

September 9, 2019

The Deuel County Zoning Board met on Monday, September 9, 2019, at 6:30 p.m., in the Commissioner's Room of the Courthouse in Clear Lake. Those present were members Dennis Kanengieter, Judith Homan, Kevin DeBoer, Mike Dahl, and Paul Brandt. Also present was States Attorney John Knight.

Chairman Dennis Kanengieter called the meeting to order.

Motion by Brandt, seconded by DeBoer, to approve the September 9, 2019 Agenda. All voted in favor and motion carried.

The minutes from the August 12, 2019, meeting were discussed. Motion by DeBoer, seconded by Brandt to approve the August 12, 2019 minutes. All voted in favor of and motion carried.

#### ITEM ONE

Janice Hamak applied for a Special Exception. The request, if granted, would permit the applicant to use the following property: W20' Lot 8 & All Lot 9 in The Elms in Gov Lot 6 in NE1/4 in Section 4-114-47, Lake Cochrane, Norden Township, Deuel County, South Dakota, to alter the shoreline within 35' from the high water mark in a Lake Park Zoned District. Hamak stated that the ice is pushing her retaining wall back. Hamak stated that they have applied for special exceptions in the past to help stop the erosion but their attempts have been unsuccessful. Case Wiarda, Hamak's landscaper, stated that he would like to remove the rock retaining wall and replace it with wet cast concrete block and back fill the area with concrete and geogrid. The retaining wall will be 4' tall and the length of the lot which is 60'. Wiarda stated that the concrete would be 1 foot in the ground. They would remove approximately 10 yards of fill and replace that with the concrete and the remaining fill. There will be rock on both ends of the concrete block for transition to the neighbor's retaining walls. They would like to start this project in the spring of 2020 and be finished by Memorial Day. Motion by Brandt, seconded by DeBoer, to grant the Special Exception to alter the shoreline within the 35' from the high watermark in a Lake Park Zoned District, to use a silt fence, to notify the DENR about the project, to notify the Zoning Office when they start the project, and to follow the proposed landscaping plan presented to the Deuel County Zoning Board. All voted in favor of and the motion carried.

#### ITEM TWO

Mike Kack, representing Alpha Companies, and William Landsman applied for a Special Exception for Auto Sales. The request, if granted, would allow auto sales on the property owned by William Landsman described as NW1/4NW1/4 (part of N1/2NW1/4 Less H-1), a part of the area zoned commercial described as W1/2NW1/4 Less H-1 in Section 26-T113N-R49W, Blom Township, Deuel County, South Dakota. Kack stated that they would like to sell earlier model rust free used vehicles. Kack will be leasing the existing building and property with the intent to purchase. Kack stated they are in the application process for a dealership license thru the State of South Dakota, they have to file for a business name, get a federal employee identification number from internal Revenue, get insurance, and get bonded. Kack stated that they would use the existing poles for lighting and use LED bulbs, they would use the existing on site sign

and put a new skin on it, and they would have at least 3 rows of vehicles off of the road right-of-way. Kack stated that they would use the Cenex in Toronto for servicing the vehicles.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504, subparagraph 5(a-h), of the Ordinance. Motion by DeBoer, seconded by Homan, to grant the Special Exception to allow auto sales. All voted in favor of and the motion carried.

a) Entrance to and exit from property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe: Applicant doesn't create a safety hazard and there is no issue with automotive and pedestrian safety and convenience, traffic flow and control or access in case of fire or catastrophe.

b) Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Applicant has sufficient off-street parking. Loading is not a concern. The special exception will have no or minimal economic, noise, glare, odor or other effects on the adjoining properties or properties generally in the district.

c) Utilities, with reference to locations, availability, and compatibility: Applicant has adequate utilities.

d) Screening and buffering with reference to type, dimensions, and character: Doesn't apply.

e) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: Applicant will use the existing sign.

f) Required yards and other open spaces: Applicant has adequate yard and other open spaces.

g) General compatibility with adjacent properties and other property: Applicant's proposed use is generally compatible with the adjacent properties and other properties in the Commercial District.

h) Refuse and service areas, with particular reference to the items in (a) and (b) above: There are no concerns regarding refuse or service areas. Applicant has a dumpster service.

### ITEM THREE

Keith Siegfried, Siegfried Family Trust, applied for a Variance of Section 1101.04.02 Front Yard. The request, if granted, would permit the applicant to use the following property: SW1/4 of

Section 10-T116N-R50W, Goodwin Township, Deuel County, South Dakota, to build a shed with less than 150' of front yard in an Agriculture Zoned District. Siegfried stated that he applied for a building permit in June 2019 and realized when they were prepping the ground they want to go closer to the road right-of-way. Siegfried stated that they removed the two quonsets and he would like to build a 48' x 72' shed and it would be approximately 103' from the road right-of-way. Motion by Dahl, seconded by Brandt, to grant the Variance to build a 48' x 72' shed that is no closer than 95' from the road right-of-way. The findings for this Variance are it will not cause any greater snow or safety concern. There are existing trees to the north and west. All voted in favor of and the motion carried.

#### ITEM FOUR

Brian Cotten representing, BC Ag LLC, and Todd & Monica Hanten applied for a Special Exception to allow Retail and Service Businesses. The request, if granted, would allow the sale of seed, chemical and fertilizer on the property owned by Todd & Monica Hanten described as Outlots 6-8-9-10-11-12-13 in Outlots 3-4 & portion of Vacated Street (1st Ave) in Section 20-T116N-R50W, Town of Bemis, Goodwin Township, Deuel County, South Dakota. Cotten stated that he would like to sell seed, chemical and fertilizer on this property within the Dept. of Ag Requirements. Cotten stated he would like to build a site with a future office but right now would like to build a 20' x 30' shed and 5 hoppers on the site. They would like to have two approaches one off of 176th St and 486th Ave. Cotten needs to talk to Jamie Hintz yet. Kevin Feyereisen, a Bemis resident, stated he had concerns about the traffic, noise, and how late in the evening the business will stay open. Cotten stated that he would have semi's unloading product in the winter to spring months and he would be hauling the product during planting. They would not be unloading or loading in the late hours of the night. The bin fans will not be running during late hours. Keith Siegfried stated that it would be no more or less traffic during the months that the farmers haul silage or manure and that there would not cause a traffic issue. Cotten stated he tried to reach out to the surrounding community about his request.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504, subparagraph 5(a-h), of the Ordinance. Motion by Dahl, seconded by DeBoer, to grant the Special Exception to allow Retail and Service Businesses to sell seed, chemical and fertilizer. with a condition for all structures to be 150' from all road right-of-ways and to have a setback of 200' from the west property line. Brandt excused himself from the meeting. All voted in favor of and the motion carried.

- a) Entrance to and exit from property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe: Applicant doesn't create a safety hazard and there is no issue with automotive and pedestrian safety and convenience, traffic flow and control or access in case of fire or catastrophe.
- b) Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, odor or other effects of the special exception on

adjoining properties and properties generally in the district: Applicant has sufficient off-street parking. Loading is not a concern. The special exception will have no or minimal economic, noise, glare, odor or other effects on the adjoining properties or properties generally in the district. The applicant will only have the air fans for the bins run during sunrise to sunset.

c) Utilities, with reference to locations, availability, and compatibility: Applicant has adequate utilities.

d) Screening and buffering with reference to type, dimensions, and character: Applicant is not going to change the screening or buffering. They will be planting trees in the future.

e) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: No proposed signs.

f) Required yards and other open spaces: Applicant has adequate yard and other open spaces.

g) General compatibility with adjacent properties and other property: Applicant's proposed use is generally compatible with the adjacent properties and other properties in the Town District.

h) Refuse and service areas, with particular reference to the items in (a) and (b) above: There are no concerns regarding refuse or service areas. Applicant will have a dumpster service.

#### ITEM FIVE

Jeffrey & Sandra Armstrong and Lon & Kelli Levenhagen applied for a Special Exception. The request, if granted, would permit the applicant to use the following property: Lot F Replat of Lot B in Hillcrest in Gov Lot 6 in NE1/4 in Section 4-T114N-R47W, Lake Cochrane, Norden Township, Deuel County, South Dakota, to build an accessory garage located on a lot adjacent to a lot with principle structure which is separated by a public or private road on their property in the Lake Park District. Armstrong stated that they would like to remove an older garage and build a bigger detached garage. They would like to have it for more storage and they will plumb in a bathroom, but they will not hook it up yet. The bonus room upstairs will be insulated, but it will not be finished. The board stated if they ever finish the upstairs to contact the Zoning Office.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504, subparagraph 5(a-h), of the Ordinance. Motion by DeBoer, seconded by Dahl, to grant the Special Exception to build an accessory garage located on a lot adjacent to lot with principle structure which is separated by a public or private road their property in the Lake Park District. All voted in favor of and the motion carried.

- a) Entrance to and exit from property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe: Doesn't apply.
- b) Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Applicant has sufficient off-street parking. Loading is not a concern. The special exception will have no or minimal economic, noise, glare, odor or other effects on the adjoining properties or properties generally in the district.
- c) Utilities, with reference to locations, availability, and compatibility: Applicant has adequate utilities.
- d) Screening and buffering with reference to type, dimensions, and character: Applicant is not going to change the screening or buffering.
- e) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: No proposed signs.
- f) Required yards and other open spaces: Applicant has adequate yard and other open spaces.
- g) General compatibility with adjacent properties and other property: Applicant's proposed use is generally compatible with the adjacent properties and other properties in the Lake Park District
- h) Refuse and service areas, with particular reference to the items in (a) and (b) above: There are no concerns regarding refuse or service areas. Applicant takes their garbage home with them when they leave the property.

#### ITEM SIX

Brandt returned to the meeting.

Derek & Carrie Hawley applied for a Variance of Section 1101.04.02 Front Yard. The request, if granted, would permit the applicant to use the following property: N220' NW1/4 & S534' N754' E1382' NW1/4 of Section 35-T113N-R49W, Blom Township, Deuel County, South Dakota, to build a house and garage with less than 150' of front yard in an Agriculture Zoned District. Hawley stated they would like to build an approximate 32' x 88' house and garage approximately 97' from the road right-of-way (130' from the center of the road) which is less than 150' of front yard. Hawley's stated they would like to build further away from the existing wind turbine and to have some trees between the new house and the turbine. Motion by Dahl, seconded by DeBoer, to grant the Variance to build an approximate 32' x 88' house and garage no closer than 90' from the road right-of-way. The findings for this Variance are it will not cause any greater snow or safety concern. There are existing trees closer to the road right-of-way.

The new location of the house will be further away from the existing wind turbine reducing the effect of shadow flicker and noise from the turbines. All voted in favor of and the motion carried.

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

Motion by Dahl, seconded by DeBoer, to approve Plat of Stangeland's Hidewood Addition in NW1/4 of Section 12, T114N, R50W of the 5th P.M., Deuel County, South Dakota. All voted in favor and motion carried.

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

#### ITEM SEVEN

Darin Namken stated he owns a lot at Lake Cochrane which has an existing A-frame cabin right now. They would like to build a 26' x 32' detached garage with living above with an outdoor kitchen area. The garage will be used for storage below and have 2 bedrooms and a bathroom above. They would prefer not to attach this garage to the existing cabin because there is a tree in between. They considered plans to remove the cabin and build a new house and garage but they decided they want to keep the cabin. The cabin is not a year round structure as they have to drain the pipes, etc. The board suggested that they apply for a special exception for storage (garage with a loft)

#### ITEM EIGHT

Jesse Bermel and Brett Koenecke discussed the decommission plan and the guaranty for the Tatanka Ridge Wind Farm. They stated that there are different ways to secure money for the decommissioning plan for the turbines. They can have bonds, guaranty, and self-insured. All these options have a risk to them and they don't want to have one decommissioning plan with the county and a different one with the PUC. The board and Koenecke decided to have a third party evaluate the different options to secure the monies for the decommissioning plan. They will come back to the October 15, 2019 and will discuss the plan again.

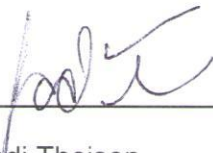
#### ITEM NINE

Chad Olson, representing Hollywood Feeders (Balbach CAFO), talked about the complaint of the manure in the ditch that was not covered. Elliot DeJongh & Kurt Dagel explained how they would like to update the current manure management plan with the South Dakota DENR by having composting pads and a holding pond. The composting lanes will be made with a clay liner and they will be 7' x 160'. The holding pond that will be lined with a clay liner. The proposed site for the pads and holding pond is about 25 acres. The windrows of manure would be covered with a felt blanket. The DENR State CAFO Permit was up for renewal and they applied to add the composting plan. The Board stated that they would have to apply for a new permit. It will be a re-application for Special Exception permit to operate a Class A CAFO (July 13, 2019) for the changes to the manure management plan. They stated that they would like to

start this project this fall and the board suggested they could apply for a special meeting for September 30, 2019 and they agreed to it.

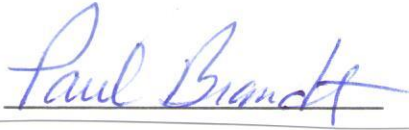
ITEM TEN

Sue Crooks discussed that they have been approached about having campers at their location north of Astoria which is Zoned Ag. They have 2 campers and they are charging rent. Campgrounds are not allowed in the Ag District. The Zoning Officer called Brookings County and they have allowed campgrounds in the Ag District as extended home occupations. Crook stated that they didn't realize that they couldn't do this. The campers are people working for the wind turbines in Brookings County. Crooks stated that there is a person in Brookings County doing the same thing. The Board stated that the owners of the Brookings County campground had to get a state permit with SD DENR & SD Dept of Health and a county permit. Crooks stated that they will not be going forward with the campground project. The Board stated that they are out of compliance with the Zoning Ordinance. Campgrounds are not a permitted use in an Agricultural District. Therefore, they will need to remove the campers from their property by October 30, 2019.



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Jodi Theisen  
Zoning Officer



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Paul Brandt  
Vice Chairman, Zoning Board