

**March 24, 2025 BOARD OF ADJUSTMENT/ PLANNING COMMISSION DEUEL COUNTY
STAFF REPORT**

Wednesday – February 11, 2026 – 6:30 p.m.

DEUEL COUNTY BOARD OF ADJUSTMENT

ITEM # 1 APPEAL OF ZONING OFFICER DECISION (Enforcement of CUP #25 CUV 004 – Amended Building Permit)

Applicant / Property Owner: Craig & Darla Jelen

Appellant: Jacob Beutler

Property Description:

Lot 2, Coteau Springs Addition, located in the SW ¼ of Section 18, Township 116 North, Range 49 West, Goodwin Township, Deuel County, South Dakota (3.50 acres), formerly part of the Rhyne Third Addition, E½ SW¼, Section 18-116-49.

Zoning Designation: A – Agricultural

Conditional Use Permit: #25 CUV 004

Action Item: Appeal of the Zoning Officer's decision related to enforcement of Conditional Use Permit #25 CUV 004, including the issuance of an amended building permit.

History / Issue(s):

On May 12, 2025, the Deuel County Board of Adjustment approved Conditional Use Permit (CUP) #25 CUV 004 authorizing a dog kennel for breeding, boarding, training, and grooming in the Agricultural District. Approval was subject to execution of a Letter of Assurance and submission of a revised site plan.

The revised site plan was reviewed and approved by the Board at the May 12, 2025 meeting. The Letter of Assurance contains the enforceable conditions of approval.

Condition #2 of the Letter of Assurance states:

“Kennel Location: The kennel shall be constructed as far north as possible on the property, with all soundproofing measures implemented in accordance with the revised site plan for building permit.”

In November 2025, concerns were raised regarding kennel location, fencing, and sound mitigation. The Zoning Officer conducted a site inspection and required revised plans reflecting construction as built. An amended building permit was issued on December 18, 2025.

The appellant filed an appeal challenging the Zoning Officer's enforcement and interpretation of CUP #25 CUV 004, including the determination that the amended building permit complies with the Conditional Use Permit.

Specifics of the Appeal:

The appellant alleges that:

1. The kennel is not located “as far north as possible” as required by Condition #2 of the CUP.
2. Sound mitigation measures discussed during the CUP hearing were not fully implemented.
3. There is an inconsistency between determinations regarding outdoor dog runs and kennel location.
4. Findings of Fact and applicant testimony are not enforceable and should not be considered in determining compliance.

Zoning Officer Review and Actions:

1. November 15, 2025:
Concerns were raised regarding fencing expansion and the absence of a 9-foot sound wall.
2. November 25, 2025:
The Zoning Officer conducted a site inspection. The kennel structure met setback requirements; fencing and dog run configurations differed from the original building permit drawings.
3. Post-Inspection:
The Zoning Officer consulted with the Deuel County State's Attorney and required revised plans reflecting construction as built.
4. December 18, 2025:
An amended building permit was issued documenting the kennel structure, fencing configuration, and sound mitigation measures.
5. December 2025 – January 2026:
The applicant provided additional correspondence describing plans to replace a fabric fence screen with a solid steel-sided fence surrounding the existing chain-link fence. Installation is planned for spring due to wind conditions and frozen ground.
6. January 2026:
The Zoning Officer reaffirmed the determination that the amended building permit complies with CUP #25 CUV 004 and the zoning ordinance.

Ordinance and Permit Review Regarding This Appeal:

1. The Board approved a specific revised site plan on May 12, 2025 establishing the approved location of the kennel. That location has not changed.
2. The phrase "as far north as possible" is a feasibility-based standard evaluated by the Board considering terrain, access, construction practicality, and surrounding land uses.
3. Multiple building permit drawings were submitted:
 - o The initial submittal showed the kennel at its largest proposed footprint.
 - o A subsequent submittal reduced the size of the kennel structure.
 - o The amended building permit added fencing details reflecting construction as built.
4. At no time did any revision move the kennel structure or fencing closer to the south or west property boundaries than shown on the original or subsequent plans.
5. Building permit revisions are permitted when changes:
 - o Reduce building size,
 - o Maintain setbacks, and
 - o Remain consistent with the approved site plan and CUP conditions.
6. Condition #2 requires sound mitigation "in accordance with the revised site plan." The Letter of Assurance does not require a specific fence height, a 9-foot sound wall, or exclusive placement of dog runs.
7. Sound mitigation measures include:
 - o Interior soundproofing of the kennel structure
 - o Privacy screening around exterior dog runs
 - o Vegetative screening
 - o A proposed solid steel-sided perimeter fence surrounding the existing chain-link fence
8. The Zoning Officer determined that the fencing functions as a screening and sound attenuation feature. Under Section 1223.02 of the zoning ordinance, customary farm and animal fencing is exempt from building permit requirements and meets setback standards.
9. Findings of Fact summarize testimony and discussion but are not enforceable unless expressly incorporated into the CUP or Letter of Assurance.

Staff Summary and Recommendation:

This appeal concerns enforcement and interpretation of an existing Conditional Use Permit. Based on the Letter of Assurance, Board-approved site plan, amended building permit, site inspections, applicant correspondence, and consultation with the Deuel County State's Attorney, staff finds:

- The kennel location has not changed from the approved site plan.
- Revisions to the building permit reduced the kennel footprint and clarified fencing details.
- No structure or fencing was moved closer to the south or west property boundaries.

- Sound mitigation measures comply with the enforceable conditions of CUP #25 CUV 004.
- No violations of the Conditional Use Permit or zoning ordinance have been identified.

Staff Recommendation:

The Board of Adjustment may table the appeal, deny the appeal, or uphold the Zoning Officer's decision.

Staff recommends that the Board of Adjustment:

1. Uphold the Zoning Officer's decision related to enforcement of CUP #25 CUV 004
2. Uphold the amended building permit
3. Find that Condition #2 of CUP #25 CUV 004 has been satisfied