

BROOKINGS COUNTY PLANNING & ZONING COMMISSION
MINUTES OF JULY 7, 2020 REGULAR PLANNING & ZONING MEETING

The Brookings County Planning & Zoning Commission met at their regular meeting on Tuesday, July 7, 2020. Modified meeting practices were used due to the global pandemic of COVID-19. Attendance for meetings to be via phone or for those in attendance the CDC recommended guidelines were followed in the Commission Chambers. The following members were present: Mike Bartley, Chad Ford, Tom Davis, Darrell Nelson, Darrel Kleinjan, Kyle Vanderwal, Terrell Spence and Randy Jensen. Members that phoned in were: alternate Spencar Diedrich and Senior Planner from First District Association of Local Governments Luke Muller. Absent were: Michael McHugh, and alternate Roger Erickson. Also present was: County Development Director/Emergency Manager Robert Hill.

CALL TO ORDER

Chair Ford called the meeting to order at 8:00 PM

APPROVAL OF MINUTES

(Vanderwal/Bartley) Motion to approve the June 2, 2020 Meeting Minutes. Roll call vote: Bartley-aye, Davis-aye, Nelson-aye, Kleinjan-aye, Vanderwal-aye, Spence-aye, Jensen-aye, Diedrich-aye, Ford-aye. **MOTION CARRIED.**

ITEMS TO BE ADDED TO AGENDA BY COMMISSION MEMBERS OR STAFF

None added.

INVITATION FOR CITIZENS TO SCHEDULE TIME ON AGENDA FOR ITEM NOT LISTED. *Time limited to 5 minutes per person to address the board.*

No one scheduled time to address the board.

DISCLOSURE OF CONFLICTS OF INTEREST

None.

APPROVAL OF AGENDA

(Davis/Vanderwal) Motion to approve the agenda for the July 7, 2020 Meeting. Roll call vote: Davis-aye, Nelson-aye, Kleinjan-aye, Vanderwal-aye, Spence-aye, Jensen-aye, Diedrich-aye, Bartley-aye, Ford-aye. **MOTION CARRIED.**

CONVENE AS BROOKINGS COUNTY BOARD OF ADJUSTMENT

2020VAR007

Application by Todd Langland for a variance. Article 11.00: Section 11.01 "A" Agricultural District: Area Regulation # 2: Front Yard: The minimum depth of the front yard shall be one hundred (100) feet. A corner lot will have two front yards. The property is described as: "N750' of W782' of NW1/4 NW1/4 Exc Hwy in Section 28, T110N, R48W (Alton Township)" ~~~ located at 48011 US Hwy 14, White, SD 57276.

(Nelson/Bartley) Motion to approve the Variance request.

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STAFF REPORT: Prepared by Richard Haugen, presented by Robert Hill. Applicant is requesting a variance to build a 16' x 16' residential addition 70 feet from the US Hwy 14 right of way, a variance of 30 feet. Applicant was granted a variance on April 1, 2001 to build the residence in the current location due to location of an existing driveway and farm buildings. Considerations or hardships: location of current residence and farm buildings, floorplan of residence limits were addition can be located. Public Notices were published in the Brookings Register on June 23 and 30, 2020 and in the White Tri-City Star on June 25 and July 2, 2020. Letters were sent to the adjoining landowner's, Alton Township Chairman and Clerk. No objections or concerns were received by the zoning office.

PUBLIC HEARING: Todd Langland informed those present he was granted a variance in 2001 to build a home. At that time plans were to build a 15' x 15' deck onto that home but that did not happen. At this time he would like to build a 3-season room onto the residence.

Proponents: None.

Opponents: None.

DISCUSSION: Hill presented a visual presentation of the site. No board members had questions or comments regarding the request. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: Roll call vote: Nelson-aye, Kleinjan-ay, Spence-aye, Jensen-aye, Vanderwal-aye, Diedrich-aye, Bartley-aye, Davis-aye, Ford-aye. **MOTION CARRIED.**

2020VAR008

Application by Amanda Blok for a variance. Article 11.00: Section 11.01 "A" Agricultural District: Area Regulation # 1: Lot Size. The property is described as: "S480' of W474' of SW1/4 SW1/4 of Section 2, T110N, R49W (Aurora Township)" ~~ located at 47606 209th St, Aurora, SD 57002.

(Jensen/Vanderwal) Motion to approve the Variance request.

STAFF REPORT: Prepared by Richard Haugen, presented by Robert Hill. Applicant is requesting a variance to build 21 feet outside the permitted buildable area of an historical school site. At the November 7, 2017 meeting the Brookings County Planning Commission confirmed the 1 acre square site (209' x 209') was a school site and permitted use for a single family residence. The current parcel of 5.66 acres was split off in 2002 and included the historical school site, hog barns, grain bins and farm buildings. Amada Blok, has a purchase agreement with the current landowner subject to the approval of the variance request. Considerations would be: 1) the 21' variance would allow the expansion of the minimum lot area that was granted by the board on November 7, 2017 for the original size of the lot. 2) Proposed variance would allow a proposed residence to be built exceeding the 133 feet township road and 150 feet county road setback requirements. 3) Best use of the remaining 4.66 acres – a residence of Ag use (grain storage, livestock production). Public Notices were published

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in the Brookings Register on June 23 and 30, 2020 and the White Tri-City Star on June 25 and July 2, 2020. Letters were sent to the adjoining landowner's, Aurora Township Chairman and Clerk, Brookings County Highway Department. Visual presentation of the site also given by Hill.

PUBLIC HEARING: Applicant Amanda Blok informed those present she wanted to build a house a little further from the road so that more trees could be planted to protect from the weather. She noted that they may also build a little barn for some chickens, rabbits and horses. Aryan Blok informed those present that the property would be use for 100% private use, no Ag business and may have a small barn put on the property for horses and chickens but would be 100% private use.

Proponents: Luke Muller from First District added that he had helped Mr. Haugen with report preparations. He reiterated the board had exercised its administrative capacity in 2017, in stating and pointing out that the 1 acre building site had the ability to have a house built on it. The reason for the variance was to allow for building 21 feet outside of the old 1 acre lot (school site). He asked the board to consider requiring a replat of the property if that wasn't already expected to be done if the action was approved.

Opponents: R. Shawn Tornow, Attorney at Law noted he represented adjacent property owners Shana Robbins and Caleb Cohrs. He noted the following concerns: 1) Application was submitted by the wrong entity or individual. 2) Proper notice was not provided to adjacent property owners. 3) Published notice did not meet the requirements of being published 14 days before the hearing, but was 13 days. 4) Application doesn't state type, size or purpose of proposed building. 5) No hardship or peculiarity shown for a need for a variance. 6) Concern that property could turn into a CAFO. Shana Robbins handed board members a document of opposition signed by neighboring property owners and/or local tax payers in Brookings County identified as Aurora Citizens for Accountability. Hill read and displayed the comments the office had received, posted online and placed on file from: Caleb Cohrs, Pam & Gregg Stern, Shana Robbins, Verna Clark. He also read a comment received after the Thursday noon deadline from Steve Bunkers.

DISCUSSION: Bartley asked Muller for his opinion on if: 1) if notice in the paper was not met (13 vs 14 days). 2) Applicants signature being owners of the property vs. the purchaser of the property. Muller noted for legal opinion board would need to rely on the States Attorney. He did give feedback: 1) as far as zoning administration he had dealt with similar arguments regarding notice to adjoining/adjacent property owners and Zoning Offices would not consider that Shana Robbins as being an adjacent property, 2) multiple communities have honored and counted back from day of publication 3) as far as signature on application – probably best to have a letter from the current owner say they are ok with or under that the application is being made. Bartley stated, "I think you pointed out some vital things that we need to consider, I would consider that we should probably go ahead and table this until our next meeting in order to allow those things to happen and the consideration of a replat application for the lot contingent upon the sale." Ford also asked Muller question regarding CAFO and setback requirements as the public had concerns regarding location being a possible CAFO (Confined Animal

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Feeding Operation) Site. Muller noted a Conditional Use application would need to be applied for, the number of animal units would determine setback distances and noted that it would not be included to be accepted at the location.

(Bartley/Davis) Motion to Table variance request until the August (4th, 2020) Meeting.

VOTE: Roll call vote: Kleinjan-aye, Vanderwal-aye, Spence-aye, Jensen-aye, Diedrich-aye, Bartley-aye, Davis-aye, Nelson-aye, Ford-aye. **MOTION CARRIED.**

2020CU012

Application by Ryan Hanson for a conditional use. Article 11: Section 11.01: "A" Agricultural District, Conditional Use # 26: "The County Zoning Commission may permit other uses which, in its opinion, are not detrimental to other uses and are in the general character of the Agricultural District". The property is described as:"W1/2 SW1/4 Exc N 2 Rods in Section 15, T110N, R51W (Volga Township)".

(Bartley/Jensen) Motion to approve the Conditional Use.

STAFF REPORT: Prepared by Richard Haugen, presented by Robert Hill. Applicant is requesting a conditional use for agricultural seed sales and bulk farm herbicide and insecticide sales. Seed sales and sale of bulk herbicide/insecticide to be added to the agricultural section of the ordinance update. The seed sales would be started as soon as possible with sale of bulk herbicide/insecticide to be added in the future. No mixing for field application of herbicides or insecticides would take place on site, business would only store and sell products to customers. Business would be located on US Hwy 14 and ¾ of a mile west of the city of Volga. The SD DOT had been notified and had no objections as existing driveway will be used. City of Volga also had no objections to the request. Applicant would need to apply for a license from the SD Dept. of Ag., for seed sales/treatment and herbicide/insecticide sales in quantities up to 275 gallons if request approved. No containment barriers needed for quantities up to 275 gallons by the SD Dept. of Ag and no registration is required by the EPA. Site will consist of warehouse/office building, bulk seed bin storage and inside storage. Seed will be brought in by semi-trailer to the site and stored in bulk seed bins or prepacked bulk storage containers, treatment will take place in the warehouse as seed is sold and delivered to customers. The applicant has a purchase agreement with the land owner for the proposed 4.5 +/- acres site. Preliminary survey of site filed with application. Public Notices were published in the Brookings Register on June 23 and 30, 2020 and the Volga Tribune on June 25 and July 2, 2020. Letters were sent to the adjoining landowner's, South Dakota Department of Transportation and Volga Township Chairman and Clerk. Visual presentation of the site also given by Hill.

PUBLIC HEARING: Applicant Ryan Hanson informed those present he was just asking for a conditional use permit to start a seed dealership.

Proponents: Jim Schade representing Hillside Cemetery noted he was in favor of the request, asked that consideration be given to help in monitoring and aiding dust control on adjoining gravel road and welcomed the new business to the neighborhood.

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Opponents: None.

DISCUSSION: Davis asked if a row of trees would be planted. Hanson noted possibly a row for a barrier between the cemetery and building and possibly on the north side an extension onto the existing area of trees for more of a snow barrier. Ford asked if Hanson had been in contact with the cemetery. Hanson noted he had initial visited with someone but that he would find out board members and get their feedback. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: Roll call vote: Spence-aye, Jensen-aye, Diedrich-aye, Bartley-aye, Davis-aye, Nelson-aye, Kleinjan-aye, Vanderwal-aye, Ford-aye. **MOTION CARRIED.**

2020CU013

Application by Joshua Bungard for a conditional use. Article 11: Section 11.01: "A" Agricultural District, Conditional Use # 6: Contractors' shops and yards and Conditional Use Permit #20: Home Extended Business". The property is described as: "Lucas Addition in NW1/4 Section 11, T111N, R49W (Afton Township)" ~~ located at 20328 476th Ave, White, SD 57276.

(Davis/Nelson) Motion to approve the Conditional Use.

STAFF REPORT: Prepared by Richard Haugen, presented by Robert Hill. Applicant is requesting a conditional use for a Contractor's shop and yard and a Home Extended Business. The contractor's yard will be located on the parcel where he resides, will be used for a small scale construction and landscaping business for equipment storage and supplies. The Home Extended Business would be a temporary seasonal campground for seasonal employees of his business and construction worker or hunters/tourists in the fall. Campground plans are for: 4 – 30' x 60' RV pads with water, sewer and electricity. Preliminary plans are for a sealed holding tank septic system that would be pumped out as required by a septic service. Septic system and drinking water will need to meet SD DENR requirements. Dumpster will be on site and serviced by a trash service. A license for a campground will be needed from SD Dept. of Health if occupants stay for less than 28 consecutive days per SDCL 34-18-1 and Administrative Rules of SD 44:03:14 will need to be met. Campground spaces are screened by shelterbelt along road and north side of property and would be operational May to October only. Applicant has visited with the township regarding a road agreement and they have no objections to the contractor yard or the seasonal campground. Public Notices were published in the Brookings Register on June 23 and 30, 2020 and the White Tri-City Star on June 25 and July 2, 2020. Letters were sent to the adjoining landowner's, Afton Township Chairman and Clerk. Visual presentation of the site also given by Hill.

PUBLIC HEARING: Applicant Joshua Bungard and spouse Staci Bungard went over their business plan that had been provided to the board as well included in their file.

Proponents: None.

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Opponents: None.

DISCUSSION: Davis asked capacity of septic tank. Bungards' noted they would make sure it was more than adequate and follow state regulations. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: Roll call vote: Jensen-aye, Diedrich-aye, Bartley-aye, Davis-aye, Nelson-aye, Kleinjan-aye, Vanderwal-aye, Spence-aye, Ford-aye. **MOTION CARRIED.**

2020CU014

Application by Dennis Ommen for a conditional use. Article IV District Requirements: Chapter 4.03 "LP" Lake-Park District: Section 4.03.02 Conditional Uses Permit # 6: Accessory buildings with a side-wall greater than fourteen (14) feet or more than 2,000 square feet and used accessory buildings greater than 120 square feet. The property is described as: "Lot 3 in Ommen Addition in Govt Lot 9 in NE1/4 of Section 12, T112N, R48W (Oak Lake Township)".

(Kleinjan/Vanderwal) Motion to approve the Conditional Use.

STAFF REPORT: Prepared by Richard Haugen, presented by Robert Hill. Applicant is requesting a conditional use for an accessory building measuring 50' (wide) x 100' (long) with 14 feet sidewalls (5,000 sq. ft.) to be used for personal storage. The building would be located on a 9.58 acre parcel that was rezoned from Natural Resources to Lake Park in 1975. Public Notices were published in the Brookings Register on June 23 and 30, 2020 and the White Tri-City Star on June 25 and July 2, 2020. Letters were sent to the adjoining landowner's, Oak Lake Township Chairman and Clerk and Brookings County Highway Department. Visual presentation of the site also given by Hill.

PUBLIC HEARING: Applicant Dennis Ommen informed those present that he was also planning on building a house on the site. He identified the location of the proposed accessory building and a future residence. He further noted the building(s) would not be easily visible from the road.

Proponents: None.

Opponents: None.

DISCUSSION: Board members Davis and Nelson asked if setbacks would be met. Hill verified that Lake Park setbacks were 75 feet and would be met. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: Roll call vote: Diedrich-aye, Bartley-aye, Davis-aye, Nelson-aye, Kleinjan-aye, Vanderwal-aye, Spence-aye, Jensen-aye, Ford-aye. **MOTION CARRIED.**

BY-LAW UPDATE

(Vanderwal/Bartley) Motion to approve the By-Law Update.

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DISCUSSION: Hill noted that the board members had been provided with By-Laws to review and amend. Changes were needed to note the televised and teleconferencing of meetings and new SD Codified Law that took place July 1, 2020. Hill called on Luke Muller for additional comments. Muller noted the changes were a mesh of state law and how things were ran at the meetings. It was being done to keep things up to date. Hill asked for comments from board members. Hearing none.

VOTE: Roll call vote: Bartley-aye, Davis-aye, Nelson-aye, Kleinjan-aye, Vanderwal-aye, Spence-aye, Jensen-aye, Diedrich-aye, Ford-aye. **MOTION CARRIED.**

DEPARTMENT REPORTS

Hill announced Covid-19 had been affecting offices and the building operations. All county offices were open and social distancing was practiced in daily operations and at meetings. He reminded everyone to continue to practice social distancing, mask wearing and wash your hands often.

ADJOURN

(Vanderwal/Bartley) Motion to adjourn. All member voted "aye." **MOTION CARRIED.**
Chair Ford adjourned the meeting at 9:40 PM.

Rae Lynn Maher
Brookings County
Development Department