

Monday April 9, 2018

The Deuel County Zoning Board met on Monday, April 9, 2018, 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.

Motion by Rhody, seconded by DeBoer, to approve the April 9, 2018, Agenda. Paul Brandt was absent from the voting, all voted in favor and motion carried.

Motion by Dahl, seconded by DeBoer, to approve the March 12, 2018, minutes. Paul Brandt was absent from the voting, all voted in favor and motion carried.

Motion by Deboer, seconded by Kanengieter, to amend the January 22, 2018, minutes to correct the legal description to match the legal description on the revised applications. The legals that were used in the minutes for the January 22, 2018 motion were the legals received on the first application submitted to the zoning board. The amended mitutes should read: Motion by Brandt, seconded by Dahl, to grant the Special Exception Permit to construct and operate up to 300 MW Deuel Harvest North Wind Farm up to 150 wind turbines. The facilities will also include an operations and maintenance building, a project substation, an interconnection substation, collector lines, and up to three meteorological towers. The proposed Wind Energy System is located in the following Sections and Townships: Portland Township (T117N, R49W) in Sections 4, 5, 8-10, 12-18, 21-28, 34-36; Lowe Township (T117N, R48W) in Sections 19-22, 25-36; Antelope Valley (T117N, R47W) in Sections 31, 32; Altamont Township (T116N, R49W) in Sections 1-3, 12, 13, 24-26, 35; Altamont Township (T116N, R48W) in Sections 7, 18-20, 29, 32; Glenwood Township (T116N, R48W) in Sections 1-3, 10-15, 21-28, 33-36; Glenwood Township (T116N-R47W) in Sections 4-9, 15-22, 27-31; Herrick Township (T115N, R48W) in Section 1; and in Herrick Township (T115N, R47W) in Section 6, all in Deuel County. Upon issuance of applicant permit by the South Dakota Public Utilities Commission, applicant is required to meet requirements of Section 1215 of the Deuel County Ordinance in reference to remaining obligations including but not limited to: submittal of Haul Road Agreements, sign the letter of Assurance, Submittal of Decommissioning Plan, Final site location of towers, building permit application, meeting applicable federal and state requirements, and consideration of bond for abandonment/decommissioning. The permit shall expire if no substantial construction described within the application has occurred within three (3) years of issuance of a permit by South Dakota Public Utilities Commission. The project will need to be at least 25% complete to meet the substantial completion requirement. The applicant may apply for an extension if the requirements above are not met. The Special Exception permit is transferable. Subsequent owners/operators shall agree to

the same conditions described herein. Kanengieter called a roll call vote: Dahl-yes, Rhody-yes, DeBoer-yes, Brandt-yes Kanengieter-yes. Motion carried.

Motion by Rhody, seconded by DeBoer, to grant the Special Exception permit to construct and operate up to 200 MW Deuel Harvest South Wind Farm with up to 100 wind turbines. The facilities will also include an operations and maintenance building, a project substation, an interconnection substation, collector lines, and up to two meteorological towers. The proposed Wind Energy System is located in the following sections and townships: Clear Lake Township (T115N, R48W) in Section 32; Brandt Township (T114N, R49W) in Sections 2-5, 8-17, 20-29, 36; Norden Township (T114N, R48W) in Sections 2-6, 8-16, 22-35; Blom Township (T113N, R49W) in Section 1; and in Scandinavia Township (T113N, R48W) in Sections 1-4, 10-15, 24, all in Deuel County.

Upon issuance of applicant permit by the South Dakota Public Utilities Commission, applicant agrees to meet requirements of Section 1215 of the Deuel County Ordinance in reference to remaining obligations, including, but not limited to: submittal of Haul Road Agreements, sign the letter of Assurance, Submittal of Decommissioning Plan, Final site location of towers, building permit application, meeting applicable federal and state requirements, and consideration of bond for abandonment/decommissioning. This permit shall expire if no substantial construction described within the application has occurred within three (3) years of issuance of a permit by South Dakota Public Utilities Commission. The project will need to be at least 25% complete to meet the substantial completion requirement. The applicant may apply for an extension if the requirements of above are not met. The Special Exception permit is transferable. Subsequent owners/operators shall agree to the same conditions described herein. Kanengieter called a roll call vote: Dahl-yes, Rhody-yes, DeBoer-yes, Brandt-yes Kanengieter-yes. Motion carried. Kanengieter called the meeting. All voted in favor and motion carried. Paul Brandt was absent from the voting.

The Board acting as the planning commission considered the application of Nathan Engelstad to amend the zoning ordinance to rezone the property described as: Engelstad Farms Bins Site 2nd Addition in NW1/4 in, Section Twenty Four (24), Township 113 North, Range 48, West of the 5TH P.M., (Scandinavia Twp.) in Deuel County, South Dakota, containing 5.50 Acres from Agricultural to Commercial. Engelstad explained the proposed project to build a machine shed to sell seed, machine storage, and a shop. The Board found that the property meets the required lot size and that the location of the proposed structures will meet the required setbacks. Motion by Deboer, seconded by Rhody, to recommend the Deuel County Board of Commissioners approve the request to change the classification of the property described as: Engelstad Farms Bins Site 2nd Addition in NW1/4 of, Section Twenty Four (24), Township 113 North, Range 48, West of the 5TH P.M., (Scandinavia Twp.) in Deuel County, South Dakota. Containing 5.50 Acres from Agricultural to Commercial. Kanengieter called a

roll call vote: Dahl-yes, Rhody-yes, DeBoer-yes, Kanengieter-yes. Paul Brandt was absent from the voting. Motion carried

Nathan Engelstad applied for a Special Exception permit. The request, if granted, would permit the applicant to use the following property: Engelstad Farms Bins Site 2nd Addition in NW1/4 in Section 24-113-48, Scandinavia Township, to build a machine shed with an office and warehouse to store farm equipment and for seed sales in a CI Zoned District. Engelstad stated that he would like to build a 60' x 120' machine shed and 40' x 40' office. Engelstad stated he sells seed and would like to sell seed from this property. He stated that he owns 5 ½ acres and the property has two existing bins on the site. 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 Dahl, seconded by DeBoer, to grant the Special Exception to build a machine shed with an office and warehouse to store farm equipment and for seed sales in a CI Zoned District that rezoning passes with Commissioners. Paul Brandt was absent from the voting. Kanengieter called a roll call vote: Dahl-yes, Rhody-yes, DeBoer-yes, Kanengieter-yes. Paul Brandt was absent from the voting. 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 preexisting 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: Applicant has adequate utilities.
- d) Screening and buffering with reference to type, dimensions, and character: Does not apply.
- 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: If the applicant does do a sign it would not cause a glare or traffic issue.
- 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 Commercial 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 has a dumpster service.

Pat Toft applied for a Variance Permit. The request, if granted, would permit the applicant to use the following property: E345' S505' N720' in NE1/4SE1/4 in Section 34-117-48, Lowe Township, to build a shed with living quarters within 150' from the road right of way in an AG zoned district. Toft stated his house was destroyed by a fire this fall. The house was approximately 34' from the road right-of-way. Toft stated that he has a wetland toward the back of his land and he has to stay away 10' from it per DENR. The board asked about a different location on the property. Toft stated that he would like to utilize his current septic tank and all the utilities. If he moved the location of the house it would cost a lot of money. Toft would like to build a pole shed with living quarters on a slab with no basement. The living quarters would be 30' x 40' and the pole shed would be 60' x 90'. Toft stated that he wants to build 46' from the road right-of-way. Motion by Dahl, seconded by DeBoer, to grant the Variance to build a shed with living quarters within 150' from the road right of way in an AG zoned district. Paul Brandt was included in the voting. All voted in favor and motion carried. The findings for this Variance are the existing trees to the north and the lay of the land is peculiar, so this is the only buildable spot. The applicant is using the preexisting septic tank, drain field and existing utilities. The building site is located on a county road.

Elliot Lorenzen applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lorenzen Addition in SE1/4 in Section 21-115-47, Herrick Township, in the following manner: To operate an extended home occupation to sell skid steer attachments and other farm equipment and to construct an onsite sign for the business in an Ag Zoned District. Lorenzen stated he is selling farm equipment and skid steer attachments on his property located south of Gary. Lorenzen stated that he farms with his dad and he sells farm equipment and skid steer attachments for extra income. 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 Dahl, seconded by Brandt, to grant the Special Exception to operate an extended home occupation to sell skid steer attachments and other farm equipment, limiting the lot size for the equipment to approximately 1.20 acres to construct an onsite sign for the business to follow the State DOT Regulations in an Ag

Zoned District. Paul Brandt was included in the voting. All voted in favor and motion carried.

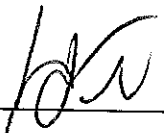
- a) Entrance to and exit from property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe: Applicant has preexisting access to the property and proposed structures and there 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: Applicant has adequate utilities.
- d) Screening and buffering with reference to type, dimensions, and character. Does not apply because there is no other residence or business nearby.
- 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: If the applicant does do a sign it would not cause a glare or traffic issue and it would have to meet the State DOT Requirements.
- 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 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. There is minimal waste and the applicant has dumpster service.

Tony Konold came and talked to the Board about building a shed on his property located west of Clear Lake. Konold stated that they have about 3 acres and he would like to build the 40' x 65' shed 130' from the road right-of-way. Konold stated that he would like to build the shed north of his garage and use the same driveway. The Board asked why he couldn't build the shed behind his existing house. Konold stated that he would like to build a house in the location in the future. The Board stated to Konold he would have to apply for a variance to build within 150' from the road right-of-way.

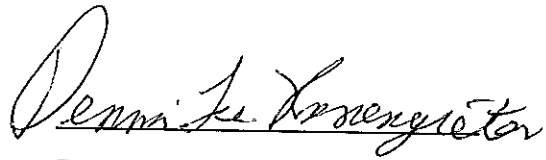
David Orthaus and Gilbert Larson came and talked to the board about the Town of Goodwin and the Fieber Dairy. They had questions about if the dairy had a CAFO permit with the county. The Zoning Board stated that they had a Class "A" CAFO permit with Deuel County and they also have a state permit. The board suggested them to call the DENR and they could tell them the regulations for the state permit.

Dean Maeyaert came and talked to the board about a concern of the Lake Cochrane Sanitary District. Maeyaert stated that there was a building permit issued for an addition to existing garage with a special exception and variance to allow closer to the existing easement. During that hearing the applicant stated that he was adding on to help with entertaining his family and it would not be a second living space; however, the garage has an existing bathroom. The applicant had a signed letter from the Lake Sanitary District. The question from Maeyaert was if they add bedrooms it a zoning issue or a sanitary issue. The Board stated it would be a sanitary issue if you want the applicant to be up to code with the sanitary rules and regulations.

Kanengieter called the meeting.



Jodi Theisen
Zoning Officer


Dennis Kanengieter
Chairman, Zoning Board