

Monday February 12, 2024

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

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 Dahl, to approve the February 12, 2024, Agenda. All voted in favor and motion carried.

The minutes from January 22, 2024 meeting were discussed. Motion by Grabow, seconded by Dahl, to approve the amended January 22, 2024 minutes. All voted in favor and motion carried.

Motion by Lammers, seconded by DeBoer to adjourn as the Deuel County Planning Commission and convene as the Deuel County Board of Adjustment. Motion passed unanimously. Kanengieter called the meeting to order.

ITEM ONE

An application for Extension of Expiration Date for a Variance which would expire on February 7, 2024. The request by the applicant/owner, 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, recently transferred to Plainview Dairy Exchange, LLC seeks an extension of expiration date for a Variance that was granted on January 30, 2023, with issuance date of February 7, 2023, to expand their Class "A" Concentrated Animal Feeding Operation with less than 2,640' from several private wells and an established residence in an Agriculture Zoned District in the N1/2 of Section 17-113-49, Blom Township, Deuel County, South Dakota. This syncs up the SEP/CUP and Variance timelines for 1 year and the expiration date is February 7, 2025.

Ben Stout, representative for Plainview Dairy Exchange, LLC, stated Plainview Dairy Exchange, LLC have purchased the N1/2 and the transfer of Letter of Assurances CAFO has been filed. Stout stated they formally submitted a request for an extension of the two existing variances for Hollywood Feeders. These variances are for the existing wells on Albert Moore's property and for Dan Rhody's residence – both of which have signed and recorded waivers on file in the ROD office, and both have also been previously approved by the Board of Adjustment. However, since the formal request they have purchased the property from Rhody. So, they would not need a variance extension for the Rhody property just the Moore property.

Stout also stated at this time they have completed a significant amount of work on the dairy expansion project, submitted our DANR State General Permit application, they have been granted an excavation permit from the county, submitted a Water Rights Permit application to DANR, have worked with DOT staff, private engineering firms, and County and Township officials to come up with an official plan for haul road improvements.

Since the work on many of these parts of the project is still ongoing or under review, we believe it would be best if they were able to extend the timeline for the existing variances for 1 more

year while we work to complete these steps of the project in preparation for full construction in 2024. The current variance expiration date is 1 year which is February 7, 2024.

Kanengieter opened the meeting to public comment. Warren Wiesner had questions about the amount of water the dairy would use. Stout stated they have dug test wells and they would use wells and rural water. Lammers made an estimation with the math they would need around 10 million gallons per month. Stout stated they have rural water to the site right now and until the DANR tests are done they will not know how much rural water they would need.

Mitch Peterson, a lawyer representing Wiesner and Lenning, stated with the updated ordinance the board is not allowed to grant a variance extension and the site plan does not meet the setback requirements with the feed pad, feed basin and the commodity shed.

Evenson stated the variance was granted under the 2004 ordinance and in Section 505 8A the applicant can request a variance extension and the updated ordinance is more restrictive. The original variance was granted under the 2004 ordinance. Theisen stated the extension request is so they can sync up the CUP (2 year expiration) with the variance and to have the same expiration date.

Grabow and Peterson had discussion about the feed pad and the run off basin and the definition of wastewater. Evenson stated that feed pad & runoff basin are not a part of our CAFO ordinance and not subject to setbacks. Peterson stated that him and Evenson had conversations about this topic and wondered if the board received this information, Evenson said no he did not share the conversations they have had with the board. Evenson stated that if Peterson would want him to share the conversation with the board he would.

Motion by Grabow, seconded by Dahl to approve a one-year extension to allow the Variance permit that was granted on January 30, 2023, with issuance date of February 7, 2023 to Plainview Dairy Exchange, LLC to remain active until February 7, 2025 (instead of February 7, 2024). Please see Findings of Fact and Conclusions of Law on file with this application. Kanengieter called for a roll call vote; DeBoer-yes, Lammers-yes, Grabow-yes, Dahl-yes, and Kanengieter -yes and the motion carried. Motion passed unanimously.

ITEM TWO

An application to approve a Conditional Use Permit request by the applicant/owner, Plainview Dairy Exchange, LLC, to construct employee housing –up to 16 dwellings and to house up to 48 employees on their property in N1/2 of Section 17-113-49, Blom Township, Deuel County, South Dakota.

Ben Stout, representative for Plainview Dairy Exchange, LLC, stated that they would like to build three (3) 30' x 135' apartment buildings for their employees on site of the Dairy. Stout stated that these apartment buildings will consist of 8 rooms, 2 restrooms (4-toilets, 1-urinals and 3-sinks), 8 individuals showers with sinks. These apartment buildings will have separate kitchens, dining areas and washer/dryer areas. The applicant seeks to build the apartment buildings approximately 70' south of the right-of-way (33') which is a 192 St and an approximately 75' west of the right-of-way (which they used 50' ROW for future if it gets designated a county road) which is a 473 Ave. Stout explained that they would not have any signage stating apartments and they would have security lighting on the buildings. Stout stated prior Plainview Dairy Exchange, LLC has purchased the N1/2 which is 320 acres and the transfer of Letter of Assurances CAFO has been filed.

Dahl had questions about the sanitation, Stout stated that shared dwelling spaces must also comply with SD Administrative Rules 74:53 (Water Supply and Treatment Systems). So DANR would have to sign off on it.

Kanengieter stated that these apartments onsite would create less traffic for the employees coming and going to work. Stout stated that the dairy would employ around 40 to 50.

There was talk about doing a bridge or making sure the employees could get to the dairy without having to travel on 473 Ave, to keep traffic off the road.

Dahl had questions about rerouting the water from the north around the dairy, Stout stated they have been in contact with the Cor of Engineers with the pathway. Stout stated the site for the apartments is not in the flood plain.

Kanengieter opened the meeting to public comment. Peterson stated that the Ag District should not have accessory housing and that should be in the Lake Park and Town Districts. Peterson also stated that the Dairy should not be able to apply for this CUP since the expansion permit was granted after July 1, 2022 and that the apartments should be placed on three acres separately not placed near each other.

Evenson stated that the min lot area would be 6 acres based on three dwellings. Stout also stated that this site had a prior Class A CAFO since 2009. There were concerns about placing the apartments at different location. Stout stated they cited the corner of 473 Ave and 192 St because 473 Ave would be the main traveled road since the other roads are not up to par. Stout also stated with the ordinance, they could site the accessory housing within 5 miles of the CAFO.

Al Moore, Andy Strochein and Warren Wiesner mentioned that in the original expansion application meeting that the dairy stated they would not have on site housing. Stout and Michael VanderDussen, the dairy owner, stated at that time they were thinking they were not going to have on site housing but after they have looked at the site with design, engineering and with the weather they would like their employees on site. VanderDussen stated at his other dairies they have employee housing.

There was discussion about the holding basin for the feed pad, commodity shed, hay shed and a corner of one of the existing cattle barns are in Troy Lenning well setbacks. The board stated that the feed pad basin does not contain any manure from the cattle and can be in the setback according to the ordinance. Discussion was held about the county permit and the DANR permit requirements. Evenson stated that the site plan meets the setback requirements and the application for the accessory housing can be applied for.

Johnny Roelofsen had concerns about when the public can speak or ask questions about these projects. Evenson stated at the initial application permit hearing to the board or circuit court.

Mary Ann Wiesner had concerns about mischief at the apartments, VanderDussen stated they take care of their employees.

Motion by Dahl, seconded by Lammers to grant the Condition Use Permit for Accessory Agricultural Housing to construct employee housing –up to 16 dwellings and to house up to 48 employees on their property in AG District. Grabow did a friendly amendment and Dahl entertained the amendment: to grant the Condition Use Permit for Accessory Agricultural Housing to construct employee housing –up to 16 dwellings and to house up to 48 employees on their property in AG District and the employees must access the dairy from the apartments without going on the public road. To the following conditions be agreed to in a letter of assurance signed by the applicant. Kanengieter called for a roll call vote; DeBoer-yes, Lammers-yes, Grabow-yes, Dahl-no, and Kanengieter -yes and the motion carried.

There was discussion during the the vote to move the apartments to the south proposed site to avoid doing a bridge or culvert to allow access to the dairy. Grabow suggested when they apply for the building permit they would need to come before the board for site approval.

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

ITEM THREE

Motion by DeBoer, second by Lammers, to recommend approval to the Board of County Commissioners the Plat of Fischer First Addition in the NE1/4 Section 34, Township 116 North, Range 50 West of the 5th P.M., Deuel County, South Dakota. Motion passed unanimously

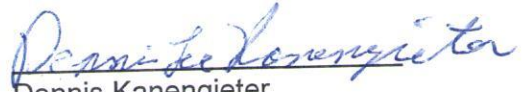
Theisen stated that she has done some research with other counties about the CO2 pipeline and ordinances and if they have or have not adopted any ordinances. Grabow stated there are some laws being proposed at the legislative session about CO2 and county control. No decision was made by the board and there will be discussions in future meetings.

Theisen discussed with the board about an amendment to the ordinance, the section about signage: the maximum cumulative amount of all on-premise signage. Theisen stated the board will have a joint hearing with the Commissioners on February 20, 2024 for the amendment hearing.

Motion by DeBoer, seconded by Lammers to adjourn the meeting at 9:40 p.m... All voted in favor and motion carried.



Jodi Theisen
Zoning Officer



Dennis Kanengieter
Chairman, Zoning Board