

Wednesday February 11, 2026

The Deuel County Zoning Board met on Wednesday, February 11, 2026, at 6:30 p.m. in the Commissioner's Room of the Courthouse in Clear Lake. Those present were members Dennis Kanengieter, Jay Grabow, alternate Scott Fieber, Kevin DeBoer, Mike Dahl, State's Attorney Craig Evenson, Zoning Officer Jodi Theisen, and Jacob Beutler.

Chairman Mike Dahl called the meeting to order, noting that a quorum of all five Board members was present.

Motion by Grabow, seconded by Fieber, to approve the minutes from the February 3, 2026, meetings of the Deuel County Board of Adjustment and Planning Commission, previously postponed at the February 9, 2026, meeting. All voted in favor, and the motion carried.

Dahl asked if the board or any staff member had anything to add to the agenda, with none being offered. He stated that members of the public wishing to speak on topics not on the agenda would have up to five minutes to do so during the public comment session.

Dahl asked if any seated board member thought they needed to recuse themselves from any discussion or voting on agenda items, with no board member responding.

Motion by Kanengieter, seconded by Grabow, to approve the Wednesday, February 11, 2026, agenda. All voted in favor, and the motion carried.

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

#### **Item #1 – Appeal**

Appeal in accordance with Sections 502 through 503 of the Deuel County Zoning Ordinance by Jacob Beutler regarding the Zoning Officer's decision concerning enforcement of Conditional Use Permit (CUP) #25 CUP 0004 for the Jelen Kennel. The property is legally described as Lot 2, Coteau Springs Addition, in the SW  $\frac{1}{4}$  of Section 18-116-49, Goodwin Township, Deuel County, South Dakota, consisting of 3.50 acres, formerly part of the Rhyme Third Addition, E  $\frac{1}{2}$  SW  $\frac{1}{4}$ , Section 18-116-49, Goodwin Township, Deuel County, South Dakota.

Dahl stated the purpose of the hearing was to review an appeal submitted by Jacob Beutler regarding the decision of Zoning Officer Jodi Theisen on a Conditional Use Permit (CUP) issue. Dahl outlined the order of proceedings, indicating that Mr. Beutler would present his case first, followed by the zoning officer's response, after which both parties could make closing remarks. The hearing is open to the public, and the proceedings are recorded in these minutes.

Mr. Beutler presented a compiled chronology of events for the Board's consideration. He explained that on April 14, 2025, the original plan by the applicant, Jelen, for a kennel was presented to the zoning board. The plan included a 135 x 50-foot building south of the driveway, a 50 x 30-foot dog run on the west side, and a 15 x 10-foot puppy area on the north side. The plan was approved contingent upon relocating the kennel to the northwest corner of the property at the next hearing on May 12, 2025.

At the May 12 meeting, the revised plan did not relocate the kennel as directed. Instead, it increased the building to 120 x 60 feet, moved the dog run to the north side at 80 x 30 feet, and expanded the puppy area to 40 x 20 feet south of the building, closer to Mr. Beutler's property. A 9-foot solid wall was included along the west side of the dog run for sound mitigation. The Board approved this plan on a 3-2 vote, with Chairman Dahl casting the tie-breaking vote.

Mr. Beutler stated that a building permit matching the May 12 plan was issued on June 10, 2025; however, the dog run size increased to 80 x 60 feet, preventing the building from being moved closer to the driveway. The 9-foot soundproof wall was omitted. An amendment on July 15 reduced the building length from 120 feet to 80 feet, but the dog run continued to extend 24 feet past the west side of the building, further reducing sound mitigation. Mr. Beutler was not aware of these permits until construction began.

On November 21, Mr. Beutler contacted the zoning officer regarding the dog run's size and location, noting that it did not match the approved May 12 plan. The zoning officer inspected the property with the county's state's attorney and determined that the fence area complied with CUP and setback requirements. Mr. Beutler was informed of the appeal process.

In preparation for the December 8, 2025, zoning board meeting, Mr. Beutler requested a copy of the CUP and associated Findings of Fact. He questioned whether site plans presented during CUP approval were

enforceable. The zoning officer and board indicated that building dimensions may change and that appeals were available if there were disagreements.

Mr. Beutler detailed subsequent amendments and inspections. On December 18, 2025, an amended building permit was issued post-construction reflecting a total of 6,960 square feet of outdoor dog run space—nearly three times larger than the original May 12 plan—with portions extending around the west and south sides of the building. The 9-foot soundproof wall was never constructed. He referenced paragraph 6 of the Findings of Fact and condition 12 of the CUP, arguing that both the approved site plan and Findings of Fact are enforceable components of the CUP, and therefore the amended building permit should not have been issued. He formally filed his appeal on January 16, 2026, paying the required fee.

Board members asked clarifying questions regarding the layout of the dog runs and puppy area, including confirmation that the south-side puppy area remained as previously approved. Mr. Beutler confirmed that the as-built outdoor dog runs did not follow the approved May 12 site plan.

Chairman Dahl then invited Zoning Officer Jodi Theisen to present her response.

Zoning Officer Theisen addressed the Board regarding the appeal, clarifying that the issue concerns whether she erred in issuing an amended building permit, not the Board's prior decision during the CUP process. She explained that the CUP contains performance-based conditions outlined in a letter of assurance, with Condition 2 requiring the kennel to be constructed as far north as feasible on the property. Differences from the original permit drawings were identified during construction. Theisen conducted a site inspection, required revised plans, and issued an amended building permit reflecting the construction as built. She stated the kennel's placement remained as far north as feasible, taking into account setbacks, driveways, topography, and proximity to neighboring properties. The amended permit also reflected a smaller building and fewer dogs than originally approved.

Theisen noted that the CUP does not require specific fence types, wall heights, or fixed dog run layouts. Sound mitigation was required, and the applicants implemented measures meeting the CUP's intent. She stated that the Findings of Fact, paragraph 6, summarizing discussions at the May 12 meeting, is advisory and not enforceable unless specifically incorporated into the CUP or letter of assurance. The amended building permit reflects construction consistent with the CUP, with dog runs added to the west and south but not exceeding the width of the originally approved puppy area. Sound mitigation was initially planned using fabric around chain-link fencing; the applicant confirmed plans to replace this with a solid metal wall in the spring, which Theisen noted complies with the CUP's intent. Based on her review, Theisen recommended upholding the amended building permit and denying the appeal, stating that all enforceable CUP conditions had been met.

Board members asked clarifying questions regarding the amended building permit, including fence materials, building size, dog run layout, and differences from the originally approved site plan. Theisen explained that the building size had been reduced, the dog runs adjusted accordingly, and the additional outdoor dog runs reduced the intensity of use due to fewer kennel sites. She further clarified that the dog runs were consistent with the CUP footprint and accommodated site constraints such as topography and fill. Discussion among board members and Theisen highlighted differences between the originally approved site plan, the building permit, and as-built conditions, including the extension of dog runs to the west and south and the planned transition to a solid soundproofing fence.

The discussion centered on whether recent changes to the building and outdoor dog runs complied with the original CUP approval. Jacob expressed concern that reducing the building size and adding outdoor runs to the south and west increased noise for neighboring properties, arguing that the CUP required runs on the north side with a 9-foot sound barrier on the west. Theisen explained that the building permit met setbacks and reduced indoor kennel capacity, with sound mitigation measures in place. The board debated whether the permit amendment required full board approval or could be handled administratively, noting that while fences don't require a permit, dog runs and kennel placement are part of conditional use conditions meant to control noise.

Grabow and DeBoer emphasized that any changes impacting the CUP should return to the board for review; however, the board felt Theisen acted appropriately by issuing a permit consistent with setbacks. Key issues included noise management, proper location of outdoor runs, and whether administrative approval was sufficient for changes to a CUP.

Board members reviewed the current status of the facility, noting that while the kennel appears operational with puppies inside, it is unclear how many dogs are outside and whether all fencing and noise mitigation measures are in place. Concerns were raised about changes to the original permit, including moving the dog runs, altering building size, and switching from fabric to steel fencing. These deviations were not communicated to the board or neighbors, creating uncertainty about enforcement.

Motion by DeBoer, seconded by Grabow, to grant the appeal filed by Jacob Beutler, overturn the amended building permit, and determine that the applicant must return to present the changes, explain how they comply with the CUP conditions, and demonstrate how sound mitigation measures will be implemented. Dahl called for a roll call vote: DeBoer – aye, Kanengieter – aye, Fieber – aye, Grabow – aye, Dahl – aye. All voted in favor, and the motion carried unanimously.

Board members discussed the process for addressing changes to a CUP-approved site plan and issuing building permits in relation to those changes. Dahl emphasized the need for the applicant to return to the Board to explain modifications and outline plans for noise mitigation measures. Board members clarified that the discussion was procedural and not a criticism of the Zoning Officer.

DeBoer recommended that in the future, any changes to a CUP—whether increases or decreases in size or intensity—should be presented to the Board. This would relieve the Zoning Officer of making discretionary decisions and ensure transparency. Dahl noted the challenge for the Zoning Officer, comparing it to being a school board member who cannot review every minor detail.

Jacob requested to discuss broader CUP process considerations after the appeal process concluded. Grabow and Dahl noted that the current session was limited to appeal-related matters but allowed public comment on procedural questions.

Craig clarified that, as a result of the appeal, the applicant must appear before the Board to request approval for work completed without a permit. This is distinct from appealing a CUP; the applicant is not contesting the Board's decision but seeking formal approval for existing work. Theisen confirmed that the applicant may need to amend the CUP if the Board determines it is necessary.

Board discussion also focused on the enforceability of Findings of Fact, particularly item number six summarizing petitioner testimony regarding outdoor dog run locations. Grabow stressed that detailed conditions should be incorporated into the Findings of Fact or as an addendum to ensure clarity for future building permits. Theisen explained that the summary was based on a template created by Jared Gass and reflected the petitioner's testimony rather than enforceable conditions.

Craig suggested that future CUPs could include explicit conditions either through ordinance or within the CUP documentation to prevent ambiguity. The Board agreed that this would ensure deviations from approved plans are addressed at the permit stage.

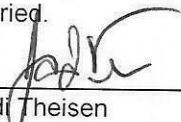
Motion by Grabow, seconded by Kanengieter, to recess the Planning Commission and reconvene jointly as the Board of Adjustment and Planning Commission. All voted in favor, and the motion carried.

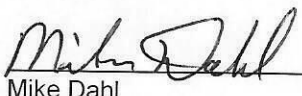
Dahl opened the meeting for public comment.

Jacob stated that the Zoning Officer acted appropriately based on available information and that the applicant's work did not violate the 15 conditions of the CUP. He emphasized that Findings of Fact should clearly reflect enforceable conditions and that detailed plans from the applicant should be included to simplify compliance verification.

Public questions clarified that the applicant will appear before the Board to formalize the permit and may need to amend the CUP depending on Board direction.

Motion by DeBoer, seconded by Grabow to adjourn the meeting at 8:03 p.m. All voted in favor and motion carried.

  
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Jodi Theisen  
Zoning Officer

  
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Mike Dahl  
Chairman, Zoning Board