

Monday December 10, 2018

The Deuel County Zoning Board met on Monday, December 10, 2018, at 6:30 p.m., in the Commissioner's Room of the Courthouse in Clear Lake. Those present were members Dennis Kanengieter, Paul Brandt, and Mike Dahl. Also present were Attorney John Knight, Zoning Officer Jodi Theisen, and alternate board members Gary DeJong and Gary Jaeger.

Chairman Dennis Kanengieter called the meeting to order.

Motion by Dahl, seconded by Jaeger, to approve the Agenda for December 10, 2018. All voted in favor and motion carried.

Motion by Brandt, seconded by DeJong, to approve the November 19, 2018, minutes. All voted in favor and motion carried.

Motion by Dahl, seconded by Kanengieter, to approve the November 20, 2018, minutes. All voted in favor and motion carried.

Jason Halverson applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lot 24 Lake Alice Shores in Gov Lots 2,3,4,5 & SE1/4 of SW1/4 in Section 7-116-48, Altamont Township, Deuel County, South Dakota, to alter the shoreline within 35' from the high water mark in a Lake Park District. Dale Heilman, Halverson's contractor, stated that some dirt was disturbed within the 35' from the high water mark. The board looked at the pictures provided by Theisen from November 23, 2018, and saw that the dirt work within the 35' from the high water mark was back filled toward the footings and there was a silt fence. The board asked Heilman how he was going to help stop erosion with the black dirt exposed. Heilman stated that he seeded down the dirt that is in-between the high water mark and the silt fence. The board suggested that he cover the exposed dirt behind the silt fence with mesh or straw. Heilman stated that he will put a mesh down with stakes to hold it in place and seed that area in front of the silt fence and behind the silt fence to help stop erosion. Heilman stated that the owner would like to level the area in front of the silt fence toward the water level with the existing rocks that are along the high water mark. The board asked how much dirt he was going to remove. Heilman stated that with the water being frozen he could get a better idea of the project and how much dirt he would remove. Motion by Dahl, seconded by Jaeger, to postpone the Special Exception to reshape the shoreline within the 35' from the high water mark within the Lake Park District, until Heilman can provide the board with some more detailed plans of the dirt removal. All voted in favor of and the motion carried.

Scott Gordon & Rebecca Lundy applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lot 23 Lake Alice Shores in Gov Lots 2,3,4,5 & SE1/4 of SW1/4 in Section 7-116-48, Altamont Township, Deuel County, South Dakota, to alter the shoreline within 35' from the high water mark in a Lake Park District. Gordon stated that he would like to add 1 to 2 inches of black

dirt, to place sod 3 to 4 rows and then place seed for the remaining area. They would like to fix the shore where it has been washing out with boulder stone material and 6 to 10 inch rip rap. On November 2, 2018, the Zoning Officer inspected the neighboring property and discovered dirt work had begun and within 35' from the high water mark without a permit. The Zoning Officer called Mr. Gordon and he stated that they did some work but didn't know that they needed a permit. Gordon stated that he used a tiller that might have gone down 1 or 2 inches to scratch up the weeds. Gordon stated that the ice or water was washing away some of his rocks so he laid fabric down and pulled back some of the rocks from the lake to support the shoreline. Gordon stated that he was going to place sod down on the exposed black dirt and he would like to place more rock in the wash out area. Motion by Dahl, seconded by Brandt, to postpone the Special Exception to reshape the shoreline within the 35' from the high water mark within the Lake Park District, to maintain the silt fence, to place a mesh on the exposed dirt and to seed the area to help prevent erosion. Mr. Gordon was asked to come back in the spring with a more detailed plan on how to fix the wash out area along the shoreline and to visit with the Game Fish and Parks about the rock along the high water mark. All voted in favor of and the motion carried.

Marvin Keimig & Willow Property Group LLC applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lot 1 (Replat Blocks 4-5 of Block 1-5 Cook's Corner Sub) in NW1/4NW1/4 in Section 26-115-49, Clear Lake Township, Deuel County, South Dakota, to operate an Auto Mechanic Service Shop and Cardboard Recycling Business in a Commercial District. Keimig stated that he is renting the building from Willow Property Group LLC and is doing a auto mechanic service, oil changes, brakes, small repairs, and cardboard and paper recycling. He has a cardboard baler inside the building and Keimig stated that they place the paper inside the cardboard bale so the paper is not exposed. The baler is electric and they unload the cardboard and paper inside the building to help with the mess. The baler produces a 4' x 6' bale that weighs around 1500 lbs. and the bales are stacked inside the fence to decrease visual clutter and will not impair the cemetery aesthetics. They have a truck come and get the bales (40 bales) which takes an estimated 2 ½ or 3 months to produce. Kent Morris with the cemetery association had some concerns about the potential business and the location next to the cemetery. Keimig said the vehicles that will be onsite will be the only ones he is working on. If a vehicle will be on site for an extended period of time, it will be located behind the privacy fence. He will not be doing a wrecker business, the oil will be stored inside the building, and he will respect any funerals or activity at the cemetery. The board will reserve the right to impose more restrictions during the existence of the special exception. The board discussed the businesses listed under the special exceptions in the Commercial District. The board did not find a definition of this business in the Commercial District. Motion by Brandt, seconded by Kanengieter, to recommend to the Deuel County Commissioners an amendment to the Commercial District to include a special exception that states; 18. Others which, in the opinion of the Board of Adjustment would not conflict with adjoining land uses. All voted in favor of and the motion carried.

Motion by DeJong, seconded by Kanengieter to postpone the Special Exception to operate an Auto Mechanic Service Shop and Cardboard Recycling Business in a Commercial District until the Commercial District has been amended. All voted in favor of and the motion carried.

Gerald Jelen, via phone, discussed his property at Lake Cochrane. The Zoning Board was informed on October 15, 2015 about the garage addition that was granted on 9-26-16. This addition appears more of living space than a garage. Gerald Jelen applied for a Special Exception and Variance to add 20' x 24' addition to existing garage for extra space for family. In this application Jelen stated that this space would be used for entertaining because the existing cabin is very small. They also stated that this would not be a second living space. There is a bathroom but it will not have any bedrooms. The board questioned Gerald Jelen, via phone, the use of the addition and if he still uses this structure as a garage. Jelen provided the board via email inside pictures of the structure since he was not able to attend the meeting in person. Jelen stated that he applied for the building permit and during the construction realized the garage door would not work with the concrete pad and the overhang. The board asked Jelen if he contacted the Zoning Office about the change in plan. Jelen stated, no, he did not contact the Deuel County Zoning Office concerning the change. Jelen stated that he believes the function of the structure is still the same as when he applied for the garage addition permit to hold over flow of family and for storage. Jelen stated in 2007 he applied to add a bathroom and to add a cement floor. Jelen stated that this structure does not have any heat, air, or kitchen. It is used for overflow and storage. The board stated that they were not aware of the patio and the removal of the door and the permit was to add on to a garage for storage and overflow. However, the structure looks more like living than garage, especially without a garage door. In the Lake Park Zoning Ordinance a single family residential usage is permitted and storage is a special exception for instance "detached garage". The board asked Mr. Jelen if the Zoning Officer could do an interior inspection of the structure. Jelen stated yes that the zoning office could do an interior inspection however he lives in Minnesota and is gone in the winter. The board stated since Mr. Jelen lives in Minnesota and he doesn't come back to the lake property very often in the winter that they will discuss this structure in the spring.

Josh Risty forgot about the zoning board meeting. He wanted to talk to the board about potentially purchasing some land from Lorolia Gruener to build a house. Risty had concerns about the proposed wind turbines located in section 5-114-49 and the distance set back. The Wind Energy System was permitted for the area and they will verbally offer them the opportunity to review the maps before getting a building permit. Granting a permit for a Wind Energy System in no way restricts the use of the neighboring property from a zoning standpoint. There are no special setbacks from wind towers to anything. Only the opposite is true (wind towers are required to be set-back from other things, not houses from wind turbines.)

Connie Johnson came and talked to the board about a "hypothetical question" if she was to purchase the land in section 17 in Lake Norden Township near Brandt and would like to turn that into a combat veteran retreat that offered many different avenues of Eco therapeutic healing to veterans. They would like to offer ATV off roading, horseback riding, horticulture (gardening), bee keeping, pheasant hunting, deer hunting, etc. This would require building a shop, barn, and cabin for veterans and family members to stay. This would be a nonprofit business. Connie was wondering the steps and the required permits for this project. The board stated that this is an intriguing project and they were wondering if she had talked to the property owner and the neighbors yet. Johnson said, no, that she wanted to talk to the board about this idea first. The board stated that this project doesn't fit into any specific ordinance, so the board would recommend to the County Commissioners an amendment to the Zoning Ordinance. The board suggested to the Zoning Officer to contact Luke Mueller and to look how the land use was used for Joy Ranch in Watertown. They would discuss this information at the next zoning meeting.

Terri Clemensen, via the phone, stated that they purchased some property at Lake Cochrane and would like to remove 6 trees. Three of the 6 trees are within 35' from the high water mark and the other 3 are outside the 35' high water mark. Their landscaper stated that they are not healthy and growing curved. They would like to cut the 3 trees level with the ground and not remove the roots. They would like to replace those 6 trees with 3 spruce trees and 1 river birch that will be located outside the 35' high water mark. The board stated that the area within the 35' from the high water mark requires a special exception. Tree and shrub cutting in a strip paralleling the shoreline and extending 35' inland from all points along the established normal high water mark of the shoreline shall be limited in accordance with the following provisions: Cutting shall leave sufficient cover to screen cars, dwellings, and accessory structures, except boat houses, as seen from the water, to preserve natural beauty and to control erosion. Natural shrubbery shall be preserved as far as practicable, and where removed it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and preserving natural beauty. Clemensen stated that they could plant a tree or more within the 35' from the high water mark if the board requests that. Clemensen stated that they want to do everything right. The board asked if they are cutting the trees down for the view. Clemensen said, no, because they are Ash trees and they are dying, and, yes, everyone likes a view at the lake. The board suggested that Clemensen talk to their landscaper and provide a drawing of the trees that are going to be removed and the location of the new trees. They should apply for a special exception for tree removal within the 35' from the high water mark for the next zoning board meeting which is on January 14, 2019. They should call the tree trimmer and let him know that he cannot remove the trees until the special exception has been granted.

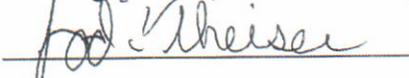
The Deuel County Board of Adjustment recessed and convened as the Deuel County Planning Commission.

Motion by Dahl, seconded by Jaeger, to approve the Plat Lot 1 and Lot 2 Replat of Lots 35, 36 and 37 in Severson's Bay in Section Five (5), Township One Hundred Fourteen (114), Range Forty Seven (47), Formerly a portion of Government Lot Five (5) in Section Five (5), Township One Hundred Fourteen (114), Range Forty Seven (47), in Deuel County, South. All voted in favor and motion carried.

Motion by DeJong, seconded by Brandt, to approve the Plat of McKAY EAST ADDITION in that portion of the Northwest Quarter (NW1/4) located in North and East of Lot H-2 in Section 16, T114N, R50W of the 5th P.M., Deuel County, South Dakota contingent that the proprietor's sheet is signed by Dan McKay. All voted in favor and motion carried.

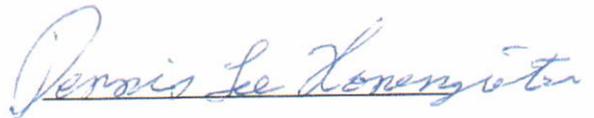
Zoning Officer, Jodi Theisen, brought to the board Carol Haaland's request to remove 8 cottonwood trees at her property at Lake Cochrane and to replant 3 to 4 new trees. Theisen inspected the property and measured the trees on Dec 5, 2018. Theisen stated that she could not exactly find the high water mark because of the snow but found where the sand was mounded up. Theisen stated that the trees were just outside the 35' from the high water mark. The board suggested that Theisen go back out and dig to the water to determine where the high water mark is and then re-measure the trees. She should also have the applicant draw a diagram of their site to locate the trees that they would like to remove and where the new trees will be planted.

Kanengieter called the meeting.



Jodi Theisen

Zoning Officer



Dennis Kanengieter

Chairman, Zoning Board