

**February 9, 2026 BOARD OF ADJUSTMENT/ PLANNING COMMISSION DEUEL COUNTY
STAFF REPORT**

Monday – February 9, 2026 – 6:30 p.m.

DEUEL COUNTY BOARD OF ADJUSTMENT

ITEM #1 VARIANCE

Applicant/Owners: Scott Keogh

Property Description: Lot 7 and Lot 7A, In Replat of Lot 10, Ingvalsons Sugar Sand Beach Addition, Norden Township, Lake Cochrane, Deuel County, South Dakota.

Action Items – Variance – (Section 1103.06 Minimum Lot Area and Yard)

Zoning Designation: LP – Lake Park

Request: Applicant requesting a Variance to remove an existing deck and construct a new deck, pergola, and fire pit wall. The deck, pergola, and fire pit wall are within the 10-foot side-yard setback requirement, and the pergola and fire pit wall are within the 50-foot high-water mark setback requirement.

Specifics of Request:

1. The applicant purchased the property in 2014.
2. In 2016, the applicant applied for a shoreline alteration.
3. The applicant is applying for a Special Permitted Use for shoreline stabilization (requiring adjoining lakeside property owner signatures) to replace a retaining wall located within 30 feet of the high-water mark. The proposed retaining wall will be approximately 2 feet tall and 75 feet long.
4. The applicant proposes to remove an existing deck and pavers and replace them with new construction.
5. The existing deck is located approximately 67 feet from the high-water mark and approximately 5 feet from the Viessman property line.
6. The lot width is 75 feet. The required side-yard setback is 10 feet. Under no circumstances shall a building have a side yard of less than five (5) feet.
7. The applicant proposes constructing a new deck approximately:
 - 65 feet from the high-water mark (including stairs)
 - 5 feet from the Viessman property line
8. The applicant proposes constructing a new pergola approximately:
 - 47 feet from the high-water mark
 - 5 feet from the Viessman property line
9. The existing fire pit wall, constructed sometime between 2014 and the present, is located approximately:
 - 27 feet from the high-water mark
 - 1 foot from the Viessman property line
10. The construction date of the existing deck could not be confirmed, and no prior variance was found to have been granted.
11. The proposed pergola will have no walls and only a roof structure; therefore, it is not anticipated to obstruct the neighboring property's view.

Ordinance/Variance History regarding this request:

1103.06 Minimum Lot Area and Yard

1. Each building shall be set back not less than fifty (50) feet from the right-of-way of State or Federal highways. For all other roads, the front yard setback shall at least thirty (30) feet from the edge of the road, but in no circumstance shall the structure be located within the right-of-way. Side yards shall have a ten (10) foot setback from the side yard property line. Exception: On those lots platted prior to June 8, 1976, which have a lot width of less than seventy-five (75) feet, each building shall have a side yard of not less than a distance equal to ten (10) percent of the lot width. Under no circumstances shall a building have a side yard of less than five (5) feet. Roof overhangs may infringe upon the side yard requirements no more than one and one-half (1.5) feet.

Zoning Context and Precedents:

- The property is located outside the floodplain.
- The Board has previously granted similar variance requests within the Lake Park District, including approvals for the Kooima, Pederson, and Clemensen properties.

Staff recommendation: If approved, staff recommends granting the Variance with the following conditions:

- The new deck shall be no closer than 5 feet from the property line.
- The new pergola shall be no closer than 45 feet from the high-water mark and no closer than 5 feet from the property line.
- The existing fire pit wall shall be no closer than 25 feet from the high-water mark and no closer than 1 foot from the property line.

The Board could deny the Variance on the basis that the circumstances surrounding this request are not so unique in nature to necessitate granting special privilege to this applicant which is denied to other properties in this zoning district.

ITEM #2 CONDITIONAL USE PERMITS AND VARIANCE

Applicant: Rogge Excavating Inc.

Property Owner: Todd & Jody Jongeling

Property Description: SW1/4 LESS OLS 1-2 & LESS THOMPSON AIR STRIP in Section 18-113-50, Grange Township, Deuel County, South Dakota.

Action Items:

- **Conditional Use Permit: Section 1101.04.04** – To allow sand, gravel, or quarry operations, mineral exploration and extraction, and the use of rock crushers, provided all requirements of Section 1219 are met.
- **Variance Request: Section 1219.03** – To allow a gravel or quarry operation within 1,000 feet of the nearest residence.

Zoning Designation: A – Agricultural; Zone B – Aquifer Protection Overlay District (Shallow Aquifer) & Zone A – Aquifer Protection Overlay District (Wellhead Aquifer)

Request: Rogge Excavating Inc. is requesting approval to operate a gravel mining and rock crushing site on the above-described property. The operation would occur within 1,000 feet of an existing residence, necessitating a Variance under Section 1219.03. The owner of the affected residence, Dennis Pedersen, has provided a waiver, but a formal variance is still required.

History/Issue(s):

Specifics of Request:

1. The applicant intends to mine and crush gravel on-site and utilize the property for equipment storage and maintenance associated with the operation.
2. The operation is projected to last several years.
3. No mining shall occur within 100 feet of public rights-of-way and 25 feet from all property lines, and all completed areas of excavation will maintain a maximum slope of 4:1.
4. The Dennis Pedersen residence is located within 1,000 feet of the proposed mining area.
5. As of January 7, 2026, the Zoning Office has received a signed waiver from the affected residence owner; however, a Variance is still required under the ordinance.
6. The applicant is working with Grange Township to obtain a haul road agreement, which will be provided to the Zoning Office prior to commencement of mining activities.
7. A reclamation plan has been proposed to restore the land to farmland or pasture following completion of mining operations.
8. During mining operations, fuel storage will be temporary and limited to a double-wall portable/mobile fuel trailer. No permanent fuel storage will occur during active mining operations. Permanent fuel storage associated with the proposed shop, if utilized, will be located within an approved containment system and managed in accordance with applicable state requirements.
9. Outside of mining operations, the applicant has proposed a permanent fuel storage system for the shop area, consisting of a containment system such as a concrete bunker or approved plastic-lined bunker, along with an on-site spill clean-up kit.
10. A proposed shop building will be located no closer than 65 feet from any property line or road right-of-way. Based on the map provided by the applicant, the proposed shop location is shown outside of Zone A – Aquifer Protection

Overlay District (Wellhead Aquifer). Site access would be provided via a possible driveway on the south end of the property or existing approaches currently serving the property.

11. Hours of operation are proposed from 6:00 a.m. to 8:00 p.m., with the possibility of 24-hour operations if necessary.
12. Stripped topsoil will be placed on berms along the property lines for screening and reclamation purposes.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. The Deuel County Zoning Ordinance requires a minimum setback of 1,000 feet from any existing residence for gravel operations. A variance is required for this request. The Board has previously considered similar variance requests when waivers are obtained from affected landowners. In this case, a signed waiver has been submitted by the landowner with a residence located within 1,000 feet of the proposed mining area.
2. The property is located within Zone B – Aquifer Protection Overlay District (Shallow Aquifer) and a mapped portion of Zone A – Aquifer Protection Overlay District (Wellhead Aquifer). The majority of the proposed mining area is located within Zone B, with a smaller portion of the parcel currently regulated as Zone A.
3. Gravel pits, mineral extraction, and rock crushing operations are allowable uses within Zone B – Aquifer Protection Overlay District, provided all applicable performance standards of the zoning ordinance are met, including those outlined in **Sections 1101, 1105, and 1219**.
4. The Zone A – Wellhead Protection Overlay District is subject to more restrictive standards intended to protect public water supplies. Staff contacted Lesley Matthys, Finance Officer for the City of Estelline, who confirmed that the municipal wells located within the wellhead protection area are utilized to water the football field and serve as a backup water source if sufficient rural water supply is unavailable. Due to this continued use, staff considers the wellhead protection area to be active and requiring full protection.
5. **No fuel, asphalt plants, concrete mixing plants, or permanent rock crushing facilities** are permitted within the **Zone A – Wellhead Protection Area**. While rock crushing is allowed within Zone B when permitted, staff recommends that all rock crushing activities occur outside of the wellhead protection area.
6. Pursuant to **Section 1105.12 – Performance Standards for Aquifer Protection Overlay Zones**, storage of petroleum products exceeding **100 gallons** at one location must be located in **elevated tanks**, and tanks exceeding **1,000 gallons** must include **secondary containment** when deemed necessary by the County Zoning Office.
7. The applicant has stated that permanent fuel storage may occur only within an approved containment system outside of active mining operations, and that temporary fueling during mining operations will be conducted using a **double-wall portable/mobile fuel trailer**. Staff recommends that all fueling and fuel storage activities be located **as far from the Zone A – Wellhead Protection Area as practicable**.
8. The applicant has stated that they have been in contact with Jay Gilbertson of the East Dakota Water Development District regarding a small portion of the subject property that is currently mapped within Zone A (Wellhead Protection Area). Until official documentation is submitted and accepted, the area shall continue to be regulated as **Zone A – Wellhead Protection Area** for purposes of this application.

Staff Summary and Recommendation:

The applicant, along with information available to the Board through the zoning office, has provided required information for a permit application and proposes to meet specified requirements of the ordinance. Conditions recommended by staff were based off of conditions applied to previously approved Mining Operations.

Staff recognizes that the subject parcel is located within both **Zone B (Shallow Aquifer)** and a mapped portion of **Zone A (Wellhead Aquifer)**. While the majority of the proposed mining activity is located within Zone B where such uses are allowed, staff emphasizes the importance of protecting the wellhead protection area due to the continued use of the municipal wells. Conditions recommended by staff are intended to allow the proposed operation while minimizing potential impacts to groundwater resources and ensuring compliance with applicable aquifer protection standards.

Setback Requirements:

Sand, gravel, or quarry operations, including mineral exploration and extraction, rock crushing, and any associated concrete or asphalt mixing activities, are required to maintain a minimum setback of 100 feet from public rights-of-way and 25 feet from all property lines, excluding public rights-of-way. Limited exceptions to the property line setback may be considered by the Board of Adjustment subject to additional slope limitations, minimum separation distances, and written consent from adjoining property owners, as outlined in the ordinance.

The applicant has stated that they have communicated with the adjoining property owner regarding the existing airstrip located near the property line. The applicant indicated that they informed the adjoining property owner that all mining and excavation activities would remain at least the required 25-foot setback from the runway. According to the applicant, the adjoining property owner confirmed that this setback was acceptable and raised no objections to the proposed operation provided the legal setback is maintained.

Staff further recommends that reclamation occur in phases concurrent with mining activities, rather than being deferred until the conclusion of the entire operation. Progressive reclamation will minimize the extent of disturbed land at any one time, reduce the potential for erosion and safety concerns, and help ensure the property can be returned to productive agricultural use in a timely manner.

Variance #1 – 1000' setback from residence: The Board may table the request, deny the request or approve the request. If approved, staff recommends approval be based upon the submittal of a waiver to the setback requirement by the affected landowner.

Conditional Use Permit – **Gravel Pits [with rock crushing]...** The Board may postpone the request, deny the request or approve the request. If approved staff recommends the following conditions be agreed to in a letter of assurance signed by the applicant(s):

- 1) Effective Date:
 - a. Signing of the Letter of Assurance
 - b. Submittal of Haul Road Agreements(s) with applicable road authorities.
- 2) General Requirements:
 - a. There shall be no storage of junk, construction or demolition materials, concrete batch plants, asphalt mixing plants, or waste products on the site.
 - b. There shall be no discharge of industrial processed water on the site.
 - c. Fueling, fuel storage, equipment maintenance, and rock crushing activities shall not occur within the Zone A – Aquifer Protection Overlay District (Wellhead Protection Area). All such activities shall be located as far from the wellhead protection area as practicable.
 - d. Permanent fuel storage, if utilized, shall be located within an approved containment system and shall comply with Section 1105.12 – Performance Standards for Aquifer Protection Overlay Zones, including secondary containment where required. Temporary fueling during mining operations shall be limited to double-wall portable/mobile fuel trailers.
 - e. Any future shop building or permanent fueling area shall be located outside of Zone A – Wellhead Protection Overlay District, as far from the wellhead protection area as practicable, and shall include a concrete floor to reduce the risk of infiltration to the aquifer.
 - f. The applicant shall be aware that vehicles or equipment containing more than 100 gallons of fuel may pose additional risk due to the parcel's location within both Zone A and Zone B Aquifer Protection Overlay Districts, and shall manage such equipment accordingly.
 - g. A mining permit or proof thereof from the South Dakota Department of Environment and Natural Resources, including stormwater permit coverage, shall be presented to the Zoning Officer prior to excavation of material from the property and maintained throughout the duration of operations.
 - h. The applicant shall comply with all Federal, State, and Local laws and obtain all required permits.

i. The site shall be reclaimed according to standards established by the South Dakota Department of Environment and Natural Resources.

j. Reclamation shall be conducted on a progressive basis. Disturbed areas shall be reclaimed as mining advances, to the extent practicable, so that large areas of open excavation are not left unreclaimed for extended periods of time. Staff recommends that mining be conducted in phases (for example, mining a defined area and reclaiming that area before expanding into additional acreage), consistent with South Dakota Department of Environment and Natural Resources requirements.

k. No mining shall occur within 100 feet of public rights-of-way and 25 feet from all property lines, unless otherwise approved in accordance with the zoning ordinance.

l. Excavation slopes shall not exceed 4:1 near property lines and roads.

m. Hours of operation shall generally be from 6:00 a.m. to 8:00 p.m.; extended hours may be allowed provided noise, dust, and nuisance impacts are adequately controlled.

n. All berms shall be constructed prior to commencement of mining activities.

o. The applicant shall provide updated local contact information for a site supervisor with authority to implement dust control and other mitigation measures.

3) Haul Road Agreements:

a. Grantor shall provide a haul road agreement with Grange Township prior to any mining activities on the above described property.

4) Violation and Penalties:

Violation of the terms of this conditional use permit will be determined by the Deuel County Zoning Officer.

a. The first violation substantiated by the Zoning Officer of this conditional use permit may result in a notification letter stating the violation and a prescribed period of time to remove the violation. A second violation occurring within one calendar year of the previous violation may result in a review of the validity of the conditional use permit and potential revocation of said permit. A third violation within one calendar year of the initial violation may result in revocation of the conditional use permit and cessation of all feeder operations within forty-five days (45) of notice of revocation.

b. The applicant may make appeal from the decision of the Zoning Officer or other agent of the Deuel County Board of Adjustment to the Deuel County Board of Adjustment. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. Appeals from the Board of Adjustment shall be taken to Circuit Court.

c. Failure to comply with the decision of the Zoning Officer or other agent of the Deuel County Board of Adjustment may be deemed a separate violation.

ITEM #3 VARIANCE

Applicants/Owners: Ron & Kathy Gorder

Property Description: E286.96' W630.96' S624.36' in SE1/4 Less That Portion of Block 1 Bahr Addition in the Section 11-113-50, Grange Township, Deuel County, South Dakota.

Action Items – Variance – (1101.05 Area Regulations)

Zoning Designation: AG – Agricultural

Request: The applicants are requesting a variance to allow construction of a hoop barn within the required 65-foot front yard setback from the road right-of-way for use as a Class D Concentrated Animal Feeding Operation (CAFO), which is a permitted use within the AG – Agricultural zoning district.

Specifics of Request:

1. Ron and Kathy Gorder have owned the subject property for several years and propose to remove the existing open lot and construct an approximately 62' x 272' hoop barn to house up to 250 head of cattle at this location.
2. The proposed hoop barn would support continuation of the agricultural operation by the next generation and assist with management of runoff associated with prior cattle feeding operations.
3. On January 21, 2016, Grange Township met to discuss the proposed reduced setback of the hoop barn from the township road right-of-way. Grange Township approved the reduced setback contingent upon Ron Gorder removing snow from the road right-of-way from the east to west property lines, including snow piles or drifts caused by the new hoop building.
4. The proposed hoop barn would be located approximately 60 feet from the east property line and approximately 43 feet from the road right-of-way (approximately 76 feet from the centerline of a 33-foot township road right-of-way), which is less than the required 65-foot front yard setback.
5. A written waiver is required from the adjoining property owner to the west, Brock Bahr, whose residence is approximately 298 feet from the proposed structure, which is less than the required 1,320 feet. A variance is not required for this separation distance if a written waiver is provided by the adjoining residence owner. The Deuel County Zoning Officer received this waiver on January 27, 2026.
6. The applicants intend to apply for a Class D CAFO (up to 999 animal units) and state the operation would be limited to no more than 499 head of cattle. The site is not located over an aquifer. Based on the number of animal units, a nutrient management plan, manure management plan, and fly and odor control plan would not be required.

Applicable Ordinance Standards

Section 1101.05 – Area Regulations (AG District)

- Front Yard: Minimum depth of 65 feet; accessory buildings are not permitted within the front yard.
- Side Yard: Minimum setback of 25 feet.
- Rear Yard: Minimum depth of 25 feet.
- Property is located outside the aquifer protection zone.

Section 1304 – Concentrated Animal Feeding Operation Control Requirements

- **Nutrient Management Plan:**
New Class A, B, and C CAFOs are required to have a nutrient management plan.
- **Manure Management and Operation Plan:**
New Class A, B, C, and D CAFOs with more than 500 animal units are required to have a manure management and operation plan.
- **Management Plan for Fly and Odor Control:**
New Class A, B, C, and D CAFOs with more than 500 animal units shall dispose of dead animals, manure, and wastewater in a manner that controls odors and flies.

Table 1304.6.2 – Required Minimum Separation Distances and Setbacks

- The Board of Adjustment may allow a setback of less than the minimum required provided a written waiver by the entity deriving the benefit of the setback is filed with the application.

Staff Recommendation

If approved, staff recommends granting the variance to allow construction of the approximately 62' x 272' hoop barn, no closer than 42 feet from the road right-of-way, subject to the following conditions:

- Receipt of Grange Township meeting minutes approving the reduced setback.
- Recording of a written waiver from Brock Bahr with the Deuel County Register of Deeds prior to construction.
- Application for and approval of a Class D CAFO permit.

The Board could deny the Variance on the basis that the circumstances surrounding this request are not so unique in nature to necessitate granting special privilege to this applicant which is denied to other properties in this zoning district.

ITEM #4 – PLAT

Applicants/Owners: Rymerson Land Trust, Barry Scot Rymerson & Gregory T. Rymerson

Property Description: Lot 1B of Rymerson Farm Second Addition, Section 22, Township 113 North, Range 49 West, Blom Township, Deuel County, South Dakota

Request: At the December 8, 2025 meeting, the applicants initially requested approval to vacate and replat Lot 1 of Rymerson Farm Second Addition. The original proposal expanded the existing lot by approximately 3.34 acres to include an area of trees and agricultural land not part of the original plat. The applicants intended to construct a machine shed within the expanded area. Under that proposal, the newly created lot would have been known as Lot 1A of Rymerson Farm Second Addition, containing 15.540 acres.

The applicants are now revising the plat. The current proposal is to replat Lot 1A of Rymerson Farm Second Addition into Lot 1B of Rymerson Farm Second Addition, which will total 12.21 acres. The 3.34-acre portion is being removed from the sale because the land cannot be sold until approved by the Rymerson Trust. The machine shed constructed by Aaron Kozlowski will remain on the property under a lease agreement with the Rymerson Trust until the land can be purchased.

Action Item: Review and approval of the proposed Lot 1B of Rymerson Farm Second Addition plat by the Deuel County Commissioners.