



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

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

**Alternates present:** Val Cameron

**Members absent:** Tom Adler

**Others present:** Joeline Hicks Bill Coester Steve Spiering Karen Layher Jim Davis Karen Davis

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

Meeting Date: **Monday June 8, 2015** **Meeting Time: 4:30 P.M.**

1. Call Meeting to Order at 4:30 pm.
2. Reading of Grant County Board of Adjustment Procedural and Rules of Conduct
3. Approval of Minutes:
  - a. Tuesday, April 28, 2015 Motion by Hansen second by Mach carries 7-0.
  - b. Monday, May 11, 2015 Motion by Brandt second by Pillatzki carries 7-0.
4. Plat Approvals
  - a. Steven & Bonita Spiering, owners, request the plat of Lot 1 of Spiering Farms Addition, located in the S1/2 SE1/4 SE1/4 Section 17, Township 119 North, Range 47 West of the 5<sup>th</sup> P.M., Grant County, South Dakota. (Vernon Township) Motion by Brandt second by Lindeman carried 7-0.
  - b. Victoria Lee, owner, requests the plat of Lot 1 of Lee Railroad Addition located in the S1/2S1/2 of Section 21, Township 121 North, Range 50 West of the 5<sup>th</sup> P.M., Grant County, South Dakota. (Osceola Township) Motion by Hansen second by Mach carried 7-0.
  - c. Catholic Foundation for Eastern South Dakota Personal Representative of Clarence Justice, request the plat of Lot 1, Milbank Well house 1 addition in the NW1/4 Section 14, Township 120 North, Range 50 West of the 5<sup>th</sup> P.M., Grant County, South Dakota. (Twin Brooks Township) Motion to conditionally approve the plat pending the approval of variance of lot size by Pillatzki seconded by Brandt carries 7-0.
  - d. Al Schneck, owner, requests the plat of Lot 1 of Al Schneck Addition located in the W1/2 of Section 11, Township 120 North, Range 48 West of the 5<sup>th</sup> P.M., Grant County, South Dakota (Alban Township) Motion by Brandt second by Lindeman carries 7-0.
5. New Business
  - a. Jim & Karen Davis
    - i. Misinformation as presented by Ms. Schwinger
    - ii. Questions presented about noise and requests for condition placement

Jim started by asking about the concept of the planned development and the things that are allowed in the development and when that becomes a commercial business or a home based business. Karen asked the board if a commercial business should be allowed in a planned development. She then asked them to consider the noise that would come from the business that was now going to be 2 lots closer to them across the highway. She explained this is a very loud business and the final plat should show what kind of business can be allowed out there but she was unable to find any minutes or a plat with reference to noise or what kind of business is allowed in the planned development.

The board began answering the questions raised by stating a conditional use can be given to anyone in a platted residential area and they would not need to rezone. A planned

development definition was read from Section 1104 and they clarified the Section 1209 Extended Home Occupation was used for the conditional use permit. She questioned the planned development 1104.05 #4 with construction being initiated within 1 year. Johnson stated that the development was constructed within the year it was permitted.

After the discussion became a question and comment time the Planning & Zoning Officer redirected the board and attendees to get back to the agenda items of misinformation and noise conditions. Karen stated it was misinformation presented that the lot west of the proposed site was not bank owned and he was not given an affidavit. Johnson explained the affidavits are not a requirement and Lindeman stated the CUP was properly noticed as per the ordinance with the newspaper of record. Karen then brought up sewer lines and the affidavit not talking about doors that could be open. Pillatzki replied the doors have been moved because of the extra cost of pouring an apron and they would no longer open a door aimed at the Davis home. Karen then commented about the noise concerns that were submitted as part of the business plan and the number of clients and traffic that was there in 2014 would be larger by her estimation than what was presented.

b. Findings of Fact and Conclusions of Law recording:

- i. Conditional Use Permit No. CAFO03242015A by Dustin Nelson, Applicant, and Allen Amdahl, Owner, of NW1/4 FRL except Road of Section 31, Township 121, Range 51, Grant County, South Dakota. (Farmington Township) Class A Dairy.

Discussion by Mach where it was questioned why the synthetic liner shouldn't require a drainage tile under it so it can't push up from ground water like the ponds at Ottertail because nothing holds that liner down when they are empty. It is set up with a pump for water from under the liner to be pumped back into the pond. This is a testing site for the water and he wonders what the positives and negatives could be to requiring a pump under the liner and whether there is a standard from DENR. This led to a conversation about Minnesota requirements for tile outside the lagoon and test wells.

P&Z Officer stated that it would be important to say how to implement and what or who could make better recommendations for installation if required. Pillatzki remembered the MN liners were required in the concrete lagoon tanks not for clay liner lagoons. Brandt asked if it would be good to have a presentation by an engineer for the board to receive education about lagoons and liners and when they could be required. P&Z Officer stated she would try to secure a nonbiased presentation and that could possibly be from DENR or NRCS.

- ii. Conditional Use Permit No. CUP04272015B by Otter Tail Power Company and Montana-Dakota Utilities Co., owner, the project is approved to cross those properties identified on the attached Exhibit A (listing of legal description) and depicted on the attached Exhibit B (map of the route) in Grant County, South Dakota. This would allow the applicant/ owner to construct a 160-170 mile transmission line from the Big Stone South substation near Big Stone City, South Dakota, to the Ellendale substation near Ellendale, North Dakota. 1101.03(14) provides that "essential public utilities and service structures" are conditional uses in "A" Agricultural District. Motion to accept by Mach seconded by Lindeman carries 7-0.
- iii. Conditional Use Permit No. CUP04272015A by Corey & Brittany Schwinger of No BS, LLC, owners of Lots 6&7 Fenner/Mueller Subdivision in NE1/4 a replat of Lts3&4 Fenner Addn. Section 24, Township 120, Range 49 of the 5<sup>th</sup> Principal Meridian, Grant County, South Dakota. (Grant Center Township) This would allow the applicant/ owner to operate an extended home occupation fitness business.

A question was raised about off-street parking being addressed in the business plan- a consensus was reached around the table that it was addressed to be between the building and their private home with extra being across the road on the additionally owned lots. Lindeman expressed a wish for a haul road agreement with Schwinger's because they had stated they already take care of the road at this time

and she stated they would take care of anything above and beyond what they are already doing if necessary. Mach asked about conditions being placed on noise. There was a discussion about the noise at this time and it was deemed as addressed in the business plan and by the requirements of the CUP. Also, since there is not a problem at this time to have a complaint there would be no need to place a condition upon the nuisance that does not exist and future issue complaints are to be filed with P&Z Office as they arise to instigate an investigation, notice the owner and place the item on the agenda. Mach also questioned why the neighbor that owns the property but does not live there did not get an affidavit. Johnson explained it was by Brittany's own doing to be neighborly that affidavits were done and they were not a requirement. Motion to approve by Hansen seconded by Brandt carries 7-0.

- iv. Conditional Use Permit No. CAFO04272015 by Victory Farms, LLC, Applicant, of Lot1 Milbank Alfalfa Products Addition in SW1/4 Section 34 Township 120 Range 48 West of the 5<sup>th</sup> P.M., Grant County, South Dakota. (Alban Township) to consider an expansion of a Concentrated Animal Feeding Operation Application Class A Dairy facility to include 300 calves and 1250 heifers.

Motion to amend the Findings of Fact to more clearly state there was not testimony in opposition even though the opportunity was provided. Motion to amend and approve by Pillatzki seconded by Lindeman carried 7-0.

6. Conditional Use/Variance Requests/Rezoning
7. Old Business
  - a. Kathy Tyler letter
8. Unfinished Business
  - a. Ordinance Review: 1<sup>st</sup> 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. Proposed June Meeting 5:00 pm.
    - vi. Action items
  - b. Discussion about the Conditional Use Permit for Brittany Schwinger was had by the board at this time to address the items brought up by Karen Davis and what they as a board can speak to through the ordinance.

It was determined that several issues that were brought about were outside the jurisdiction of the Planning & Zoning Board and they would need to be resolved by the landowner through civil court. In the matter of noise it was determined action could be taken and a discussion about the noise and the rules that govern every conditional use permit in Grant County was had.

P&Z Officer explained, if it was to become a problem, the board would be allowed to enforce the noise issue through ordinance by basing a measurement of noise level, deciding who will be in charge of measurement of that level, where that level would be measured and the equipment that would be used to make those measurements. The Sheriff would handle noise nuisance complaints but a written and signed complaint in the office of Planning & Zoning would instigate an investigation into the matter. Also, entered into the discussion were the following facts: That the door placement had been relocated, that the county highway shop is located directly behind the home and mention had been made about the noise of that equipment during the hearing, that a car going by on the highway would be approximately 60 dB and a rock concert would be around 120 dB, that the noise nuisance and complaint could be subjective to different people and a measurable threshold would have to be established to be enforceable.

P&Z Officer presented the board with the options before them to handle the concern: that they may set a base level for noise at a certain location like a property line and establish who will measure and the equipment to be used, that the board can set hours and days that the door can be open on the business which would provide a measurable yes or no for the condition being met, or that the board will allow the business to operate to see if there is even a concern with the new facility. The board can take action in the following way: allow for business to take place and

receive a written and signed complaint for which an investigation can be made or make a motion of reconsideration and give due notice of hearing for next month's meeting in which the board will present the condition they wish to place on the permit to the applicant for discussion would be held. No action was taken by the board.

Next meetings:

- c. Regular meeting: Monday, July 13, 2015 4:30 pm
  - d. Study Group Meeting Proposing June 17 OR June 29, 2015
9. Adjournment Motion by Hansen second by Brandt carries 7-0.

Krista Atyeo-Gortmaker  
Planning and Zoning Officer  
Grant County