located in NW1/4 in Section 17-113-49, Blom Township, Deuel County, South Dakota.

This application was postponed from the April 8, 2024 meeting and the new location does not require the applicant to apply for a Variance request to Section 1219.03 Setbacks: gravel or quarry operation, mineral exploration and extraction, rock crushers, concrete and asphalt mixing plants within 1000 feet from property line of nearest residence.

Chris Jacobson, representing Buffalo Ridge Concrete, spoke on behalf of the project with brief description of the project. They would like to operate a temporary concrete mixing plant on property owned by Plainview Dairy, LLC for the CAFO expansion that was previously approved. The applicant is asking for a CUP for 2 years (11-12-24 until 11-12-26). On 10-17-24 the Deuel County Zoning office received the site plan and the location of the portable ready mix concrete plant which is located outside 1,000' from Albert Moore's residence.

There were concerns about the stock piling, road haul agreement with the township, water usage, the size of the temporary plant and how many loads would be brought in to the site.

Theisen stated that the Dairy has a haul road agreement from the township that was granted on June 1, 2009 and Chris provided a site plan (location of the temporary plant). Troy Lenning and Al Moore had questions why the haul road agreement from the township that was granted on June 1, 2009 is still valid. Theisen and Evenson stated that haul road agreement was granted to Balbach for his CAFO with Blom Township, however the road haul is binding upon the heirs, assignees and successors of the interest of the parties herein. So then that existing haul road is valid for the expansion of the CAFO in January 30, 2023. The Board had discussion with Lenning and Moore about new discussion with the Dairy about updating the haul road agreement and any assessment of the current road. The Board stated that with the existing haul road agreement from 2009, Plainview Dairy, LLC would be held responsible for any damage to the haul road.

Motion by DeBoer, seconded by Grabow, to approve a Condition Use Permit request to operate a temporary concrete mixing plant which will be used to construct a CAFO, with previously issued permit for 2 years, (11-12-24 until 11-12-26). Approval will be subject to the applicant signing a Letter of Assurance agreeing to the following conditions:

1. Prior to operating the batch plant, the applicant is to provide an air quality permit for portable relocation from SD DANR.
2. The applicant will use best practices to limit excess noise, glare, dust, and other effects on adjoining properties.
3. The concrete mixing plant shall be removed from the property and this permit will expire by November 12, 2026 (two years after the hearing date).

All voted in favor and motion carried. Please see Findings of Fact and Conclusions of Law on file with this application.

ITEM TWO

Dave Hentges, applicant/owner, is requesting variance request to Section 1103.06 Minimum Lot Area and Yard, to remove old house to leave existing basement and construct a new house closer than 10 feet from the side property line and closer than 50 feet from the high water mark in the Lake Park District. Property is located on Lots 23-24-25 & W 2/3' Lot 26 Shady Beach in Gov Lot 7 in SE1/ of Section 4-114-47 Lake Cochrane, Norden Township, Deuel County, South Dakota (published legal in the 10-23-24 Clear Lake Courier).

Theisen stated David Hentges purchased Lots 23-24 and the West 16 2/3 of Lot 24 in 1997. A replat of the area a couple of years ago revealed that the lots had been shifted due to deed work, resulting in some structures being on neighboring properties. As a result, some property owners in Shady Beach, including the Grong family, deeded portions of land to correct the property lines. Specifically, the Grongs deeded the East 8 1/3 of Lot 25 and the West 2/3 of Lot 26 to Hentges. This shifted his current legal description to include Lots 23-25 and the West 2/3 of Lot 26, increasing his property width from 66.66' to approximately 91.66'. On October 31, 2024, Hentges deeded Lot 23 to Michael and Karen Zahnow, bringing his current property back to the original 66.66' width (Lots 24-25 and the West 2/3 of Lot 26). Hentges intends to remove an old house, leaving the existing basement, and build a new house closer to the side property line and high-water mark than zoning regulations typically allow. The existing house is about 15 feet from the high-water mark and 9 to 10 feet from the side property line. Hentges proposed building a new house and a 6' x 31' deck, both positioned similarly to the existing house relative to the high-water mark and property line. The plans also call for an 8' x 14' addition to the back of the house, extending the main house 4' toward the road and extending the main house 2' toward the water. This addition toward the road may encroach by 3.3' on the property line, and a 5' deck in front of the new extension may encroach by 2.5'. Theisen supplied a surveyor's measurement indicating the existing front of the house is approximately 10.5' from the occupation line (toward the road) and about 14' from the property line toward Lot 23 (Zahnow's property). The zoning officer and surveyor recommend conducting a survey to confirm the exact property lines and measurements for the new house location.

Summary of Hentges' Variance Requests:

2016 Variance Request: Hentges applied to remove an old house, leave the basement, and construct a new house at least 30 feet from the high-water mark in the Lake Park District. The board voted 4-1 in favor, but Hentges ultimately decided not to proceed with the project.

2015 Variance Request (November 9th): Hentges sought approval to remove the old house, leave the existing basement, and build a new house closer than 50 feet from the high-water mark. The board decided to table the request until the December 14, 2015 meeting. At that meeting, the board approved a motion to remove a 15' x 11' house addition, bump out the basement walls to 15 feet from the high-water mark, and allow the construction of a new house at least 30 feet from the high-water mark.

Current Variance Request: Hentges has reapplied for the same variance but with updated property line information based on a survey conducted by the neighbor to the north. This survey provides more accurate boundary details compared to previous variance requests.

Steve Maas, the neighbor to the north, stated he is ok with Hentges to rebuild the house if the new house is on the existing foundation and it will not encroach any closer to his property line

Motion by Dahl, second by Grabow, to grant the Variance to remove old house to leave existing basement and construct a new house (that the house rear bump out) and deck no closer than 15 feet from the high-water-mark, to construct new house or deck no closer than the existing foundation approximately 4 feet from the north side property line. Please see Findings of Fact and Conclusions of Law on file with this application. Motion passed 4-1(DeBoer).

Thiesen stated Hentges would need to provide a new blue print to show that the new house in on existing basement and that it does not encroach no closer than 4 feet from Maas's property line.

Motion by Grabow, second by Lammers, to recess the Board of Adjustment and reconvene as Planning Commission. Motion passed unanimously.

ITEM THREE


Motion by Grabow, second by Lammers, to recommend for approval to the Board of County Commissioners the Plat of Clear Lake Historical Post Office Addition in NW1/4 of Section 30, Township 115 North, Range 48 West of the 5th P.M., Deuel County, South Dakota. Contingent that they sign a letter of assurance: that the Grantors, their heirs, successors, and assigns further hereby agree that no building permits may be issued to Clear Lake Historical Post Office Addition in the NW1/4 of Section 30 Township 115 North, Range 48 West of the 5th P.M., Deuel County, South Dakota. If this plat is combined with an adjoining lot which meets the requirements of the Deuel County Zoning Ordinance to be eligible for construction of a residence or any structures.

The board had concerns about access and if this plat would cause a traffic hazard. Harry Mewherter, representing the Clear Lake Historical Society, stated that they are going to do a 10' easement along the fence from the approach to the site (3' fence to Row and 7' from fence inward in the pasture). So, this would allow foot traffic to the site and they would have to park on approach for Krause's pasture. This would not cause any traffic or safety issues.

Motion passed unanimously.

Theisen informed the board that the next regular meeting is scheduled for Monday December 9, 2024.

Motion by Grabow, seconded by DeBoer to adjourn the meeting at 8:30 p.m. All voted in favor and motion carried.



Jodi Theisen
Zoning Officer



Dennis Kanengieter
Chairman, Zoning Board