

Monday July 14, 2025

The Deuel County Zoning Board met on Monday July 14, 2025 at 6:30 p.m., in the Commissioner's Room of the Courthouse in Clear Lake. Those present were members, Dennis Kanengieter, Jay Grabow, Mike Lammers, Kevin DeBoer, Mike Dahl, Attorney John Knight, Zoning Officer Jodi Theisen and other members of the public.

Chairman Mike Dahl called the meeting to order.

The minutes from June 9, 2025 meeting and June 17, 2025 were discussed. Motion by Grabow, seconded by Kanengieter, to approve the June 9, 2025 meeting and June 17, 2025 minutes. All voted in favor and motion carried.

Dahl addressed the members of the public regarding the portion of the agenda pertaining to the proposed Data Center. He clarified that the purpose of this agenda item was for the Board and Attorney John Knight to provide information and engage in discussion about the Data Center project. He emphasized that there would be an opportunity for public comment during this meeting, but that no vote or formal decision on any ordinance related to the Data Center would be made at this time.

Dahl further explained that this discussion represents the preliminary stages of consideration. Future public meetings will be held in the Town of Toronto, conducted by both the Planning and Zoning Board and the Deuel County Commissioners, to allow for additional public input and review. He also noted that developments at the state legislative level could play a significant role in either encouraging or discouraging the progression of the Data Center project in South Dakota.

Dahl asked if the board, or any staff member, had anything to add to the agenda with none being offered.

Dahl asked for any seated board member if they think they need to recuse themselves from any discussion topics on the agenda, or from voting on an agenda item with no board member responding.

Motion by DeBoer, seconded by Grabow, to approve the July 14, 2025, Agenda. All voted in favor and motion carried.

Motion by Grabow, seconded by Kanengieter, to adjourn as the Deuel County Planning Commission and convene as the Deuel County Board of Adjustment. Motion passed unanimously.

ITEM ONE

Gerald Jelen, applicant and Jelen Cabin LLC, owner, are requesting Conditional Use Permit to Section 1103.05.8, Accessory structures located on a lot adjacent to a lot with principle structure which is separated by a public or private road. They would like to build a detached garage on 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.

The applicant is proposing the construction of a 30' x 30' garage, intended primarily for storage use, with the inclusion of a bathroom. The proposed structure would be located toward the front of the property, facing Lakeview Drive. The planned location is situated between an existing 20-foot easement and the roadway (Lakeview Drive).

In connection with this proposal, the applicant has submitted a related variance request, as the location of the structure may not meet standard setback requirements. The Board reviewed the application and discussed the potential implications of the proposed placement in relation to zoning regulations and nearby properties.

ITEM TWO

Gerald Jelen, applicant and Jelen Cabin LLC, owner, are requesting a variance Section 1103.06 Minimum Lot Area and Yard to build a garage less than 30' from the road and easement. Property is located on 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.

Applicant, Gerald Jelen is requesting a Variance to build a 30' x 30' garage less than 30' from the road and easement. Mr. Jelen stated that the garage will be used primarily for storage and will include a

bathroom. He explained that due to the location of the easement on the lot, it is difficult to meet both the septic system placement requirements and the setback standards. Based on property pins located by the owner, the proposed garage would be approximately 27 feet from Lakeview Drive and 25 feet from the easement.

The Zoning Officer noted that in 2016, the applicant had been granted a similar variance for an addition to a garage—later converted to living space—within 30 feet of the same easement. The Board engaged in a detailed discussion regarding safety and setback concerns related to this request.

The Board engaged in a detailed discussion about potential safety concerns and the possibility of adjusting the garage placement to meet setback standards. Board member Grabow suggested moving the garage farther back from Lakeview Drive to ensure that the eaves would not extend into the road right-of-way. Mr. Jelen confirmed that the eaves would be approximately 2 feet wide.

Motion by DeBoer, seconded by Grabow to approve a Conditional Use Permit request by the applicant, Jerry Jelen, to build a garage located on a lot adjacent to a lot with principle structure separated by a public or private road on his property on 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. Please see Findings of Fact and Conclusions of Law on file with this application. Motion passed unanimously.

Motion by Grabow, seconded by DeBoer to approve variance request by the applicant, Jerry Jelen, allowing construction of an accessory building (garage) no closer than 23 feet from the existing easement, with the condition that no part of the structure—including eaves—extends beyond the property line toward Lakeview Drive. Please see Findings of Fact and Conclusions of Law on file with this application. Motion passed unanimously.

ITEM THREE

The applicants/owners James & Teah Swenson are requesting a Variance to Section 1103.06 Minimum Lot Area and Yard. The request, if granted, would permit the applicant to build a new deck less than 50' from the high-water mark. Property is located on 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.

Theisen stated he applicants are requesting a Variance from Section 1103.06 (Minimum Lot Area and Yard) to construct a new 16' x 24' deck less than 50 feet from the high-water mark. The proposed deck would be located approximately 46 feet from the high-water mark, 20 feet from the east property line, and more than 30 feet from the road.

Thiesen stated the existing structure, previously permitted in 2007 as a bathhouse for a marina, is currently outfitted with a bathroom, kitchenette, and basement. The property lies outside the designated floodplain. Similar variances have been approved within the Lake Park District.

Theisen noted that a shipping container had been placed on the property without a permit and that a camper was onsite last year without the required permit. Theisen stated Swenson has submitted an application for the camper and obtained written permission from two out of the three neighboring property owners which is 66% which allowing the camper to be places on the on-site for one year May 2025 until December 2025.

Swenson, attending via phone, stated that he will remove the unpermitted shipping container and intends to construct a detached garage with a loft and bathroom. The proposed garage will have 14-foot sidewalls and a power lift door to accommodate both his boat and camper. He also shared plans to eventually construct a 30' x 50' single-family residence, which would be attached to the garage. He plans to pour dual footings on the garage side in preparation for this future home. Swenson also noted that the current bathhouse could contain a sleeping area, and the future garage loft might also include temporary sleeping accommodations. However, once the main house is built, no sleeping area will be used in the original bathhouse.

Theisen raised the question of whether the Board would recognize the boat house as a principal use and also expressed concern that a camper—being temporary—may only be permitted for one or two years, which might not satisfy the long-term requirement needed to justify an accessory structure such as a garage.

After discussion, the Board concluded that the existing structure—originally permitted as a bathhouse—qualifies as the principal structure and may be considered a tiny house under zoning standards. Accordingly, the Board determined that Swenson is eligible to apply for a permit to construct a detached garage under the current regulations, with a maximum sidewall height of 14 feet. The Board further directed that the shipping container is non-conforming and must be removed by August 1st prior to construction of the deck.

The Board opened the meeting for public comments. Larry Grong, neighbor, commented that he had no objection to the proposed deck or garage, provided that the garage sidewalls do not exceed 14 feet in height.

Motion by Grabow, seconded by DeBoer, to approve the Variance request to construct a new deck attached to the existing structure, with the following conditions: the deck shall be located no closer than 46 feet from the high-water mark & the shipping container must be removed by August 1, 2025. All voted in favor, and the motion carried. Please refer to the Findings of Fact and Conclusions of Law on file with this application.

ITEM FOUR

Theisen stated that the Findings of Fact and Conclusions of Law for 25 CUV 0001-01, pertaining to the Central Specialties Variance and Conditional Use Permits for Section 1101.04.04 (Concrete and Asphalt Mixing Plant), were not completed in time for the last meeting. Theisen presented proposals to the Board for review. Motion by Kanengieter, seconded by Lammers, to approve the Findings of Fact and Conclusions of Law for 25 CUV 0001-01 (Central Specialties Variance and Conditional Use Permits for Section 1101.04.04). All members voted in favor. Motion carried.

Motion by Grabow, second by Kanengieter, to recess the Board of Adjustment and reconvene as Planning Commission. Motion passed unanimously.

ITEM FIVE

Motion by DeBoer, second by Lammers, to recommend approval to the Board of County Commissioners the 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. The purpose of this replat is to create distinct parcels for residential and kennel-related uses. Motion passed unanimously.

ITEM SIX

Attorney John Knight, who was hired by the County to assist the Deuel County Planning Commission and the Deuel County Commissioners in drafting a Data Center Ordinance, provided an update on the progress of the ordinance. Knight stated that he has been reviewing ordinances from other counties as part of his research and emphasized that the ordinance development will involve joint meetings with the public to collect input and feedback before finalization.

Knight recommended that the Deuel County Planning Commission and County Commissioners hold a joint meeting with the City of Toronto to encourage collaboration. The Board agreed with this suggestion and recommended including other surrounding communities as well. Knight estimated that a draft ordinance could be ready within approximately one to one and a half months.

Chairperson Dahl asked Board members to identify specific areas for Knight to consider during ordinance development. The Board requested the ordinance address:

- Noise levels
- Traffic impacts
- Road quality during both construction and operation
- Rural water availability and usage

Knight and the Board agreed that the ordinance should be completed prior to any formal data center application to ensure the County has regulations in place, whether or not an application is ultimately submitted.

Chairperson Dahl opened the floor to public comment. The following individuals spoke:

- Larry Grong expressed concerns about potential blackouts, fire control, and project costs.

- Jenny Falcone raised questions about the construction timeline, staffing levels, impacts on the local school, road conditions, and light pollution.
- Cindy Zajac asked about the ordinance process and whether public input would be included.
- Todd Ball voiced concerns regarding increased utility price.
- Rollie Trooien questioned the power and currency demands, noise, and the rationale for selecting the proposed location.
- Sam Froehlke cited concerns related to noise and duty cycle operations.
- Angel Oeltjenbruns urged the County to complete the ordinance before the State makes any decisions regarding the data center.
- Johnny Roelofsen expressed concerns regarding tax impacts, housing demand, rental prices, and agricultural land values.

The Board responded to several public concerns, stating that, according to information provided by the company, the data center is not expected to cause blackouts. Although utility use may increase, rates are not anticipated to rise. The Board noted that increased development could potentially lead to lower property taxes by reducing the mill levy. Regarding housing concerns, it was mentioned that the company may assist in developing an assisted living facility to support community needs.

Theisen also informed the board the next regular meeting will be held on August 11, 2025 and the potential upcoming permits and inquiries.

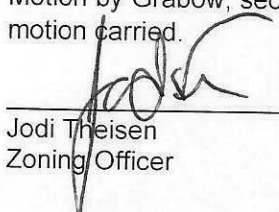
Zoning Officer Theisen informed the Board of a recent email inquiry regarding the potential filling of a slough (former gravel pit) located within Lots 6A, 7A, 8A, and 9A of Ingvalson's Sugar Sand Beach Addition in the Lake Park District near Lake Cochrane.


Theisen explained that the matter was first brought to the Zoning Office in 2020 and was originally interpreted as requiring a Special Exception (now Conditional Use Permit) for shoreline alteration. The current inquiry noted that an application for a Section 404 Permit has been submitted to the U.S. Army Corps of Engineers.

After consultation with the State's Attorney, Theisen determined that the proposal does not fall under the provisions of Section 1103.07.5 of the Deuel County Zoning Ordinance, as the activity is outside the 35-foot shoreline buffer, not in a designated floodplain, and the slough lacks a defined high-water mark. Therefore, the County has no jurisdiction over the request.

The Board concurred with this assessment and agreed that no permit is required from the Deuel County Zoning Office. The matter falls under the authority of the U.S. Army Corps of Engineers and/or the South Dakota Department of Agriculture and Natural Resources (SD DANR).

Motion by Grabow, seconded by Lammers to adjourn the meeting at 8:40 p.m... All voted in favor and motion carried.


Jodi Theisen
Zoning Officer


Mike Dahl
Chairman, Zoning Board