

**July 14, 2025 BOARD OF ADJUSTMENT/ PLANNING COMMISSION DEUEL COUNTY
STAFF REPORT**

Monday – July 14, 2025 – 6:30 p.m.

DEUEL COUNTY BOARD OF ADJUSTMENT

ITEM #1 CONDITIONAL USE

**Applicant: Gerald Jelen
Owner: Jelen Cabin LLC**

Property Description: Lot G in replat of Lot D Hillcrest in Gov't Lot 6 in NE1/4 of the Section 4-114-47, Norden Township, Deuel County, South Dakota.

Action Items – CONDITIONAL USE – (1103.05.8 – Accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road)

Zoning Designation: LP – Lake Park

Request: Applicant requesting a Conditional Use Permit to build a garage located on a lot adjacent to a lot with principle structure separated by a public or private road. The proposed garage would be located between an existing 20-foot easement that bisects Lot G and Lakeview Drive. Access would be from Lakeview Drive.

Specifics of Request:

1. The applicant, Jerry Jelen, has owned Lot G for many years.
2. The garage will include a bathroom and be constructed between the easement and Lakeview Drive.
3. A 20-foot easement runs through the middle of the lot.
4. In 2016, the applicant was granted a variance for an addition to a garage (later converted to living space) within 30 feet of the same easement.
5. The garage will be approximately 27 feet from Lakeview Drive and 25 feet from the easement, based on property owner locating the property pins.
6. The location is intended to allow for adequate separation from the easement and accommodate a new septic system required for the bathroom.
7. Deuel County Ordinance requires that a landowner go through the Conditional Use Process to have accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road in the "LP" District.

Ordinance and Comprehensive Land Use Plan regarding this request:

- **Access & Circulation:** Access to the garage will be from Edgewater Drive, which is a county-maintained road. The applicant has applied for a driveway permit through the Highway Department
- **Parking:** Adequate off-street parking is available. No parking in the right-of-way is anticipated.
- **Utilities:**
 - **Water:** Brookings-Deuel Rural Water
 - **Sewer:** In coordination with Lake Cochrane Sanitary District (no specific plan for trash was provided)
 - **Electric:** H-D Electric Cooperative
- **Screening and Buffering:** The applicant will provide adequate buffering as per district standards.
- **Signage:** No signage is proposed.
- **Setbacks:** The proposed garage meets or exceeds required side yard setbacks.

Staff Summary

Conditional Use Permit – Accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road: The application may be approved, postponed, or denied.

Staff recommendation:

Approval would be based on the applicant's ability to meet the requirements for a Conditional Use Permit described in ordinance - To grant the Conditional Uses Permit for – Accessory structures (garage) located on a lot adjacent to a lot with principle structure separated by a public or private road

The Board determined that it is empowered under the section of the ordinance described in the application to grant the Conditional Use Permit and that granting the Conditional Use Permit will not adversely affect the public interest. Please see Findings of Fact and Conclusions of Law on file with this application.

ITEM #2 VARIANCE

Applicant: Gerald Jelen

Owner: Jelen Cabin LLC

Property Description: Lot G in replat of Lot D Hillcrest in Gov't Lot 6 in NE1/4 of the Section 4-114-47, Norden Township, Deuel County, South Dakota.

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

Zoning Designation: LP – Lake Park

Request: Applicant requesting a Variance to build a garage less than 30' from the road and easement. Specifically, the proposed garage would be located approximately 27 feet from the edge of Lakeview Drive and approximately 25 feet from an existing 20-foot easement that bisects the property. The request deviates from the required 30-foot minimum front yard setback as outlined in the zoning ordinance.

Specifics of Request:

1. The applicant has owned the lot for many years.
2. A garage is proposed between the existing 20-foot easement and Lakeview Drive.
3. A previous variance was granted in 2016 for a structure within 30 feet of the same easement.
4. The placement is necessary to ensure proper separation from the easement while meeting septic system requirements.
5. The garage will be approximately 27 feet from Lakeview Drive and 25 feet from the easement, based on property owner locating the property pins.
6. A variance is required to allow a front setback less than the required 30 feet.

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.
2. The Board has history of granting some variance requests in the Lake Park District of similar relaxation of rules. This situation is unique with the since the easement going through the middle of their property. (Boer, Kooima, Jelen, Pederson, etc.)
3. This property is located out of the floodplain.

Staff recommendation: If approved, staff recommendation - with one of the following options as determined by the Board:

Grant the Variance to allow construction of an accessory building (garage) no closer than 24 feet from the existing easement and no closer than 27 feet from the edge of the platted road, which is located outside the road right-of-way (Lakeview Drive).

All voted in favor and the motion carried. See Findings of Fact and Conclusions of Law on file.

Option B – Alternative Layout

Grant the Variance to allow construction of an accessory building (garage) no closer than 20 feet from the existing easement and 30 feet from the edge of the platted road, which is located outside the road right-of-way (Lakeview Drive).

All voted in favor and the motion carried. See Findings of Fact and Conclusions of Law on file.

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 #3 VARIANCE

Applicant/Owners: James & Teah Swenson

Property Description: Lots 24-25 Severson Bay in Gov Lot 5 in NE1/4 of the Section 5-114-47, 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 construct a 16' x 24' deck attached to an existing structure (referred to as a “bathhouse”) located less than 50 feet from the high-water mark. The proposed deck would be approximately 46 feet from the high-water mark and meets all other setback requirements.

Specifics of Request:

1. The Swenson's purchased the property in 2024.
2. The existing 16' x 16' bathhouse, built in 2007 under a Special Exception Permit for use as a private park, includes a kitchenette and ¾ bathroom. It is located more than 50 feet from the high-water mark.
3. The proposed 16' x 24' deck would be attached to the bathhouse and would be located:
 - Approximability 46 feet from the high-water mark,
 - 24 feet from the nearest side property line (Grong property),
 - More than 30 feet from the road edge.
4. A Special Permitted Use (SPU) permit application has been submitted to the Zoning Office for placement of a seasonal camper on the property for the 2025 season (May 25–December 25). The applicant has secured the required 66% adjacent property owner approval (2 out of 3 neighboring property owners). The permit will be formally issued upon confirmation of payment from the Deuel County Treasurer. The full permit fee—including the building permit(deck), variance (deck), and camper permit—was submitted via a single check received on July 7, 2025. The Zoning Officer will forward the payment to the Deuel County Treasurer the day after the meeting and upon approval of the variance, as all fees were submitted together and must be processed accordingly.
5. The property also contains an unpermitted shipping container, which does not comply with zoning regulations. The applicants have stated they will remove the container if they receive a building permit for an unattached garage.
6. The applicants have expressed interest in building a garage with a loft and bathroom. Their current building permit request includes 16-foot sidewalls, which exceed the language of “Shall be limited to maximum 14-foot sidewalls” for unattached garages in the LP District. They plan to attach a single-family residence to the garage in the future.
7. Per ordinance, construction of an unattached garage requires the presence of a principal structure or an active SPU for a camper. The current SPU permit is valid for one year, and renewal is not guaranteed.
8. The Board must determine whether the bathhouse qualifies as a dwelling, or whether a one-year SPU for a camper constitutes a principal use, in order to determine eligibility for a garage permit.

Zoning Ordinance – Section 1103.06: Setback Requirements

- **Highways: 50 ft minimum setback from right-of-way**
- **Other roads: 30 ft minimum from edge of road**
- **Side yards: 10 ft minimum (For narrow lots platted prior to June 8, 1976, the side yard setback may be reduced to 10% of the lot width, in accordance with zoning provisions)**
- **High-water mark: 50 ft minimum**
- **Overhangs: May extend up to 1.5 ft into side yard setbacks**

Accessory Use Regulations – Table 1238-1 (LP and TD Districts)

- **Unattached garages:**
 - Shall be limited to maximum 14-foot sidewalls
 - Minimum 4/12 roof pitch or must conform to house design
 - Must accompany a principal use

Zoning Context and Precedents

- Property lies **outside the floodplain**.
- The Board has previously granted similar deck and structure variances in the LP District, including for the **Coequyt, Kooima, Pederson, and Clemensen** properties.

Staff recommendation: If approved, staff recommendation - To grant the Variance to build a new deck to existing structure no closer than 45 feet from the high-water mark.

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 – APPROVAL OF CONDITIONAL USE/VARIANCE FINDINGS OF FACT

Planning & Zoning Officer Theisen reported that the Findings of Fact and Conclusions of Law for 25 CUV 0001-01, regarding the Central Specialties Variance and Conditional Use Permits under Section 1101.04.04 (Concrete and Asphalt Mixing Plant), were not completed in time for the previous meeting. She presented proposals to the Board for review and consideration.

Staff Recommendation: If the Board is in agreement, staff recommends approval of the Findings of Fact and Conclusions of Law for 25 CUV 0001-01 related to the Central Specialties Conditional Use and Variance Permits under Section 1101.04.04.

ITEM # 5 PLAT

Applicants/Owners: Craig & Darla Jelen

Property Description: Plat of Coteau Springers Addition in the SW1/4 of Section 18, Township 116 North, Range 50 West of the 5th P.M., Deuel County, South Dakota

Request:

The applicants are requesting approval to replat the existing Plat of Rhyne Third Addition into two separate lots:

- Lot 1, Coteau Springers Addition – approximately 8.54 acres, intended for a proposed single-family residence.
- Lot 2, Springers Addition – approximately 3.50 acres, which will include a proposed kennel and an existing shed.

The purpose of this replat is to create distinct parcels for residential and kennel-related uses.

Action Item: Plat approval