



PLANNING AND ZONING OFFICE

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Minutes for the meeting of Grant County Planning and Zoning/Board of Adjustment.

Members present: Nancy Johnson Tom Pillatzki Gary Lindeman Lorelei Brandt Tom Adler Richard Hansen Mike Mach

Alternates present:

Members absent:

Others present: Kathy Tyler, Sean Simpson, Barry Kerkaert, Holli Hilbrands, Kate Capp, LeRoy Capp, Judy Hunt, Steve Muellenbach, Joseph Yaros, Ann Loeschke

Agenda for the meeting of Grant County Planning and Zoning/Board of Adjustment.

Meeting Date: **Monday, October 12, 2015** **Meeting Time: 4:30 P.M.**

1. Call Meeting to Order by Nancy Johnson at 4:31 pm
2. Reading of Grant County Board of Adjustment Procedural and Rules of Conduct
3. Approval of Minutes: Monday, September 14, 2015 Motion by Adler second by Brandt carries 7-0.
4. Plat Approvals
 - a. Judy Hunt & Randy Meister, joint owners, request the plat of Lots 1&2 of Judy Hunt Addition located in the SE1/4 of Section 16, Township 119 North, Range 48 West of the 5th P.M., Grant County, South Dakota. (Vernon Township) Motion by Adler second by Pillatzki carries 7-0.
 - b. Stephen & Diann Muellenbach, owners of Lots 1&2 of Muellenbach Addition, located in the SW1/4 of Section 5, Township 120 North, Range 48 West of the 5th P.M., Grant County, South Dakota. This plat shall vacate a part of Lot1 on the plat of Lots 1&2, SW1/4 (Alban Township) Motion by Hansen second by Mach carries 7-0.
5. Conditional Use/Variance Requests/Rezoning
6. New Business
 - a. Kathy Tyler complaint filed September 29, 2015 Chair Johnson acknowledges the filing of another complaint but notes that it is the same as what is already being investigated and discussed. She also acknowledged the Capp addendum to the Sept 2, 2015 complaint showing odor day opinion data.
 - b. EDWDD meeting on Thursday October 15, 2015 at 9:30 am Gary Lindeman to attend
 - c. SD Planners Association October 28-29 in Mitchell The board will have a conflict with the depositions on Oct 28 so no one will be attending.
7. Old Business
 - a. Complaint upon the condition completion of Teton, LLC
 - i. Update Kathy Tyler- Johnson addressed the board to see if they had any questions to Mrs Tyler; no one did so they moved into the discussion from where they left the complaint at last meeting.
 - ii. Biofilter ongoing investigation

Brandt explained that she had emailed and received a phone call from Dr Cortus to help her get more understanding of the apparatus and SDSU's role in biofilters. Brandt reported the skirting has been added and the top nailed down as per the board's request. Dr Cortus answered her questions with these recommendations: check biofilters daily or weekly, Inside skirting of 4-5"- More than that will restrict air flow too much, top off semiannually after the first settling occurs and topping off is done neighbors keep a calendar of when it smells with a ranking number 1-5. That will give us something to go on in conversations. first year is a learning curve, Keep really good records-This will help when planning for the future, Farrowing barn has a shallow pit – she said she does not recommend biofilters because the pit is emptied every 2-3 weeks- at the end of a batch of piglets.

Kerkaert spoke that Teton had topped off the media fill 4-5 times since they were built and again since last meeting. He stated that Dr Cortus had supplied yet another letter stating the Biofilter they had constructed was the most common and was built and appraised to be effective. Mach reported he would not know whether it was effective and it was the only one he had seen but he didn't think it was supposed to eliminate odor but odor would be different to everyone. He stated he had been around there and it doesn't smell. He works at the power plant and routinely swings around that area either coming to work or going home from work randomly for the last few months. He states there is some odor, is it a lot? I am not familiar with a lot it would be difficult to say. He commented that it was the discussion of the board that all barns with pigs have filters on their stage 1 fans.

Simpson replied to Mach that they have acted in accordance with SDSU design for which fans they put the filters on. Dr Cortus said it would be an inconsequential difference for the stage 1 fans in the middle barn because it is shallow and flushed regularly and presented the documentation dated 10-12-2015 by Dr Cortus supporting these statements.

Johnson read the minutes and noted that there would not be a difference between a Biofilter that was constructed to be cost effective as compared to most effective if they have used the design or SDSU which they have demonstrated to have done. It was now time for the board to determine if a violation exists.

Lindeman inquired about odor footprint tool used which showed all pits with biofilters and an odor footprint radius of 1 mile or less which had been used by the voters at the meeting. If those biofilters are removed or not installed or ineffective they would increase the radius. Simpson replied that would make sense except the first complaint came in prior to having pigs in any of the barns at all. Biofilters with holes or gaps at that time had nothing to filter but they were still an object of complaint.

Johnson asked do we (the board) decide whether there is a significant flaw in the Biofilter. Pillatzki stated he understood all the phase 1 fans would have filters and does this \$#! Stink more than others. The shallow pits would not give off as much gas which is a lot to the smell. But any improvement is an improvement worth having. Kerkaert explained the design of the 18 fans in the middle barn to not be pit fans but they are tied together and come out 1 point. Be careful not to do something to your specs that the engineer and researchers haven't provided. Dr Nicolai and now Dr Cortus have both stated it would be less than 3% change to place biofilters on those fans. Simpson added these are not stage 1 fans and there are no pit fans on that building these fans are not off the pit as they are with a phase 1 fans. There are 3 farms with biofilters in SD and they went with science to build the best.

Barry added they have followed the engineer's recommendations to a T and it will work for odor emissions and he explained during the first year of a barns life there are many activations that happen just getting the barn up and running. Simpson handed out pictures of the top off and skirting that had been added and approved by Dr Cortus since the last meeting. They never represented there would be no smell they have 6-7 barns in SD that have no biofilters and no complaints.

Kathy Tyler addressed the board. She explained she was a teacher and had handouts containing all the information that she had gathered since her first complaint in May 2015 with links to more information. She asked the board to pay particular attention to email number 3 about odor reduction and she feels they made a mistake in the request of the conditions to not require them on all fans. Are these the most effective? Simple answer to her was no as she cited a quote from Cortus because of the long ebct and the footprint. Johnson pointed out that further down the email Cortus quote stated she felt they were effective. Tyler went on to talk about a tour of the Beresford Research barn Biofilter with 100 pigs in a small facility and she included pictures in her handout. Brad cut open a vertical Biofilter which was enclosed in a plastic room for research control and you could smell pigs on the media. The bottom picture covered all fans and was a design used since 1995 and could reduce odors 95%. The vertical filters she stated get mushy on the bottom and the horizontal design allowed for skidloader to clean out. According to her research it should be working and it is not. Sunday they had a group over at their house and it was fine to be outside all day but at Capp's she couldn't stand it. Davis County they have been fighting the stink for 2 years. She does not envy the responsibility or the decisions of the board but states it is not working and it is frustrating.

Johnson commented it wasn't the position of the board to decide whether it was effective or not but whether they had done what they were asked. Kerkaert pointed out that they never promised no stink but they had promised their facility would operate within the rules of the ag zone in which they were placed. They have 13 sow farms with only 2 complaints but this one needs to walk before we run and the 4-5 months it has been running hasn't given the facility enough time to gain that balance. It would take a season. He went on to explain to the group they had purchased a barn with horizontal biofilters that had been running since 1995. The investors had to deal with rodent problems, new steel and insulation and other issues that stemmed from that horizontal design. They have done everything asked of them by the board up to this point. The barn would have to be redesigned to work with horizontal filters and it would increase rodent issues. Dr Cortus has certified this design to be effective and correct for contact time for the barn.

P&Z Officer Atyeo-Gortmaker points out to the board that the decision before them is to decide whether Teton has fulfilled the obligations of the conditions that were placed upon them. You have granted them a permit to run their operation with the 2 conditions which were the subject of the first and many subsequent complaints that have been in an ongoing complaint. 1. Do you feel they have met the obligations of the tree planting? Do you feel they should have their permit revoked because they are noncompliant in this condition? The board unanimously shook their heads no. 2 Has Teton not fulfilled the obligations of the Biofilter condition and Johnson again read the condition from the fact of findings to the board for their consideration. Atyeo-Gortmaker states it is before the board to decide if the permit is to be revoked because they have not meet the condition of biofilters.

Mach stated he didn't know if they had met conditions and he wouldn't know if they were right either. Adler noted Teton was working with the college and they had done what was asked of them and he remembered them stating there would be some odor from the beginning. Even when he worked in the dairy business there was an expectation of odor. Brandt was concerned she didn't know enough about fans. Mach talked with Brookings and they employ an engineer and we asked Teton to engage in discussion and they feel it wouldn't be productive on all fans they must be right. Brandt suggested from Dr Cortus that she actually doesn't recommend filters in the middle because it flushes to the deep pit every 2 weeks or so.

Mach explained that he had not been at the previous meeting but he visited with a Yankton County Commissioner at his meetings and they had a pig farm in their area that has no biofilters. It was his feeling that management was a huge factor in the odor with diet management. Kerkaert agreed that it can influence odor along with pit management so it becomes more than a hole and water from which manure is removed. You cannot treat an empty pit and once it is treated it needs to activate and mature so the microbes have a chance to activate and that goes through an evolution of pit activation. Mach asked if it was a yucca plant that was fed.

Pillatzki asked if there was a way we could allow a 1 year season to do an assessment to see if there are new complaints and investigate the validity, facts and circumstances or whether a change or an action should be taken. Kerkaert explained that they are acting in compliance through an objective expert who is using a science backed basis to be fair and unbiased if there is a nuisance they will fix it. The professor has prescribed what they are to do and they have done that and they have rights as property owners to do business in the agricultural zone.

Kathy Tyler suggested a board member to be on call to come out and smell when it is or isn't in their opinion terrible to keep a list of the property smell.

Johnson read the minutes/ motion and findings again and asked if there was discussion about whether the biofilters were not designed, installed and maintained up to the SDSU regulations. Lindeman brought up the odor footprint again stating that the odor tool had been used with only deep pit pull plug biofilters but there would have been a second category that was not input. He thinks all fans need to have biofilters installed even though SDSU doesn't recommend it.

Johnson again read the findings and minutes and redirected by asking the board if Teton has fulfilled the conditions. Mach stated he wasn't understanding phase 1 fans or why they hadn't been put on the middle barn. Some discussion about the design of the barns as presented in the original permit would explain these things. Kathy Tyler asked for clarity on where the air comes from for the middle barn if it is different. Kerkaert explained the air comes in at the end in the gable and acrossed but nothing blows over the manure as in the other barns. Johnson brought up the complaint being filed before the barn was populated but also added that additives can make a big difference in the control of odor and it is effective if you can get the right bugs. So, they told about additives, they have produced the audit system we asked for and presented that at the September meeting. Mach echoed there would be nothing out there to shut them down whether it is good or bad we should give it a year if there is a smell problem in a year that might be different. There isn't enough here to shut them down they have added their checklist and done what we asked in the fact findings and they have done well. Hansen interjects smell is with anything there are some days he doesn't go outside at his own house. Mach agreed.

Johnson explained that it is not the job of the board to be policing the farm but to decide if there is a violation of the conditions that were given. Pillatzki invited Teton if they hear there is something new out there they should jump in and try it.

iii. Board decision

Hansen makes a motion to make a vote on whether the Pipestone Systems has met the conditions P&Z Board put on receiving the general permit. Tom Adler- Yes Tom Pillatzki- No Lori Brandt- Yes Mike Mach- Yes Gary Lindeman- No Richard Hansen- Yes Nancy Johnson- Yes 5 voting yes- they have met the conditions and 2 voting no they had not met the conditions and not made any violations to County Ordinance and therefore the complaint is being dismissed without further action.

8. Unfinished Business

- a. Ordinance Review: 1st District- Todd Kays
 - i. Meeting March 12, 2015 5:30 pm.
 - ii. Meeting April 1, 2015 5:00 pm.
 - iii. Meeting April 22, 2015 5:00 pm.
 - iv. Meeting May 27, 2015 5:00 pm.
 - v. Meeting June 17, 2015 5:00 pm.
 - vi. Meeting July 20, 2015 5:00 pm.
 - vii. Meeting August 31, 2015 5:00 pm.
 - viii. Meeting September 29, 2015 4:30 pm.
 - ix. Meeting October 14, 2015 4:30 pm.
 - x. Action items

9. Next meetings:

- a. Regular meeting: Monday, November 9, 2015 4:30 pm
- b. Study Group Meeting October 14, 2015

10. Adjournment motion by Brandt second by Lindeman carries 7-0.

Krista Atyeo-Gortmaker
Planning and Zoning Officer
Grant County