

Monday August 14, 2017

The Deuel County Zoning Board met on Monday, August 14, 2017, at 6:30 P.M., in the Commissioners' room of the Courthouse in Clear Lake. Those present were members Dennis Kanengieter, Mike Dahl, Steve Rhody, Paul Brandt, and Kevin Deboer. Also present were States Attorney John Knight and Zoning Officer Jodi Theisen.

Chairman Dennis Kanengieter called the meeting to order. The minutes from the July 10, 2017, were discussed.

Motion by Brandt, seconded by Rhody, to approve the July 10, 2017, minutes. All voted in favor and motion carried.

Motion by Deboer, seconded by Rhody, to approve the August 14, 2017, Agenda with the correction to animals instead of animal units in Bandemer special exception. All voted in favor and motion carried.

1. States Attorney John Knight stated that Seth LLC has some property at Lake Cochrane and last year they had a potential buyer but they wanted to replat the lots into two lots with less than 75 feet of shoreline. Seth LLC transferred the property; however, in the Deuel County Zoning Ordinance - if two or more lots are owned under same ownership then they are considered one lot and cannot be split. Knight stated that he sent a letter to the land purchasers and to Seth LLC. Seth LLC stated they could not attend the August 14, 2017 meeting. Motion by Brandt, seconded by Rhody, to table this issue until later in the meeting. All voted in favor and motion carried.
2. Duane & Sue Thompson applied for a Variance Permit. The request, if granted, would permit the applicant to use the following property: N1/2 (Peterreins Addition in the NE1/4) in Section 21-115-47, Herrick Township, to have existing buildings & trees closer than the ordinance allows to the property line in an AG zoned district. Thompson stated that they are selling part of the building site which would be 5.82 acres to their daughter and son-in-law. They are keeping some of the buildings so they could use them. Thompson stated that they have applied and were granted a building permit for a new house that will be located south of the Peterreins Addition. Motion by Brandt, seconded by Dahl, to grant the Variance to allow existing buildings no less than 5 feet from the proposed property line, to allow the existing house 36 feet from the section road right-of-way, and to have an existing grove of trees closer than 150 feet from the road right-of-way on the west side of the road. All voted in favor and motion carried. The findings for this variance are the current road has a 100 foot right-of-way. There is no safety issue for the existing house and buildings and it won't create a snow problem. They are selling the property to a family member and platting for financial purposes.

3. Motion by Dahl, seconded by Rhody, to approve the Plat of Peterreins Addition in the NE1/4 in Section 21-115-47, Herrick Township. All voted in favor and motion carried.

4. Thomas Harm applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lot 5, Lake Alice Shores in SW1/4 in 7-116-48, Altamont Township, to operate a private campground in a Lake Park District. Harms stated he thought the special exception was good for 3 years, not just 2 years. He is planning on building a 1120 sq. ft. house in the spring of 2018. In 2016 Harms installed a septic system. Harm stated this fall or the spring of 2018 he will apply for a building permit for a permanent structure. 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 Brandt, seconded by Deboer, to grant the Special Exception to permit a private campground. One camper can be placed on Lot 5, Lake Alice Shores, with the understanding that the Board would like to see progress to have a more permanent structure on the lot by 2018. The Special Exception permit expires October 30, 2018, and is non-transferable. All voted in favor and 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 has sufficient access to the property and proposed structures 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: Applicants utilities are the same as the adjoining properties.
 - d. Screening and buffering with reference to type, dimensions, and character. Not necessary to have screening and buffering for the proposed use.

- 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: Does not apply.
 - f. Required yards and other open spaces: Applicant has sufficient yard and other open spaces.
 - g. General compatibility with adjacent properties and other property: This development is in its early years of development and the 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. Applicants use involves common household garbage. No garbage is stored outside and applicants take their garbage home with them when they leave the property.
5. Tigh Molitor applied for a Variance permit. The request, if granted, would permit the applicant to use the following property: S183' of Lot 6 less W52' in Westside Acres in Section 21-115-49, Clear Lake Township, to build a detached garage with less than 150' front yard in an AG zoned district and closer than 25 feet from the side lot. Molitor stated that he would like to build a detached garage on his property. The garage will be 28' x 50' and will be 64 feet from the platted road and 10 feet from the side property line. The Board asked Molitor if his neighbor to the right is aware of his building and if he could get a letter from the neighbor. Molitor stated yes the neighbor is ok with the building and he could get a letter. Motion by Deboer, seconded by Brandt, to grant the Variance to build 28' x 50' garage no closer than 64 feet from the platted road and not closer than 10 feet from the side property lot line contingent on getting a letter from the neighbor to allow the garage 10 feet from the property line. All voted in favor and motion carried. The findings for this variance are it is located on a private road and it is residential development adjacent to the City of Clear Lake.
6. Travis Krause & Dan Krause applied for a Variance Permit. The request, if granted, would permit the applicant to use the following property: S480' W775' in SW1/4 in Section 23-114-50, Hidewood Township, to build a detached garage within 150' from the road right of way in an AG zoned district. Krause stated that the 24' x 40' garage will be a pole frame and will be used for more storage for vehicles. The garage will be 76 feet from the road right-of-way. He can't go any further back because there is a Rural Water Pit and they have a 30 feet easement. Motion by Brandt, seconded by Dahl, to grant the Variance to build a 24' x 40' garage 76 feet from the road right-of-way. All voted in favor and motion

carried. The findings for this variance are the existing house and trees are closer to the right-of-way. There is a Rural Water pit to the north and they can't go any further back because of the easement, and it is on the existing farm site. The garage will not cause any safety or visual issue.

7. Motion by Brandt, seconded by Dahl, to remove from the table Seth LLC and their property at Lake Cochrane. The one transfer was for 50 feet of lake frontage and the other transfer was for 60 feet of lake frontage. Seth LLC owned 110 feet contiguously and due to the Deuel County Zoning Ordinance they couldn't transfer the property like they did. Knight stated that he will prepare a letter to send to Seth LLC with their options and to have them come to the next meeting. Motion by Brandt, seconded by Rhody, to table this issue until the next meeting. All voted in favor and motion carried.
8. Ron Ruud applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lots 18-19-20, Severson Bay in Gov Lot 5, 5-114-47, Lake Cochrane, Norden Township, to alter the shoreline and landscaping within 35 feet of the high water mark in an LP zoned district. Ruud stated that his bank along the lake is slowly sinking and washing away into the lake. In order to stabilize the bank he would like to drive piling into the shoreline (estimating every 3 feet) with bridge planks between them to build a wall; then they will fill in and cover with rip rap extending back onto the bank to support and stop any further erosion. The wall will be covered completely with rip rap. The work will be done about 20 feet east of the steps and 40 feet west of the steps that do down to the lake and about 8 feet above the high water mark. Motion by Dahl, seconded by Deboer to grant the Special Exception to allow the shoreline alteration within 35 feet from the high water mark by driving pilings into the shoreline (estimating every 3 feet) with bridge planks between them to build a wall. Then they will fill in and cover with rip rap extending back onto the bank to support and stop any further erosion. The wall will be covered completely with rip rap. The work will be done about 20 feet east of the steps and 40 feet west of the steps that go down to the lake and about 8 feet above the high water mark. They will use a silt fence during construction. All voted in favor and motion carried.
9. Dakota Wind Exchange, Joe Kolbach, applied for a Variance. The request, if granted, would permit the applicant to use the following property Lots 29 & 29A, Agnes Place Addition, in Gov Lot 8, 5-114-47, Lake Cochrane, Norden Township, to build deck within 50' from high water mark in an LP zoned district. Joe was not able to attend the meeting but Jodi Theisen, Zoning Officer, stated that he moved in a new mobile home on the lot and met the setbacks. Kolbach would like to build a deck in front of the home toward the lake. The mobile home

is 5 feet from the side lot line and is 60 feet from the high water mark and the deck would be 10 wide; however, the steps and one corner of the deck will be within the 50 feet from the high water mark. The steps would be approximately 6 feet within the high water mark. Motion by Deboer, seconded by Brandt to grant the Variance to allow a deck to be built no closer than 42 feet from the high water mark. The findings for this variance are that it is compatible to the neighbor's property and will not affect the view of the neighbor's. It is an open deck that is not enclosed.

9. The Board discussed the assurance letter for John Homan's private air strip. John Homan couldn't attend the August 14, 2017, Zoning Board meeting. He stated that he thought he had to provide an assurance letter from the discussion from the last meeting. The board required the applicant (John Homan) to sign a letter of assurance acknowledging that if he needs unrestricted access to the airspace over the neighbor's property, applicant is required to secure those rights from the adjacent property owners to use the following property: W1/2 less portion lying north of Railroad in NE1/4NW1/4, Section 32-116-47, Glenwood Township, to build and operate an airplane landing strip for private use in an Ag zoning district. Homan submitted a letter of assurance to the zoning office. John Knight stated to Homan that the Zoning Board or Zoning Officer prepares the assurance letter for the applicant to sign. The letter was presented to Homan. Homan added language to the letter and sent that letter to the Zoning Board. Brandt was under the understanding from the North Dakota FAA the property owner would have to get permission from the surrounding property owners to get unrestricted air rights. Deboer stated that they haven't been told the grade to the approach to the runway and the amount of flight pattern to approach. Motion by Brandt, seconded by Rhody, to reject the applicant requested language in the letter of assurance. Kanengieter called a roll call vote: Dahl-yes, Rhody-yes, Deboer-yes, Brandt-yes, Kanengieter-yes. Motion carried.

10. Gary Bandemer applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: SW1/4NW1/4 of Section 22-113-48, Scandinavia Township, to seek a Class "C" concentrated animal feeding operation (CAFO up to 2400 animals) which will be a Swine Finishing Unit. Bandemer stated that he would like to build a swine finishing barn to help get his son into the farming business. The barn would have 2400 head which is 960 animal units. Bandermer stated that it is not in a flood plain. They bored 60 feet and it was dry with sandy and clay base. The Deuel County Groundwater Protection Zones Map shows the site to be located in an area included in a Zone B which is a swallow aquifer. Howard Hanson a property owner showed concerns about the odor control. Bandemer stated that the barn will have a

concrete pit under the building and lined with clay on the outside. The barn will have rock boundary which will help with odor control. Kevin Gross who works at Ag First stated that they have filters that will help with flies and odor control. The Board stated that county has requirements for the CAFO's and one is the fly and odor control. If someone has a complaint they can call the zoning office and the board will look into it. Bandemer stated that he might have the fly and odor control hired out to the Dakota Pest- he is not for sure. Dahl stated that an open confinement lot has more odor than a confinement barn and the smell is during the pumping and the incorporation to the land. Brandt stated that he has a hog barn and the neighbor has a house ½ mile away and they decided to move in another house ¼ mile away and has no concerns. The Board is encouraging Ag growth in the Ag District.

Bandemer stated that he has enough acres for his manure management. He has about 400 acres and they are going to inject the manure. The pit is pumped once a year and he will hire it done. Bandemer stated that he is very concerned about his neighbors and being a good neighbor himself. He visited with some of the neighbors about building this barn and they showed support. Alan Moore stated that he is ok with the CAFO.

The barn will be located in the SW1/4NW1/4 of Section of 22-113-48, and will be 530 feet from the road right-of-way. It will be 101' x 193'. It will have a curtain wall on each end and it will be a tunnel barn. The location of the barn meets the 1320' set back from any residence or wells.

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 Brandt, seconded by Deboer, to grant the Special Exception for a Class "C" concentrated animal feeding operation (CAFO up to 2400 animal) which will be a Swine Finishing Unit. All voted in favor and 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 will widen his approach so he has sufficient access to the property and proposed structures 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: Applicants utilities will be H-D and Rural Water which are the same as the adjoining properties.

d. Screening and buffering with reference to type, dimensions, and character: The applicant's barn is far enough off the road so that is not an issue.

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: The applicant will have two yard lights that will not be a concern.

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

g. General compatibility with adjacent properties and other property: There are no residences in the required set back and the applicant's proposed use is generally compatible with the adjacent properties and other properties in the Ag 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 manure management plan and will have rendering service come and pick up the dead animals.

10. Michael Crinion with Sherman and Global Dairy came and talked to the Board about a lean to addition the existing building that they received a variance for in February, 2017 which is located mostly on Sherman Dairy land. The lean will be for equipment and will be located to the north of the existing building. The new lean will be located on Global Dairy land which is located north of the barn. Crinion stated that he thought the lean would be located on Sherman land. The Board stated that the zoning officer can grant a building permit contingent on that the property line will be moved so the building is under one ownership. Crinion stated that he will plat the land and transfer it to Global Dairy and apply for a bigger CAFO.
11. Jogchum Andringa from Wild Rose Dairy came and talked to the Board about adding on to the existing dairy. The addition will be a freestall and the animal units will not go over the CAFO restrictions. The board stated that all he needs is a building permit.

units will not go over the CAFO restrictions. The board stated that all he needs is a building permit.


12. Robb Krause came and talked to the Board about building some pillars at the end of the drive way. The pillars would be 4.5 feet tall and 10 feet long and there would be about 55 feet in between them. He would like to place these pillars right at the right-of-way. The property is located on a township road so the right-of-way is 66 feet. The Board stated that they don't allow any structure or trees within the 50 feet from the road right-of-way. Krause stated that the drive way is higher than the road so he didn't want to place the pillars back because of the elevation. The Board suggested to have Krause measure and determine if he could go 50 feet back with the pillars. Krause stated he will go and measure and layout his idea. Then the board would like come to the site and to see the plan and the lay of the land.
13. Rory Olerud with Olerud Enterprise LLC came and talked to the Board about building another flat storage building on their property. The building would be 80' x 200' that is 321 feet from the road right-of-way and 10 feet from the side lot line. The board told the Olerud to get a letter from the adjoining property owner. Olerud stated that he can get a letter from the adjoining property owner to build 10 feet from the property line. They would like to do footings, dirt work, and flat work before the September zoning meeting. The board suggested that they apply for a special exception and a variance for this building at the September 11, 2017 meeting.
14. Aaron Johnston came and talked to the board about his Lake Cochrane property. His current cabin has a roof covered deck which part of it is approximately 48 to 47 feet from the high water mark. Johnston stated that he would like to enclose the deck for living space. They would like to start from the existing house and go 6 feet out and make the living space more and to keep the about 10 feet of the covered deck. Johnston stated that there are pavers in front of the covered deck and they are slope/drop down and slide out of the bottom. They would like to remove the pavers and build a patio about ten feet in depth and 1.5 feet high in front of the deck. The Board suggested that he apply for a variance for the enclosure of the deck and the patio since it is within the 50 feet from the high water mark.

15. Kanengieter called the meeting.



Jodi Theisen

Zoning Officer



Dennis Kanengieter

Chairman, Zoning Board