

BROOKINGS COUNTY PLANNING & ZONING COMMISSION
MINUTES OF JULY 5, 2022 REGULAR PLANNING & ZONING MEETING

The Brookings County Planning & Zoning Commission met at their regular meeting on Tuesday, July 5, 2022. The following members were present: Darrel Kleinjan, Mike Bartley, Brian Gatzke, Spencar Diedrich, Kyle Vanderwal, Neil Trooien, and Randy Jensen, and alternates Roger Erickson and Dale Storhaug. Absent was Chad Ford. The board also has 1 vacant seat in District 3 to fill. Also present were County Development Director/Emergency Manager Robert Hill, and Senior Planner from First District Association of Local Governments Luke Muller. Deputy Director Richard Haugen was absent.

CALL TO ORDER

Vice Chair Kleinjan called the meeting to order at 8:00 PM

APPROVAL OF MINUTES

(Diedrich/Vanderwal) Motion to approve the June 7, 2022, Meeting Minutes. All present voted 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

(Trooien/Vanderwal) Motion to approve the agenda for the July 5, 2022 Meeting. All present voted aye. **MOTION CARRIED.**

CONVENE AS BROOKINGS COUNTY PLANNING & ZONING COMMISSION

CONSIDERATION OF PLATS

2022PLAT012

For property described as "Plat of Block 1, Hardt Addition in Govt Lot 1 of Section 30, T109N, R50W of the 5th P.M., Brookings County, South Dakota." Submitted by Jonathan Hardt to enlarge his existing lake lot by .53 acres to the north and east. He is enlarging his lot to meet the setback requirements for a proposed attached garage addition on the northeast side of his existing house. The plat exceeds the 20,000 square foot requirement for lake park district lots.

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(Diedrich/Gatzke) Motion to approve the plat. Roll call vote: Bartley-aye, Gatzke-aye, Diedrich-aye, Vanderwal-aye, Trooien-aye, Jensen-aye, Erickson-aye, Storhaug-aye, Kleinjan-aye. 9-aye, 0-nay. **MOTION CARRIED.**

CONVENE AS BROOKINGS COUNTY BOARD OF ADJUSTMENT

2022VAR012

Application by Luke DeBoer for a variance. Article 18.00: Section 18.02. Moved in Buildings: # 2 c. In the absence of consent of all neighbors above provided, the Brookings County Planning and Zoning Commission by a 2/3 majority may authorize the issuance of a building permit for the moving in of a previously occupied residence after a public hearing. The property is described as: "N442' of the E770.5' of the SE1/4 of Section 22, T109N, R49W (Trenton Township)" ~~ located at 21759 476th Ave, Aurora, SD 57002.

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

STAFF REPORT: Applicant is requesting a variance to move in a previously occupied residence onto his property. Due to an adjoining landowner not signing the adjoining landowner form as required in the ordinance the applicant will need the boards 2/3 majority vote of approval to authorize the issuance of a building permit to move in the residence. Report noted: 1) The used house is currently located in Brookings County. 2) Public notices were published in the Brookings Register on June 21 & 28, 2022. Letters were sent to adjoining landowners, Brookings County Highway Department and the Trenton Township Chairman and Clerk.

PUBLIC HEARING: Applicant Luke DeBoer noted he was purchasing the used residence from Hammink Dairy and was planning to remodel it from top to bottom. Once completed he and his family would live in it and his existing residence would be removed.

Proponents: None.

Opponents: None.

DISCUSSION: Board members Bartley and Diedrich asked the applicant if he had visited with the adjoining landowner and the producer renting the farm ground. Mr. DeBoer noted he had sent letters and forms to the landowner but wasn't able to talk with him. He had visited with the renter (Lance Intermill) and the renter had no issues with the request and had noted the landowner had indicated he would not sign the approval form and had not stated a reason as to why he would not sign the permission form. Findings of Facts were reviewed, completed by the board, concurred with by Bartley and placed on file.

VOTE: Gatzke-aye, Diedrich-aye, Vanderwal-aye, Trooien-aye, Jensen-aye, Erickson-aye, Storhaug-aye, Bartley-aye, Kleinjan-aye. 9-aye, 0-nay. **MOTION CARRIED.**

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2022VAR013

Application by Brian Hanson for a variance. Article 11.00: Section 11.01 “A” Agricultural District: Area Regulation # 8: Non-conforming Lots. The property is described as: “Lot 5 in Cunningham’s Subdivision in the NE1/4 NE1/4 of Section 28, T110N, R49W (Aurora Township)” ~~ located at 5603 Rathum Loop, Brookings, SD 57006.

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

STAFF REPORT: Applicant is requesting a roadside yard variance to build a 24’ x 30’ detached garage, 25 feet from the road, a variance of 25 feet. The reported noted: 1) Lot is a non-conforming lot with setback requirements of - 50 feet roadside, 8 feet side yards and 50 feet rear yard. 2) proposed structure is to replace a storage building that was destroyed in the May 12, 2022 storm. 3) considerations – shape and size of the lot, Cunningham’s subdivision was platted in December 1974 prior to current setback requirements. Public notices were published in the Brookings Register on June 21 & 28, 2022. Letters were sent to adjoining landowners, South Dakota Department of Transportation, and Aurora Township Chairman and Clerk.

PUBLIC HEARING: Applicant Brian Hanson had nothing to add.

Proponents: None.

Opponents: None.

DISCUSSION: Board members had no questions or comments regarding the request. Luke Muller asked who maintained the Rathum Loop road area used by the applicant. Mr. Hanson noted he maintained his road area. Findings of Facts were reviewed, completed by the board, concurred with by Diedrich and placed on file.

VOTE: Diedrich-aye, Vanderwal-aye, Trooien-aye, Jensen-aye, Erickson-aye, Storhaug-aye, Bartley-aye, Gatzke-aye, Kleinjan-aye. 9-aye, 0-nay. **MOTION CARRIED.**

2022VAR014

Application by Slade Larscheid 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: “W493’ of E823’ of N530’ of NE1/4 NW1/4 of Section 11, T110N, R50W (Brookings Township)” ~~ located at 232 42nd St, Brookings, SD 57006.

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

STAFF REPORT: The applicant is requesting a front yard variance to build a 30’ x 60’ house addition 108 feet from the center of 42nd St (209th St & Co Road 46), a variance of 32 feet (required setback is 150 feet). The report also noted: 1) Considerations that limit where an addition can be built: rural water line, telephone and electric line run along east side of property, septic system located south of house and east of garage, existing machine shed located east of house. 2) Public notices were published in the Brookings

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Register on June 21 & 28, 2022. 3) Letters were sent to the adjoining landowners, Brookings County Highway Department and Brookings Township Chairman and Clerk.

PUBLIC HEARING: Applicant Slade Larscheid had nothing to add.

Proponents: Hill presented a comment received via email prior to the meeting from adjoining landowners Tim & Peggy Pederson noting they had no issue with the request.

Opponents: None.

DISCUSSION: Board members had no questions or comments regarding the request. Findings of Facts were reviewed and completed by the board, concurred with by Gatzke and placed on file.

VOTE: Vanderwal-aye, Trooien-aye, Jensen-aye, Erickson-aye, Storhaug-aye, Bartley-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye. 9-aye, 0-nay. **MOTION CARRIED.**

DEPARTMENT REPORTS

Hill noted FEMA and SDOEM would be in Brookings on July 19, 2022, for a public assistance briefing regarding the May 2022 Derecho. No individual assistance would be available as the damage dollar amount did not meet criteria. He would also be attending the NACo Annual Conference July 20-25, 2022.

Muller suggested the board consider reviewing areas in the ordinance that related to items heard at the meeting for future discussion as the ordinance update continues.

Board member Diedrich brought to the boards attention a concern he had. He noted, at the Joint Jurisdictional meeting an amendment to the map was brought up by a board member that had a conflict of interest that was not discussed. Some of the land that was removed from the joint jurisdictional area was owned by the member that made the motion to amend the map. Bartley noted the board member (Gatzke) is new to the board, but it is a conflict of interest. Options: 1) since it is the first meeting after it would be allowed to make a motion to reconsider but would need to be made by somebody on the prevailing side (someone who voted to move the northern area back to original location) 2) vote would probably be declared an invalid vote because of a non-disclosure of a conflict of interest. Brookings County States Attorney would probably be involved with whether it was invalid or not and it would have to be discussed again at a future meeting – as if it's invalid and basically didn't happen. It could be taken to the States Attorney to get a legal opinion on conflict of interest and invalidation of the specific Amendment. Hill noted taking it to the States Attorney may result in the need for another public hearing no matter if the vote would change or not, because of the South Dakota sunshine law and codified laws. Muller was consulted and noted he would take the issue/question to the States Attorney for review. Hill would discuss with the States Attorney, inform the board, and proceed as directed.

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ADJOURN

(Diedrich/Bartley) Motion to adjourn. All present voted aye. **MOTION CARRIED.** Acting Chair Kleinjan adjourned the meeting at 8:48 PM.

Rae Lynn Maher
Brookings County
Development Department