



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

Members present: Nancy Johnson Richard Hansen Mike Mach Tom Pillatzki Gary Lindeman Tom Adler Lorelei Brandt in at 4:35

Alternates present: Val Cameron

Members absent:

Others present: Lacey Kasuske, Don Settje, Val Cameron, Kathy Tyler, Ben Rethke

Meeting Date: **Monday July 13, 2015** **Meeting Time: 4:30 P.M.**

1. Call Meeting to Order at 4:32pm
2. Reading of Grant County Board of Adjustment Procedural and Rules of Conduct- mentioned and acknowledged by Board Chair as enforceable.
3. Approval of Minutes:
 - a. Monday, May 11, 2015 Motion by Mach second by Pillatzki carries 7-0.
4. Plat Approvals
5. New Business
 - a. Kathy Tyler
 - i. Address the status of the trees and biofilters at Teton, LLC.

Tyler feels she did not receive a response to her complaints from the May 11 meeting, that she was not taken seriously about the trees and biofilters and she really only wanted to present to the board and not the large group so she didn't put everything out there. Tyler stated she had contacted Dr Nicolai and he had not worked with the Pipestone Systems like they had claimed. Also, she contacted Erin Cortus from SDSU who is taking over the work of Dr Nicolai. Dr Cortus had mentioned a letter of summary that would be sent out in June documenting her visit in which she is addressing gap at the top and moisture incorporation.

Tyler mentioned the difference in the minutes as compared to the findings of fact and the words cost effective compared to effective. She had spoken to Mark Reedstrom and he did not type those reports so they must have been produced by the zoning officer and the zoning officer has not answered her question.

Tyler did not attend the June meeting but after July harassment in the newspaper and threats from Pipestone she felt it was better to readdress the issue. She gave a status report for the Teton site that trees were planted and they had installed the plastic around them today, July 13, 2015. Biofilters were not installed on the middle barn. She did not approach the property because she didn't want to trespass but she feels Teton is not following the rules because she was out watering flowers Sunday night and could smell pigs and her neighbor to the West could as well. Teton claims the biofilters will be installed when the barn is stocked but if it stinks what happens then? Tyler's are not interested in taking legal action anymore.

DENR has explained they do not have any jurisdiction over smell. Tylers have owned their home since 1974 and will fight for this and feels the stink without the biofilters would be worse but it is the responsibility of the P&Z Board.

Johnson explained they had heard the concerns of Tyler several times at meetings and relayed to her that if this was actually a complaint she would need to file in writing with the P&Z Officer according to Section 807 which was read aloud for her. Tyler commented she would file a formal complaint and that would be no problem. But why would the board not be making the Teton follow the rules. Middle barn has pens and is completed why don't they have the biofilters already done? She was not aware of the complaint process and questioned why she had not been told of the process in May. Nothing has been done and now it has been 2 months with nothing being done. Johnson explained once it is a complaint the zoning officer will conduct an investigation and she can recommend removal of animals if they are not following the rules and the concerns she had prior to the complaint had been addressed in the meeting. Also with the effective and cost effective issue the biofilters can be both effective as well as cost effective and that she had read the findings before she signed them.

- b. Kent Woodmansey
 - i. Questions of DENR general permit and how it fits into the Grant County Zoning Ordinances.

The board retained Woodmansey by teleconference for an opportunity to have a board question and answer time with DENR about the state general permit as compared to the Grant County permit.

Discussion kicked off with the question about surface water and the runoff allowed in a CAFO- Kent talked about the runoff water as compared to any water that should come into contact with fecal matter or feed stuff this water would be called processed rain water. Water from the roof with no contact to feed or feces would be allowed to runoff but all water that touches feed pile or manure would need to be managed.

Liners for lagoons- Kent stated most commonly they are clay but there are 6-8 within South Dakota that have liners in their ponds. These were for various reasons: 2 livestock auctions with small ponds in Watertown, 2 with groundwater discharge facilities and permits, 1 an owner had a liner company already and wanted to use his liner, 1 used bentonite as a patch to the porous area of the pond. Usually the liners are a HDPE material and the Department uses the manufacturer specifications on the liners and institute a quality control plan for testing, installation and hole patching should that arise. The issues with them are animals getting into the ponds and not being able to get out of the slippery pond and a permanent marker rod would not be able to work in the pond so they have other ways to do non-perforation ways to handle that.

The question was raised about the effectiveness of clay lagoons and whether test wells are required. DENR conducts an evaluation to make sure installation was done correctly and an erosion inspection is a part of the annual evaluations of the lagoons as well as in a quarterly evaluation. Comment was made that the 2 auction liners were because they were small lagoons but most commonly used was clay and clay is sufficient for most where clay is normally occurring. The DENR has not seen issues with lifting in CAFO liners because they have weights installed in the corners and normally have some water in them at all times. Landfills sometimes have the issues with air getting under the liners and between the clay but they have not seen the issue in CAFO's either.

DENR does not handle or have rules about odor and therefore does not handle the odor footprint tool or biofilters. Setbacks to domestic well rules are 1000 feet to a public well, 250 feet to neighbor and 150 feet to a producer's well. There have been cases when the depth of the producer's well is more than 100 feet so they have allowed it to be 100 foot setback. Kent did mention he would be supplying a definition of a well to Zoning officer to forward.

Soil Boring requirements are to require 2 borings, 1 more within an acre of the property and 1 must be deep to show the location of the shallow aquifer or the absence thereof. Nitrogen and Phosphates requirements are currently a tabled model for DENR that use several standards. Erosion factors show the number for phosphate must be low enough to allow for application. Changes are not all that significant for changes and NRCS standards are going to be changed. Wind erosion doesn't really make significant changes.

Do manure applicators need SD license or bonds? DENR does not have requirements for that but there are rules for porous and sandy soils that need to be looked at by management of fields and their location if they see nutrient at the root zone with required testing they will need to stop applying. DENR goes through the acres presented and does a review with SDSU and the Department to make sure there is no sharing of fields. If a producer doesn't own the land the county is contacted to confirm ownership. If there aren't enough applicable acres in the plan they must show they have adequate land available to apply on. Most of the time the plan contains more than enough acres for the removal of fields that don't meet the qualifications can be removed from the plan and still be ok with the general permit. Soil test are done before application and must be under those numbers in order to land apply either waste or processed water. The general application timeframe is a goal of 30 days for a new applicant and a new or expanding site with a notice being conducted for 30 days it would be about 60 days for the process to be completed.

6. Conditional Use/Variance Requests/Rezoning

- a. Permit No. VAR06012015, City of Milbank, Applicant in Lot1, Milbank Well house 1 Addition in the NW1/4 of Section 14, Township 120, Range 50 of the 5th Principal Meridian, Grant County, South Dakota. (Twin Brooks Township) The request, if granted, would, allow the City of Milbank to variance the lot size for the location of the city well property. Motion by Brandt second by Lindeman carries 7-0.
- b. Permit No. CUP06012015, City of Milbank, Applicant in Lot1, Milbank Well house 1 Addition in the NW1/4 of Section 14, Township 120, Range 50 of the 5th Principal Meridian, Grant County, South Dakota. (Twin Brooks Township) The request, if granted, would allow the applicant to continue utilizing the property as a well for city water. Motion by Adler second by Mach carries 7-0.
- c. Ben Rethke, is requesting a Conditional Use Permit No. CAFO06032015 by Ben Rethke, Applicant, of SW1/4 Section 36 Township 121 Range 47 West of the 5th P.M., Grant County,

South Dakota. (Big Stone Township) to consider a restocking of a Concentrated Animal Feeding Operation Application Class C Feedlot facility to calve out stock cows in pasture on building site. Motion by Hansen second by Brandt to table this permit until the next regular meeting date and time to allow for paperwork to be corrected with the bank.

7. Old Business
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. Action items
9. Next meetings:
 - a. Regular meeting: Monday, August 10, 2015 4:30 pm
 - b. Study Group Meeting Proposing
10. Adjournment Motion by Brandt second by Pillatzki carries 7-0.

Krista Atyeo-Gortmaker
Planning and Zoning Officer
Grant County