

August 12, 2019

The Deuel County Zoning Board met on Monday, August 12, 2019, at 6:30 p.m., in the Commissioner's Room of the Courthouse in Clear Lake. Those present were members Dennis Kanengieter, Steve Rhody, Kevin DeBoer, Mike Dahl, and Paul Brandt. Also present was States Attorney John Knight.

Chairman Dennis Kanengieter called the meeting to order.

Motion by Rhody, seconded by DeBoer, to approve the August 12, 2019 Agenda. All voted in favor and motion carried.

The minutes from the July 8, 2019, meeting was discussed. Motion by Dahl, seconded by DeBoer to approved the July 8, 2019 minutes. All voted in favor and motion carried.

DeBoer and Dahl recused themselves and Motion by Rhody seconded by Brandt, to approve the Minutes from July 16, 2019 minutes. All voted in favor and motion carried.

The minutes from the Special Meeting on August 5, 2019, were discussed. Motion by DeBoer, seconded by Brandt, to approve the Special Meeting on August 5, 2019 minutes. All voted in favor and motion carried.

ITEM ONE

Brownlee Construction and Austin Berwald representing, Berwald Family RLLP, applied for a Special Exception for a Sand, Gravel or Quarry Operation. The request, if granted, would allow regulated gravel operation on the property owned by Berwald Family RLLP described as NW1/4SE1/4 in Section 36-T113N-R50W, Grange Township, Deuel County, South Dakota. Roy Brownlee, representative of Brownlee Construction Inc., stated that they would like to mine gravel out of the previous gravel pit. Jodi Theisen, Zoning Officer, noticed an intent to mine in the local paper and contacted the Brownlees. The pit is an existing pit that has been abandoned for over 10 years. Brownlee stated that they applied to the SD DENR and have been approved. Brownlee stated that they will meet the Section 1105.12 Performance Standards For Aquifer Protection Overly Zones:#3 All of their equipment is mobile, so the fuel tank is attached to the service truck and generator trailer for short term use on site and would not be set up permanently on site. To keep fuel quantities down on site fuel is delivered by a local coop weekly or as needed. Brownlee stated that no water will be used or discharged for extraction and Performance Standards For Aquifer Protection Overly Zones: #7 and everything will be processed dry. Brownlee also stated that they will provide the zoning board with copy of the DNR permit to show that they have met all state requirements for mining. The topography and soil types have been attained from the USDA soil maps and are available to the zoning board. The depth to groundwater varies due to clay holding water in pockets. Browlee has done testing with a excavator and have located water at a depth of 12ft. They will not be extracting any material from the water. They will not be making any changes to shelterbelts, new buildings, or any new fencing. The changes in the topography will be contained to the extraction area and are monitored and measured by the SD DENR annually. Talking with the landowner, Austin Berwald, it is understood there are no known wells on the property. Brownlee will have a written

haul road agreement between the township and the trucking company to present to the zoning board. They have been inspected on a state level and have been in compliance with their dust and noise requirements with alterations done on their equipment. Also they have passed (MSHA) Mine safety health Administration Requirements annually for noise and dust.

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 Brandt, to grant the Special Exception for a Sand, Gravel or Quarry Operation to allow regulated gravel operation. 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: Does not apply.
- 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 Agriculture 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 haul out any refuse.

ITEM TWO

Will Stone discussed his property and hunting business and the setbacks from the Wind turbines. Stone discussed possible changes with the board. Stone stated that every acre of his

land is part of his business and the the proposed towers will hurt his hunting business. He referred to Section 201 Article II regarding definitions which states: any word not herein defined shall be as defined in any recognized Standard English Dictionary. Stone would like the setback from his property line 4 times the height of the tower. Gene May from Invenergy stated that many hunting preserves have turbines on their land. The board talked about the setbacks from a Concentrated Animal Feeding Operation and other AG related businesses. The board stated that this Wind Project has been approved with a special exception and changing the setback back now will not require Invenergy to move the towers Stone is concerned about

ITEM THREE

Neal Ruhd is planning on beginning a business with Mr. Ommen on distributing Black Fork Bourbon on Mr. Ommen's property. The bourbon would be transported by barrels and then would be distributed, bottled, and samples would be available with possibilities of selling.

Staff summary recommendation is that this request is not permitted as a permitted use or the "special exceptions" in the Agricultural District.

- This use could be permitted as an extended home occupation if a house was built there.
- The Planning Commission could initiate an amendment to the zoning ordinance to allow the proposed use in the Agricultural District.
 - o First District has provided a draft ordinance being considered in a neighboring county and based off of Minnehaha County Ordinances which would allow this and similar uses in the Agricultural District.
 - o Would require a conditional use permit after the ordinance is approved.
- The applicant could apply to rezone the property from Agricultural to Commercial.
 - o Rezoning the ordinance would ignore Section 1102.5 (Access) of the ordinance since it is located on a township gravel road and could be considered an inappropriate rezoning. At a minimum, if the rezoning is passed they would have to apply for a variance for Section 1102.05 Access.

Kanengieter called the meeting.



Jodi Theisen

Zoning Officer



Dennis Kanengieter

Chairman, Zoning Board