

Monday July 8, 2024

The Deuel County Zoning Board met on Monday July 8, 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, States Attorney Craig Evenson, Zoning Officer Jodi Theisen and other members of the public.

Chairman Dennis Kanengieter called the meeting to order.

The minutes from June 10, 2024 meeting were discussed. Motion by DeBoer, seconded by Grabow, to approve the June 10, 2024 minutes. All voted in favor and motion carried.

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

Kanengieter asked the public if they would like to talk during the public comment session. Some of the public stated they would like to talk during that time.

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 Dahl, seconded by DeBoer, to approve the July 8, 2024, Agenda. All voted in favor and motion carried.

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

ITEM ONE

Motion by Dahl, seconded by Grabow to approve a Variance to install a security fence approximately 50' from the road right-of-way (front yard) of 470th Ave which is a township road request by the NorthWestern Energy, applicant, Estate of Jeffrey & Christine Watt to use 40' x 40' tract of land "Gas Value Site" located in part of the NE1/4 of Section 27-113-50, Grange Township, Deuel County, South Dakota

Robert Gehm, representing NorthWestern Energy, stated to install a security fence approximately 75' south of the existing ROW of HWY 28 (front yard) and approximately 50' west of the west ROW line of 470 Ave which is a township road with access to the site which in an Agricultural Zoned District. Gehm is requesting a 15' variance for the required 65' front yard setback in order to minimize the placement of this fenced valved site in the cropland and the safety issues created by placing it further into the field.

The board questioned why the valve site and the security fence could not be placed 65' from the township ROW.

The board opened the meeting for public comments, there was no public comment.

Kanengieter called for a roll call vote; DeBoer-no, Lammers-no, Grabow-no, Dahl-no, and Kanengieter-no and the motion failed. Please see Findings of Fact and Conclusions of Law on file with this application.

ITEM TWO

Motion by Dahl, seconded by DeBoer to approve a Conditional Use Permit Pursuant to Section 1101.04.12 Essential Services System request by the NorthWestern Energy, applicant, Estate of Jeffrey & Christine Watt, land owner to construct a 40' by 40' valve site as a part of a recycled natural gas (RNG) interconnection system from Brookings Biogas LLC network for biogas from anerobic digesters at Global Dairy and two other RNG sites to use part NE corner of the NE1/4 of Section 27-113-50, Grange Township, Deuel County, South Dakota.

Robert Gehm, representing NorthWestern Energy, stated NorthWestern Energy (NWE) is requesting to construct a 40' by 40' valve site as a part of a recycled natural gas (RNG) interconnection system from Brookings Biogas LLC network for biogas from anerobic digesters at Global Dairy and two other RNG sites in an Agricultural District. Brookings Biogas is both processing recycled natural gas (RNG) on the Global Dairy property (Global) and transferring RNG from other RNG facilities to Global, then interconnecting to NWE as an "essential public utilities & services" company. This point of interconnect will be the NWE gas site consisting of aboveground valving/equipment to receive the RNG and to

connect with the main pipeline running north along 475th Ave, this requires a CUP pursuant to Section 1101.04. NorthWestern Energy have a perpetual gas utility easement for the pipeline with Estate of Jeffrey & Christine Watt and will be located out of the road right-of-way. Necessary permitting with multiple agencies such as the PUC has been done and granted. NWE is a public utility operated under the laws of State of South Dakota.

The board opened the meeting for public comments, there was no public comment.

Motion passed unanimously. Please see Findings of Fact and Conclusions of Law on file with this application.

ITEM THREE

Theisen suggested to postpone the application for Conditional Use Permit Pursuant to Section 1101.04.02 – Churches or Cemetery request by the applicant/owner, Shirely V Weber, Antony Weber, William T Weber and Mary Spartz, to plat out the land and to have private cemetery. Theisen stated that the applicants contacted her and they have to amend the proposed plat for access and they would like to do the plat and the CUP at the same time. Calvin Musch had concerns about the location for access, Theisen stated that she hasn't seen the new plat and that Weber's would be contacting him since he is on the township board.

Motion by Lammers, seconded by Dahl to postpone until the next meeting the application for a Conditional Use Permit Pursuant to Section Section 1101.04.02 – Churches or Cemetery request by the applicant/owner, Shirely V Weber, Antony Weber, William T Weber and Mary Spartz, to plat out the land and to have a private cemetery on their property in E1/2SE1/4 Less E375' S560' & less Weber Addition (to be known upon platting as Roe Cemetery Subdivision in the SE1/4) of Section 22-117-49, Portland Township, Deuel County, South Dakota.

Motion passed unanimously. Please see Findings of Fact and Conclusions of Law on file with this application.

ITEM FOUR

Motion by Dahl, seconded by Grabow to approve a Conditional Use Permit to Section 1103.05.8 – Accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road request by the applicant/owner, Charles & Ronni Vlaminck, to move in a storage shed (Accessory structure) located on a lot adjacent to a lot with principle structure separated by a public or private road on their property on Lot 11 Block 2 Dakota Bluffs Addition in Gov't Lot 1, Gov't Lot 2 and the N1/2 of the Section 8-114-47, Norden Township, Lake Cochrane, Deuel County, South Dakota. Theisen stated the Vlaminck's purchased this lot in 2021. The applicants would like to move in a storage shed (Accessory structure) either 10' x 24' or 12' x 20' on this lot. They also own Lots 25-26 Thokola Beach and Edgewater Drive separates these two lots. They stated they would like to build a garage on this lot in the future. The applicant would not need a variance to build an accessory building as it would meet all the Lake Park setbacks. The shed will be located 30' from the rear property line, more than approximately 140' from the platted road right-of-way (Edgewater Drive) and more than 10' from the side lot lines

The board opened the meeting for public comments, there were no public comment.

Motion passed unanimously. Please see Findings of Fact and Conclusions of Law on file with this application

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

ITEM FIVE

Motion by Grabow, second by DeBoer to postpone until the next meeting to recommend approval to the Board of County Commissioners the Plat of Roe Cemetery Subdivision in the SE1/4 of Section 22, Township 117 North, Range 49 West of the 5th P.M., Deuel County, South Dakota. Motion passed unanimously.

ITEM SIX

Motion by DeBoer, second by Lammers to recommend approval to the Board of County Commissioners the Plat of Block 1 Buyert Second Addition in SW1/4 of Section 8, Township 115 North, Range 50 West of the 5th P.M., Deuel County, South Dakota. Motion passed unanimously. Motion passed unanimously

ITEM SEVEN

Motion by DeBoer, second by Grabow to recommend approval to the Board of County Commissioners the Plat of Gabrielson Third Addition in SE1/4 of Section 28, Township 115 North, Range 47 West of the 5th P.M., Deuel County, South Dakota. Motion passed unanimously

ITEM EIGHT

Motion by Grabow, second by Lammers to recommend approval to the Board of County Commissioners the Plat of Lot 1 Thompson's Second Addition in the SW1/4 of Section 21, Township 115 North, Range 47 West of the 5th P.M., Deuel County, South Dakota. Motion passed unanimously

ITEM NINE

Motion by DeBoer, second by Grabow to recommend approval to the Board of County Commissioners the Plat of Lot 1 Thompson's Third Addition in the SW1/4SE1/4 of Section 16, Township 115 North, Range 47 West of the 5th P.M., Deuel County, South Dakota. Motion passed unanimously.

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

Kanengieter opened the meeting for public comment

Theisen stated that Daniel Scott representing BlackFork LLC & Ommen Family LLP couldn't make it to the meeting tonight to talk about expansion ideas. Theisen informed the board that she suggested the August 12, 2024 regular meeting to Daniel Scott since he couldn't attend this meeting. Theisen informed the board that Scott discussed with Thiesen a proposed addition of a lodge and guest cabins to the BlackFork Distillery site, Plans to construct a house and accessory building for equipment, including a bunkhouse area, on the platted 20-acre parcel, and interest in establishing a shooting range on another property owned by the BlackFork LLC & Ommen Family LLP.

Theisen mentioned that their current Conditional Use Permit (CUP) for Breweries, Wineries, and Distilleries does not allow buildings for lodging. Game Lodges are allowed as a Conditional Use in the Agricultural District. The property must be at least 3 acres in size and properly platted. Multiple dwellings are not permitted on one parcel. They would need to subdivide (replat) the 20 acres into two parcels if they wish to build multiple dwellings on that section of land. Theisen stated that target or shooting ranges are Conditional Uses in the Agricultural District. They would need to apply for a CUP and go through a public hearing process to establish such a facility.

Theisen discussed with the board about potential changes to setback regulations for CAFOs, potentially prompted by a request from the Deuel County Commissioners. The discussion revolves around adjusting setback distances and possibly introducing a tiered approach based on the number of animal units for residences for upcoming CAFO applications. The board held discussion to amend the CAFO setback Table 1304.6.2 for Over 7,500 Animal Units; Established Residences & Churches, Businesses and Commercially Zoned Areas; from 5280 feet setback to read 5280 feet plus 440 feet for each additional 1,000 animal units over 10,000 animal units. There was no action just discussion.

There was a lot of discussion from the public (there was 12 members of the public at the meeting) about expanding the setback for bigger dairies, how much water the larger dairies use versus a beef feedlot, if you own a dairy, you should live here, how the larger dairies effect the communities and to separate setback for dairies and beef feed lots.

The board did some discussion about other counties setback and they talked about increasing the setback to two miles for 7,500 -10,000 animal units from established residences & churches, businesses and commercially zoned areas and 4 miles for over 10,000 animal units. Thiesen will provide a table from the information the board provided her. There will be more discussion at the regular meeting is scheduled for August 12, 2024.

1. **Proposed Changes to Setback Regulations:** There was a proposal to adjust setback distances for CAFOs based on the number of animal units:
 - o For CAFOs over 7,500 animal units, the setback was proposed to be 10,560 feet plus an additional 440 feet for each additional 1,000 animal units over 7,500 animal units.
 - o Discussion focused on potentially amending Table 1304.6.2 to reflect these changes.
2. **Public Concerns:** Key concerns raised included: expanding setbacks for larger dairies, water usage comparisons between dairies and beef feedlots, residency requirements for dairy owners, and community impacts of larger dairies versus beef feedlots.
3. **Comparison with Other Counties:** The board discussed setback regulations in other counties, possibly considering increasing setbacks to align with or exceed neighboring jurisdictions:
 - o Consideration was given to increasing setbacks to 2 miles for CAFOs with 7,500 to 10,000 animal units from established residences, churches, businesses, and commercially zoned areas.
 - o For CAFOs over 10,000 animal units, there was discussion about increasing setbacks to 4 miles.
 - o There was also talk of potentially doubling setbacks for CAFOs with 7,500 to 10,000 animal units in comparison to current regulations.
4. **Next Steps:** It was noted that further discussion and possibly decisions would occur at the regular meeting scheduled for August 12, 2024. Thiesen will provide a table based on the information discussed by the board.

This summary captures the main points of the zoning meeting regarding potential changes to setback regulations for CAFOs. The discussions reflect a balance between regulatory adjustments, community concerns, and comparisons with neighboring counties practices.

Theisen informed the board that the next regular meeting is scheduled for August 12, 2024.

Motion by Grabow, seconded by Lammers 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