

**July 8, 2024 BOARD OF ADJUSTMENT/ PLANNING COMMISSION DEUEL COUNTY
STAFF REPORT**

Monday – July 8, 2024 – 6:30 p.m.

DEUEL COUNTY BOARD OF ADJUSTMENT

ITEM #1 VARIANCE

**Applicant: NorthWestern Energy
Land Owner: Estate of Jeffrey & Christine Watt**

Property Description: 40' x 40' tract of land "Gas Value Site" located in part of the NE1/4 of Section 27-113-50, Grange Township, Deuel County, South Dakota.

Action Items – Variance – (Section 1101.05 Area Regulations)

Zoning Designation: AG – Agricultural

Request: Applicant/Owner requesting a variance to build a security fence closer than 65 feet from front yard which is closer than the ordinance allows in a AG District

History/Issue(s):

Specifics of Request:

1. Applicant/Owner seek a Variance to install a security fence approximately 75' south of the existing ROW of HWY 28 (front yard) and approximately 50' west of the west ROW line of 470 Ave which is a township road with access to the site which in an Agricultural Zoned District.
2. The applicant is requesting a 15' variance for the requires 65' front yard setback in order to minimize the placement of this fenced valved site in the cropland and the safety issues created by placing it further into the field.
3. The Board has granted similar variance for a meter station that was platted to transfer ownership which was less than 3 acres, security fence approximately 50' from the road right-of-way (front yard) (Dailey) & Lake Cochrane Substation in 2017 granted a variance security fence 75' and buildings 60' from the front yard.

4. Staff recommendation: The Board could approve the Variance on the basis that similar variances have been granted in the past. If approved, staff recommendation -To grant the Variance to install a security fence approximately 50' from the road right-of-way (front yard). Of 470th Ave which is a township road.

The Board could deny the Variance on the basis that the circumstances surrounding this request are not so unique in nature to necessitate granting special privilege to this applicant which is denied to other properties in this zoning district. Please see Findings of Fact and Conclusions of Law on file with the application.

ITEM #2 CONDITIONAL USE PERMIT

**Applicant: NorthWestern Energy
Land Owner: Estate of Jeffrey & Christine Watt**

Property Description: 40' x 40' tract of land "Gas Value Site" located in part of the NE1/4 of Section 27-113-50, Grange Township, Deuel County, South Dakota

Action Items – Conditional Use Permit – (Section 1101.04.12 – Essential Services)

Zoning Designation: A – Agricultural District

Request: Applicant/Owner are requesting a Conditional Uses Permit requesting to construct a 40' by 40' valve site as a part of a recycled natural gas (RNG) interconnection system from Brookings Biogas LLC network for biogas from anaerobic digesters at Global Dairy and two other RNG sites.

History/Issue(s):

Specifics of Request

1. NorthWestern Energy (NWE) is requesting to construct a 40' by 40' valve site as a part of a recycled natural gas (RNG) interconnection system from Brookings Biogas LLC network for biogas from anaerobic digesters at Global Dairy and two other RNG sites in an Agricultural District.

- a) Brookings Biogas is both processing recycled natural gas (RNG) on the Global Dairy property (Global) and transferring RNG from to other RNG facilities to Global, then interconnecting to NWE as an "essential public utilities & services" company. This point of interconnect will be the NWE gas site consisting of aboveground valving/equipment to receive the RNG and to connect with the main pipeline running north along 475th Ave, this requires a CUP pursuant to Section 1101.04.
- b) NorthWestern Energy have a perpetual gas utility easement for the pipeline with Estate of Jeffrey & Christine Watt and will be located out of the road right-of-way.
- c) Necessary permitting with multiple agencies such as the PUC has been done and granted. NWE is a public utility operated under the laws of State of South Dakota.

2. Deuel County Ordinance requires that a land owner go through the Conditional Use Permit Process to have Essential Services in the Agricultural District.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. Essential services are listed use in the A – Agricultural District.
 12. Essential services – Overhead or underground electrical, gas, steam or water transmission or distribution systems and structures, or collection, communication, supply or disposal systems and structures used by public for protection of the public health, safety or general welfare, including towers, poles, wires, mains drains, sewers, pipes, conduits, cables satellite dishes, and accessories in connection therewith. The Board attached the specific condition in accordance with its ability to add conditions to a conditional use permit.
2. The Deuel County Comprehensive Land Use Plan states that the main goal is to accommodate growth and to minimize the disturbance of agricultural land.
 - o This lot has an existing access off 470th Ave;
 - o They have efficient Off-street parking; ample room for parking
 - o They have efficient utilities – will not have any Garbage;
 - o They have efficient Screening and Buffering; 6'-8' chain link fence around various areas of the sites;
 - o They will have Signs; signage being located on the entrance gates
 - o They have efficient yard space and other open space;

Staff Summary

Conditional Use Permit – Essential Services: The application may be approved, postponed, or denied.

Staff recommendation:

Approval would be based on the applicant's ability to meet the requirements for a Conditional use Permit described in ordinance - To grant the Conditional Use Permit to construct a 40' by 40' valve site as a part of a recycled natural gas (RNG) interconnection system from Brookings Biogas LLC network for biogas from anaerobic digesters at Global Dairy and two other RNG sites in AG District.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the Conditional Use Permit and that granting the Conditional Use Permit will not adversely affect the public interest. Please see Findings of Fact and Conclusions of Law on file with this application.

ITEM #3 CONDITIONAL USE – PER APPLICANT POSTPONE UNTIL NEXT MEETING-NEEDS TO UPDATE ACCESS ON PROPOSED PLAT

Applicant/Owner: Shirely V Weber, Antony Weber, William T Weber and Mary Spartz

Property Description: E1/2SE1/4 Less E375' S560' & less Weber Addition (to be known upon platting as Roe Cemetery Subdivision in the SE1/4) of Section 22-117-49, Portland Township, Deuel County, South Dakota.

Action Items – CONDITIONAL USE – (Section 1101.04.02 – Churches or Cemetery)

Zoning Designation: A – Agricultural District

Request: Shirely V Weber, Antony Weber, William T Weber and Mary Spartz is requesting a CUP to have private cemetery.

Specifics of Request:

1. Shirely V Weber, Antony Weber, William T Weber and Mary Spartz have owned this property for many years.
2. The applicants would like to plat out a 1.23 acres cemetery lot (Block 1) with one burial plot (Lot 1) that is 50 sq ft which contains and occupied grave.
3. Shirely's Great Great Grandmother is buried on this property.
4. They want to plat this grave site out for future ownership and for future maintenance.
5. No other burial sites will be on this property.
6. Deuel County Ordinance requires that a landowner go through the Conditional Use Process for Cemeteries.

Ordinance and Comprehensive Land Use Plan regarding this request:

- o This lot will have access with an easement off 170th St which is maintained by Portland Township
- o This site has room for off street parking
- o They have efficient utilities; not applicable
- o They have efficient Screening and Buffering
- o They are not having any Signs;
- o They have efficient yard space and other open space

Staff Summary

Conditional Use Permit – the Board may postpone the request, deny the request, or approve the request with or without conditions: The application may be approved, postponed, or denied. The Board can define the plat of the cemetery

Staff recommendation:

Approval would be based on the applicant's ability to meet the requirements for a Conditional Use Permit described in ordinance - To grant the Conditional Uses Permit for – Private Cemetery (upon platting as Roe Cemetery Subdivision which will contain 1.23 acres cemetery lot (Block 1) with one burial plot (Lot 1) that is 50 sq ft which contains and occupied grave.

The Board determined that it is empowered under the section of the ordinance described in the application to grant the Conditional Use Permit and that granting the Conditional Use Permit will not adversely affect the public interest. Please see Findings of Fact and Conclusions of Law on file with this application.

ITEM #4 CONDITIONAL USE

Applicant/Owner: Charles & Ronni Vlaminc

Property Description: Lot 11 Block 2 Dakota Bluffs Addition of the Section 8-114-47, Norden Township, Lake Cochrane, Deuel County, South Dakota.

Action Items – CONDITIONAL USE – (Section 1103.05.8 – Accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road)

Zoning Designation: LP – Lake Park

Request: Applicant requesting a Conditional Use Permit to move in a storage shed (Accessory structure) located on a lot adjacent to a lot with principle structure separated by a public or private road.

Specifics of Request:

1. Charles & Ronni Vlaminc purchased this lot in 2021
2. The applicant would like to move in a storage shed (Accessory structure) either 10' x 24' or 12' x 20' on this lot they also own Lots 25-26 Thokola Beach in Gov Lot 2, which located crossed the road from Lot 11 Block 2 Dakota Bluffs Addition.
3. They would like to build a garage on this lot in the future.
3. There is an existing 55' easement that runs toward the front of the Lot 11 Dakota Bluff Addition (road side).
4. The applicant was will not need a variance to build an accessory building they meet the all the Lake Park setbacks.
5. Deuel County Ordinance requires that a landowner go through the Conditional Use Process to have accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road in the "LP" District.

Ordinance and Comprehensive Land Use Plan regarding this request:

- o This lot will have access off Edgewater Drive which is maintained by Deuel County
- o This site has room for off street parking; They will not park in the road right-of-way
- o They have efficient utilities; Water is provided by Brookings-Deuel Rural Water, they have been in contact with Lake Cochrane Sanitary District. They have garage service for their trash. Electricity is provided by H-D.
- o They have efficient Screening and Buffering and the shed will be located approximately 10' from the side lot line and the shed is located 30' from the rear property line and they have no intent to plant trees or build a fence for screening at this time.
- o They are not having any Signs;
- o They have have efficient yard space and other open space, the shed will be located 30', more than approximately 140' from the platted road right-of-way (Edgewater Drive) and more than 10' from the side lot lines;

Staff Summary

Conditional Use Permit – Accessory structures located on a lot adjacent to a lot with principle structure separated by a public or private road: The application may be approved, postponed, or denied.

Staff recommendation:

Approval would be based on the applicant's ability to meet the requirements for a Conditional Use Permit described in ordinance - To grant the Conditional Uses Permit for – to move in a storage shed (Accessory structure) located on a lot adjacent to a lot with principle structure separated by a public or private road

The Board determined that it is empowered under the section of the ordinance described in the application to grant the Conditional Use Permit and that granting the Conditional Use Permit will not adversely affect the public interest. Please see Findings of Fact and Conclusions of Law on file with this application.

DEUEL COUNTY PLANNING COMMISSION

ITEM # 5 PLAT

Applicant/Owners: Shirely V Weber, Antony Weber, William T Weber and Mary Spartz

Property Description: Roe Cemetery Subdivision in the SE1/4 of Section 22, Township 117 North, Range 49 West of the 5th P.M., Deuel County, South Dakota.

Request: To plat Roe Cemetery Subdivision 1.23 acres cemetery lot (Block 1) with one burial plot (Lot 1) that is 50 sq ft which contains and occupied grave.

Action Item –Plat approval.

ITEM # 6 PLAT

Applicant/Owners: Merle Buyert & Marsha Kurtenbach

Property Description: Block 1 Buyert Second Addition in SW1/4 of Section 8, Township 115 North, Range 50 West of the 5th P.M., Deuel County, South Dakota

Request: To plat Block 1 Buyert Second Addition which contains 23 acres it is vacating Block 1 Buyert Addition for transferring purposes. Marsha Kurtenbach is acquiring 9.48 more acres from Merle Buyert.

Action Item –Plat approval.

ITEM # 7 PLAT

Applicant/Owners: Gary & Marsha Gabrielson

Property Description: Plat of Gabrielson Third Addition in SE1/4 of Section 28, Township 115 North, Range 47 West of the 5th P.M., Deuel County, South Dakota.

Request: To plat Gabrielson Third Addition which contains 60.29 acres for future estate planning.

Action Item –Plat approval.

ITEM # 8 PLAT

Applicant/Owners: Doyle And Luann Thompson living Trust

Property Description: Plat of Lot 1 Thompson's Second Addition in the SW1/4 of Section 21, Township 115 North, Range 47 West of the 5th P.M., Deuel County, South Dakota.

Request: To plat Thompson's Second Addition which contains 6.31 acres that was old Hwy ROW and for future transferring purposes.

Action Item –Plat approval.

ITEM # 9 PLAT

Applicant/Owners: Doyle And Luann Thompson living Trust

Property Description: Plat of Lot 1 Thompson's Third Addition in the SW1/4SE1/4 of Section 16, Township 115 North, Range 47 West of the 5th P.M., Deuel County, South Dakota.

Request: To plat Thompson's Third Addition which is the building site and it contains 22.15 acres for future transferring purposes.

Action Item –Plat approval.

ITEM # 10 Board Discussion:

- Look at the verbiage for CAFO setbacks for future projects.