



GRANT COUNTY SOUTH DAKOTA
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 Mike Mach Bob Spartz Richard Hansen Tom Adler Tom Pillatzki Gary Lindeman

Alternates present:

Members absent:

Others present: Garry Harstad Mark Lounsbury Doreen Schultz Alan Lounsbury Bill Drake Blake Sime Brenda Sime Chris Healy Glenn Muller Bill Street Vince Meyer Brenda Brandenburger Allan Brandenburger Gail Bunting Gordon Bunting Keith Welberg Dave Gonzenbach Kathy Tyler Tim Tyler Kenny Wiese Vicki Leonard Debb Sime Gail Street Ed Duncan Dar Duncan Bart Johnson Kristi Mogen Todd Lounsbury Rebecca Terk Dean Andresen Kathy Andresen Mitch Peterson Kay LOunsbury Garrett Hennings Dick Nicolai Joey Seidell Les Bloem Bob Drake Lucy Sime Randy Kruse Linda Lounsbury Darwin Erickson Justin Sime Josh Sime Cheyenne Sime Pat Meyer Dick Lounsbury Freda Johnson Kevin Schnaser Shiloy Sime Donna Erickson Joyce Meyer Brian Sime Ann Loeschke Roger Loeschke Dick Nicolai Al Larson Luke Berg Ken Berg Glen Muller Gary Meyer Tim Meyer Brad Meyer Darlene Johnson David Hepper

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

Meeting Date: Monday, May 8, 2017 **Meeting Time: 4:00 P.M.**

1. Call Meeting to Order at 4 pm by Chair Johnson
2. Approval of Minutes:
 - a. Monday, April 10, 2017 Motion by Mach second by Adler carries 7-0.
3. Plat Approvals
 - a. Gary & Michael Magedanz, tenants in common, owners request the plat of Lot2 Peterson Addition in SW1/4 of NW1/4 Section 29, Township 118 North, Range 48 West of the 5th P.M., in the County of Grant, South Dakota. (Adams Township) Motion by Mach second by Lindeman carries 7-0.
 - b. Gary & Michael Magedanz, tenants in common & owners of Lot2 Peterson Addition & Eldon & Elizabeth Peterson, owners request the plat of Lot1 Peterson Second Addition in SW1/4 of NW1/4 Section 29, Township 118 North, Range 48 West of the 5th P.M., in the County of Grant, South Dakota. (Adams Township) Motion by Hansen second by Pillatzki carries 7-0.
 - c. Dale & Mary Skoog, owners request the plat Lot B Aaron Skoog 3rd Sub in the SW1/4 of Section 8, Township 119 North, Range 48 West of the 5th P.M. Grant County, South Dakota. (Vernon Township) Motion by Mach second by Spartz carries 7-0.
4. Conditional Use/Variance Requests/Rezoning
 - a. Conditional Use Permit No. CAFO04182017 by Ken Berg, Robert Drake, Luke Berg, Jarrett Berg of Berg Farms, LLC, Applicant of 2676 Edgewater Dr, Gary SD 57237, on the Barbara L Berg Rev Tr land located in SW1/4 Section 25 Township 118 Range 48 West of the 5th P.M., Grant County, South Dakota (Adams Township) to consider a new Concentrated Animal Feeding Operation Application for a Class C Swine facility with 3000 head over 55 lbs and 5184 head under 55 lbs. Please note: This is a new permit application and a hearing will be conducted on this permit only. All testimony must be presented or filed at this scheduled hearing to be considered. Please be in attendance to present information that may have been previously presented to the board. Motion to approve the application by Mach seconded by Hansen so Johnson opened the

testimony by asking the applicants to introduce themselves and present their plans.

As the owner/applicant, Luke Berg began presenting the permit and pointed out the literature now includes a water rights application received 4-15-2017 and active through 4-14-2022 for Section 25 Adams Township Class C Swine facility. Site plan is included in the plans and specs and includes a storm water plan with no streams recognized by the USGS within the footprint of the plans. Luke stated they had requested water rights from DENR and working out the details with the road haul agreement with the attorneys for the township. He then passed out information from NRCS for a tree planting plan they recommended. Dick Nicolai, the Educator and Engineer of biofilters and odor footprint tools and acknowledged they were willing to do what was right. They are 4000 plus feet from their closest neighbors and he turned it over to the Engineer.

Al began with the Class C detailed report showing 365 days of manure storage in concrete designed for 110 pounds per square foot pressure design that includes the capacity for storm water in addition to the 365 days. He has been an engineer since about 1992 and is registered in South Dakota and stated the LLC is also registered with the address of Gary SD. He reports they completed the borings on 3-3-2017 and they show no shallow aquifers on the site and only water bearing sand lenses that would be under the bottom of the concrete pit. They show the minimum setbacks in an aerial photo and he ran an odor footprint tool without a biofilter that shows 96% annoyance free and with a biofilter it would be 99% annoyance free. The fly and odor plan includes the SD approved compost plan and the road use agreement is being negotiated. Berg farms has a willingness to work out details with the county and they believe this to be the highest and best use to the adjacent cropland in the area as it is agricultural in nature.

Dick Nicolai's presentation included a power point presentation as he introduced himself as a SDSU professor retired and stated he worked on the biofilter project with the University of MN after his recognition of the air quality issues that could be caused in agriculture. He developed the offset tool that measures output on a contour map overlay from 99% to 94%. This is intended as an educational tool of the sense of smell which is complex, a mixture of gases and the human nose can detect 10,000 odors. There is no science to measure smell there are electronic noses but they detect gases. The human nose uses 5 parameters but it is best to liken to the sense of hearing as a relationship. There are 3 effects of release/odor- wind speed surface area and concentration that are effected by temperature of the air, wind speed and topography. Based upon this information the SD Odor Footprint tool was developed for 5 things to be measured and set to a dispersed scale of frequency and modeled for distance and emission. What is an annoyance is the intensity or parameters that alter behavior and activity level. On a scale of 1-5 N Butanol and water are mixed to find a level of annoyance that was identified as a 2 or above. University of Nebraska supports this with a 3 month study that was published. Validation by U of MN verified the model with swine farms using ½ non-ag residents and a weather station placed in the middle. They found an odor event to be accurate 86% of the time with a high correlation from model to the people over 3 months' time.

Nicolai handed out his copies of the models on 3 pages also noting the model does not show how much odor is too much but it is an opportunity to have a science based model for odor and odor travel. What level will the county use and if a biofilter is installed what percentage of annoyance free will be used by

the county. A biofilter contains micro-organisms that oxidize volatile organic compound used by everyone. If your dog dies and you bury it the oxidization filters through the soil and it is natural to adopt this and use it to control the odors. Water is phased on the biofilm with no plug up as it is a living organism. Minnesota was where the first work has been done in 1997 in a 3 month research project to design odor unties and measure inlet and exhaust and it was shown during the winter there was very little release and it was tested on a paper pulp mill.

On this complex layout a drawing shows biofilters on the gestation barn only and not on the farrowing barn the OFT shows that it doesn't have a deep pit and manure storage is moved from farrowing to deep pit every couple days by flushing. This facility has a fan bank unit and biofilter units which is a small room where the fans can be filtered in vertical walls and air passes through the media with a floor and a lid. There are 4 bank units with all fans on the side of the rooms. These are not used year round and there are some fans to the outside. On days where it is warmer more fans are added to use a cool cell and an average climate model is used to determine number of days annoyance free. These fans are only used over 75 degrees and come on 1 at a time as the temperature rises and are not biofiltered for all but 12% of the time. Summer usually means all the fans are running. Hansen inquired why not on all the fans. Nicolai answered that there is a point of diminishing return so you do what is most effective and allow distance to do the rest. Lindeman asked if the large Minnesota barns use wood chips and Nicolai reports most do because of the retention time that the molecule of air is in contact to the biofilter if they have a large surface the air moves slower and if there is a thick surface air is moved faster. Mach asked about the water and it was answered that it is retained for the life of the bacteria otherwise the microorganisms die and have no effect. Spartz asked about the 75 degree ambient temperature outside and a heat source according to the number of animal units requires ventilation for heat balance and this is a relationship of inside and outside air which shows the 12% average. 12% not accurate if the outside temperature and the cool cell are asking for increased ventilation it defeats the evaporation of the cooling through the inlet. Spartz asked if it was 110 degrees outside if the cool cell would even keep up with all the fans running and Pillatzki added the humidity in the cool cell would be a major factor and would decrease the effectiveness of the biofilter at high humidity and the information only contains averages. Pillatzki asked to have the pictures explained again which Nicolai did.

Johnson asked about the trees used for mitigation and Nicolai stated they actually have very little effect. In a study SDSU did for a finish barn they did and adjacent planting within 100 feet of the barn with 0 trees, 1 row 15 ft broadleaf, 2 rows by adding a 20 ft evergreen and 3 rows adding a 30 ft broadleaf. He stated at ¼ mile there was negligible effect and at ½ miles there was no control and only dispersion was a factor. Spartz asked about the barns and compost area and Nicolai stated if they are properly maintained they are a minor contributing factor in South Dakota. Footprint uses a Northerly direction not SE direction according to meteorologist recommendations for the prevailing wind. NW in winter and SE during summer on the data contours favors the summer winds more.

Pillatzki questioned if all the fans could be run all the time instead of hitting peaks and what the cost would be to run at cooler temps through a biofilter for ventilation and it was acknowledged that it would increase the cost of electricity. Lindeman asked about drill logs and seeing the water table at 12-

13 feet if the construction would require dewatering and Al pointed out the blue marks were not water but a sandseam that trapped water over a nonporous level. The gestation barn is at 100 ft and he does not anticipate water during construction. Pillatzki asked what a subgrade of undisturbed clay was and he noted sand-gravel mix, to this Al answered there is a 95 % compaction standard and this would be achieved ok and it can be undisturbed even with sand as in the page with the plan for the main pit and concrete pits in #4 the sand is in the intended note for contractors but shows the strata with sand and zero water. There is an availability to use porosity under a pit because of the questionable areas being engineered out of the pits and he is not aware of a single one that has had problems and they have been used for a long time. Lindeman asked about the contours for storm water infiltration and it was reported there is zero over land drainage for storm water as it was designed to filter through the soil and into the sand layer on the contours to present for use of vegetation or exit on a sidehill. Just like in tiling you start at the bottom of the project first and find the wets spots on the sidehills as they appear. Nicolai relayed University of MN Chuck Clanton research for cracked concrete that research ½ inch cracks with zero support under it for dairy manure that took 15 minutes to plug itself and hog manure took 6 hours to plug.

Johnson opened the meeting to those in favor to speak. Glen Muller of SD Pork Producers stated 950 producers raise 2.4 million hogs in SD and in 2015-2016 there were 9% increases in market hogs and 15% in breeding. Farrowing here and finishing there makes sense because of the grain basis and lower cost plus harvesting and 4 new packing plants being built. There is an industry change for leaner hogs that are raised inside for managed environmental comfort and increase numbers to earn in a narrow margin. There is value of a \$6 million project with zero subsidies and the use of 115,000 bushels of corn and 800 tons of soybeans. The care with increased monitors and sensors is better than for some humans. SDSU has built a swine research facility to increase the efficiencies further. There is a difference for agriculture and swine over 50 years ago and the Berg family has been in it for a lifetime. They are local this is not an outside corporate owner and they do the daily management. Bob Berg was a legislator and they are all well liked. Emotions run high about pigs but he urges an approval.

Johnson called 3 times for other in favor testimony and closed this portion at 5:15 pm. Johnson opened Opponent testimony.

Mark Lounsbury 5.0 began and asked for them to use their own set order and passed books for the board consideration. Mark has been here for over 50 years and began a 2-4 billion dollar ethanol plant with Steve Street that now has 56 employees and grinds 29 million bushels of corn each year. For Bergs' swine there would be no veterinarian, feed or truck used here it would all be out of state and they deserve the prosperity and prosperity rights. All his neighborhood would see would be odor, air particulates and pathogens. It is a small tax revenue at the cost of friends and community.

Blake Sime 3.39 stated he thought Harvey Wellnitz had told him there was a gravel pit that was mined to make the road, Bergs have a history of building barns of 15,000 sows and selling out, in 2004 Grant Co denied a permit to Christensen farms and he says this is their way to sneak into the county, sow numbers at 2162 gestation but pit is for 2136. They have 2 sloppy permits and a notice in MN of non-compliance, Bergs bring nothing to community, town and county, will they have surveillance, who is managing, will there be a corporate owner on site, what is the number they currently own, 62000 produced with 12

pigs a year for 30 total each year you take $2162 + 432 = 2594$ not 2500 and that would be 77000. Are the pits sized for that?

Josh Sime 3:06 lived on the site until 2016 and reports the Bergs were not good neighbors. There was zero communication until an eviction notice, Section 223 citation, nothing to gain with everything shipped out, manure and dry wells left, bad for local elevators, zero smell to the owners, withdrew 1st app to present a new one with inaccuracies and they couldn't run the business if approved it would be catastrophic, in 2001 they had a fire how would that be handled here, do they own the sows and barrows, where do they go, who is Berg Farms LLC and their other registered names.

Brenda Sime 3:16 who are the partners, will you expand, if there is a manure spill how will it be handled please explain, violation of non-compliance or odor complaint how will it be handled, pca review, pit reviews from MN pollution control gave a 1 year odor issue, who will be living at 483rd address, will they be employed there, how many employees will there be, will they be living there, will they be part of the pork checkoff, what is the turnover rate of the number of employees, what are the pay scales, do they get benefits, who owns the cafo, how long does the facility last, what happens if the power goes out, Farm Bureau president Scott VanderWal quotes you can put it where you want it, keep poop off the road and be good neighbors.

Todd Lounsbury 3:45 Asked about the Teton facility not having biofilters on all the fans because they were cheap and how is that working out. In the winter they freeze and no biofilter on the farrowing barn isn't ok to him, pigs are comfortable all for the gain of the animals but no sense for the neighbors comfort, Shane Rogers page 73 talks about particulates and samples of feces at neighboring homes, dna and particulates found in them and that plays a factor in odor, An air exchanger that removes odor and feces in houses should be required. The township board has no communication other than to their attorney with no knock on the door and that is representative of the people the Bergs are.

Kevin Schnaser 1:39 How is this going to affect the area with cafo's with less water in the water tables and the supply will go dry. He has a well he uses for domestic as his sole supply of water at 60 feet will he have to dig a new one deeper at his own cost. Rural water won't even connect to them and no one has studied the long term use on the water supply.

Randy Kruse 4:35 Thanks the board for their time, water usage math he figured from Lukes comments at the last meeting would be 19000 gallons each day over 1 year would be $6 \frac{3}{4}$ million gallons and Luke said it would be 10000 gallons of rural water but they are requesting 40 gallons per minute. Does that cover employee showers, maintenance, Biofilter, evaporative cooler and what quantity does it take to work. In 1978 Jim Johnson installed irrigation and after 3 days a spring quit. It was over 5 million gallons each year and it quit. So for prosperity there would be no water and then what would you have to do, haul it, The well location is 150 ft to the barn and the regulations say 1000ft it is a sloppy application, there is a 12 inch culvert to grade on the highway that water goes through, it would be a detrimental effect with 35% of the wells in the area with 99 being 35 ft wells, 28% over 100 ft wells. The application is sloppy and wrong according to his calculations.

Justin Sime 2:25 he is at $\frac{3}{4}$ mile of the manure usage and is speaking to address the 4 applicants, There is a blue line within the setback distance and he talked to the Army Corp of Engineers, will they use EQIP money, what is the direction of the water in the photos in the books, manure includes wetlands in the calculation, his wife daughter and son feel the application doesn't comply with

Section 223 and the neighbors are overwhelmingly asking for a no because it is not in their interest.

Doreen Schultz 1:13 family home for over 125 years and will be less than ½ mile from Berg Farm and is upset by pigs that take the quality of life. She will be ½ mile S of their manure and it is going to a MN renter ¼ mile from her. That isn't local.

Brian Sime 1:01 where is the road use, what is the feed delivery schedule, what truck size when do pigs come in or go off, what special equipment will the fire department need, what fuel will be there and the quantity of that and storage size.

Bart Johnson 5:00 lived here all his life, he is a manure location specialist and he looked at the soil test report, the corrected version and that is an example of bad conduct, no addresses were given, look at Walworth County and the information they presented out there is far better than here, Luke where are you going to spread manure on grant county acres with no blue lines were you hoping to just slide that through, manure app agreements 305 acres of K Bergs in W1/2 and E1/2 is 305 acres too- unlikely it is the same number of acres, the wetland map on N1/2 littered with water they couldn't stay away from, the picture of the buildings manure production estimates show less manure and their numbers are wrong, wrong on lots of other numbers, worried about water, mmsl narrative shows needing 365 days the state requires 270 days not even meeting Grant County, 12 years of business and he is never on time it is either too wet or Acts of God – what is the alternative plan, a few years back Christenson farms was denied a permit-do that again.

Garrett Hennings 2:10 has health concerns with dead hogs, the compost barn designed by NRCS should have a fridge until the rendering truck can get there for flies odor and pathogens like Minnehaha requires. The “do over app” counts 2594 @ 250 to 500 pounds with a 3% death loss and 77820 piglets with 11% death for 8648 dead animals, in Minnesota they have to use a rendering truck and a pest bait box isn't enough.

Dick Lounsbery 1:32 read email by Derek Nelson

Kay Lounsbery 5:00 married 50 years wife mother grandma and great grandma, Son Todd is 4th generation to farm, understand the effect family and community the Pipestone facility has had, sign pipestone took a picture of a high health area and she called them for an interview after she told them she was a student writing a paper about respiratory problems and what that means she asked if they protect the hogs and was answered yes, health workers that are around confinement have odor issues with particulates and pathogens that make them ill there is a study in Iowa and burn their eyes cause nausea hair loss etc and the emissions in Iowa cause asthma, the neighbors can't stay but can't sell their property, do they have a confidentiality agreement with workers, can swine diseases pass to people, property values of Richard Lanny study show values of homes go down and the Grant County Board of Review saw 18 people that had a negative effect on their values this year.

Linda Lounsbery 2:31 Mayor of Revillo for 5 years with 8 years on the town board and the community center which is NW of the SE winds directly in line will be affected and is the hub of the community with pie day, jamborees and showers for babies and weddings and funeral receptions and 2 years ago put in an outdoor picnic area, there is never a weekend that it is not used. She has land and property in the area that will be negatively affected along with every celebration in town.

Vince Meyer 5:00 Book has errors but there aren't page numbers to refer to them, location chosen shows applicable requirements for cafo, roads residences churches municipalities have nothing to do with location it is in the wide open but they have no respect for people, setbacks for water and wetlands not removed, errors in the application, size of the parcel is wrong, 1 year they worked on the regulations and they are not following them, 10 acres to 80 acres minimum, Property rights should not go to the out of state people, more than setbacks that it is against prosperity and morals, they want to just fit it in there, pathetic math not getting money's worth from engineer with the number of errors, hold them accountable to the errors, 8 months they have known they were going to build and they got a do-over and errors in that too, enforce the North barn with tree height how tall are they and who inspects it, will they use EQIP funds, who are they building for in the narrative it wasn't clear, how many bathrooms will they have and how do they deal with human waste, will they have a septic field.

Garry Harstad 1:40 No economic development for Grant County with 5-7 million dollar building the home values will go down, they won't use Dakota Valley Vet, the Revillo Elevator, Pete's Lumber, Nassau Elevator for LP and most of all the neighbors who have been here for 3 to 5 generations. Don't sell the community.

Bill Street 3:43 They took cars out to tour the existing facility, good reason to be here today, part time farmer and semi retired, 1969 hogs for 46 years, Concerned citizen for 10 years and worked with setback change, CAFO's are bigger than ever dreamed, vote denied on a law technicality but 1 year ago ordinances were changed, numbers do not determine, Called extremists of the ordinance and trouble makers but they are farmers, cafos are promoted by packing plants feed is outsourced, the bushels of corn will come from MN would be his guess, income not for our residents, Concerned citizens as a group pay millions of dollars in taxes, this is not progress, Adams Township and Deuel County don't need it, scenario if the facility opens they are not qualified.

Mitch Pederson 4:40 Speaking on behalf of Joe Seidell, zoning law show the burden of proof for the applicants to meet specifics, not an economics decision you can say no, Supreme Court says you can say no, 24 people gave you a whole binder with questions and answers for the application that contains errors and omissions on the number of pigs 150' well setbacks, manure has 270 day storage and not 365, concerns for legal not equal, well heads, aquifers meeting the requirements, Number 1304 Section 504 compatible with adjacent property or intended with regulations, whatever you think is important there is no judgement, in the Nelson Dairy case just have to win on 1 thing, vote no and let them appeal there is less risk to say no to the permit, this is not the project and not the time.

Lucy Sime community property value questions, article Hog Confinement Looks for Profit on..., Missouri has horrid conditions. Johnson called 3 times for those in opposition to present themselves and then called the open hearing closed to public testimony. A 5 minute break was called at 6:30 pm to have board discussion upon return.

Pillatzki asked about the NRCS tree plan and the size of trees and clarified they would be seedlings unless conditioned otherwise, Berg's stated they would be open to more rows and larger trees with Pillatzki stating they should at least be 6 ft tall so they start ahead of the game. It was pointed out that after the first couple rows the Nicolai research showed negligible differences. Septic tank questions were answered by the engineer that human waste would

have a drain field and additionally housing could be added to the drain field. With that 365 days of storage is shown in the project on Sheet A2 there are 2162 gestating sows not 2136 for the capacity of the stalls or crates at maximum capacity. Total number over 365 days is represented. A3 shows the gdu with 425 days of storage for those hogs from 55 to 200 pounds. Engineer holds a SD license, Bergs have no containment spills or violations with MN or MPCA on any of their facilities including Xitari, Robert Drake's brother lives on the property, Mach asked about the water supply 1 1/2 gallons/minute or 2 20 gallon/minute wells for 12 million gallons each year. Bergs found rural water is unavailable. Mach asked about Lounsbery questions of health issues and if they could guarantee zero exposure, there is no affiliation with Christensen Farms there was a prior business that was sold. Plans for runoff include storm water filtration at a 1" rain requirements SD doesn't have a containment rule until 24hr/25yr basis. Feed purchases local? options not looked at yet they buy directly from mill. Fire needs are fuel lp tank 16-18000 gallons and a 500 gallon standby generator. Trucking will come off Hwy 20 to 465 not 212 as shown in sheet A1 that shows access and travel by their own site on gravel. No furnished housing with 5 fte and 2 pte employments. Johnson asked about nutrient management and it was clarified the acres did not include acres that acres available for manure would not be outside the setback rules for grant county.

Spartz asked about the well draw down and the conditions of fixing wells that dry up. Johnson stated the wells go through the state geologist for determinations of availability of water and usage rights. Berg stated they haven't had problems in their 20 years of business.

Spartz stated the contribution to jobs and tax base because of land ownership and improvements and Johnson stated the aerial picture presented shows the barn on non-farm land with on some farmed land in site. Pillatzki added it looks like it could have been mined for gravel. Adler asked if the house is lived in- yes Bob Drakes brother Robert lives there.

Johnson asked if the compost works in times of high mortality and the Engineer stated he is aware the fridge fails miserably in this area but a rendering truck would be called in that situation. Question if they have biofilters on other barns and they stated no but that is why they got Dr Nicolai to design them and they are working with equipment buyers. Hansen asked why they aren't on all the fans and it was clarified that Dr Nicolai prescribes 30% of fans to eliminate 98% of smell and that would actually be 99% by the time it got to the nearest neighbor. Johnson asked about the number of piglets and to clarify the number and Luke stated it is 5184 animal units on site at any time and that is the maximum number but there is constant turnover. Pillatzki questioned the non-compliance with a 2-7-2007 form letter in the book that was handed out by Lounsbery which stated they were not current on a phosphorous test and Johnson clarified that it was not a non-compliance finding of the Berg's only that field and they fixed it. Johnson then asked about the manure hauling and Berg's stated they haul mostly in the fall and spring only if needed and their manure hauler has never not shown up.

Mach acknowledged the Berg's seemed like nice gentlemen that have had other CAFO applications why didn't they drive around to the neighbors. Luke stated they bought the land on auction away from Seim's and they offered manure for fertilizer but they declined and they wanted to rent the land but Berg's are farming it themselves. Lindeman refers to the white book that the pictures show the barn on a hill site. Johnson adds if the barn were added it would require a new permit. Hansen asked if he would have access if a neighbor

made complaint and Luke offered that his father would be 20 minutes away and he could get there within a short time as well. He could call the neighbors when they were going to apply manure within 1 mile of site. Johnson asked about the complaint process- Atyeo-Gortmaker stated that complaints are made in writing to her office with date and name for investigation. It is also turned over to the state who has the expertise to investigate matters under their permit better than the county would be able to do. This is a partnership and has worked in Grant County within the past 7 years or so to close a dairy that had not been within their permit at the state level. This was done after investigation and presentation to the board at their discretion.

No- Berg's would not use EQIP monies. There will be biosecurity measures used there can be smart technology used and they have alarms and controllers on the barns as well. Pillatzki asked about new technology development on biofilters and better engineering and if the board were to show evidence that something better is available if they would be willing to consider it. They stated yes. Pillatzki asked about meeting with the township and they have worked with the township attorney to develop a haul road agreement but Luke stated they have never had to fix a road for other than normal wear and tear in MN and it would be the same here. They use the road and for the 1 ¼ mile of gravel they would fix what they damaged if done. Clarity that it takes no special fire equipment by Spartz, Hansen asked if anyone could buy isoweans to raise that was answered yes. There would be 2-3 semis per week with 1 load of iso weans 1 load of cull sows per month and feed.

Adler stated if they have taken 9 months to a year to rewrite the regulations this is a \$4 million dollar project to buy the land to do what they want without setbacks being an issue. Johnson points out nothing invokes more emotion than a hog barn and it is hard to find support for a cafo. Adler states if they follow the rules and do what is right. Pillatzki states they represent everyone. Spartz asked about manure application with tubes or tanks and tanks would be used to their own land mostly.

At 7:20 Johnson points out there is a motion to approve and at this time it could be approved, have conditions placed on it or denied. Lindeman started by requesting 1 row of evergreen atleast 60" tall and Pillatzki stated it needed to be 72" with a minimum of 4 more rows of non-conifer. The condition #1 was defined by Pillatzki to have 5 rows of non-conifer trees to be 2 at 6' tall fast growing non-conifer and 2 rows seedlings and 1 row of 6' evergreen around the entire facility.

Condition #2 is to notify by phone call the township board, neighbors with residences within 1 mile of fields used for application about manure application dates.

Spartz stated a biofilter of more than 30% was said by Dr Nicolai to make no difference and Pillatzki stated 6% of the odor making can still produce 90% of the smell and he wants to help it. Lindeman asked about the temperature for 112 days and humidity are factors but the science is not there it just costs more. Pillatzki states biofilters don't work for the 2 seconds as designed and science doesn't say anything. They asked about a compromise to go to 40% biofiltered and at what point of acceptability level. Using a model in MN for odor control there were none they were aware of at 98-99%. Lindeman wants biofilters on the farrowing and gestation barns as indicated in project description Odor Footprint Tool submitted by applicant. Condition #3 was clarified as 98% annoyance free to ½ mile setback with biofilters on both barns and weekly inspection and maintenance schedules.

Role call vote was taken on the approval of the permit with 3 conditions placed. Lindeman- No Hansen- Yes Mach- Yes Spartz- No Adler-Yes Pillatzki- No Johnson- Yes 4 votes affirmative and 3 votes naye. Motion does not pass as it takes 2/3 vote or 5 votes of the full membership to approve a conditional use.

Findings of Fact reported by the Board of Adjustment are as follows:

1. Spartz states the process of community care was not used and as it is a factor they are going to employ 5 people and they will pay taxes to decrease the taxes for others when the property values go down it creates a net loss.
 2. Pillatzki is concerned about the low lying area and he doesn't think this should be on the porous soil and he thinks it is a poor place to build a barn.
 3. ~~Lindeman feels the soil is mucky and there is gravel and spills would go right through it, there is inaccurate acreage presented and poor attention to detail, things missing in the plan and the animal units and piglets numbers aren't right.~~ When asked to cite where these inaccuracies are in the permit he struck this finding from the record.
 4. Lindeman stated the manure site doesn't show the correct soil. Healy asked for clarification on ordinance basis. None given. Healy then asked of the board would reconsider the application on the basis of not having evidence from ordinance.
 5. Spartz stated the application is not contributing to the betterment of the community and they were not working with the community too much. There was no meeting with the township where communication would have been good and he goes back to what was said at prior meeting about the road and agreement.
 6. Lindeman states the application says 5184 animals under 55 pounds and they would have more than that as Mr Kruse pointed out in his opposition testimony.
5. New Business
 - a. Review of Ordinance from Cover through Article 1.
 - b. CAFO vesting letters went out April 3, 2017 after a newspaper alert.
 - c. Well vesting newspaper alert on April 10.
 6. Old Business
 7. Next meetings:
 - a. Regular meeting: June 12, 2017 at 4 PM
 8. Adjournment Motion by Mach second by Lindeman carries 7-0.

Krista Atyeo-Gortmaker
Planning and Zoning Officer
Grant County

Add amendment & make note that each acknowledged they felt they were not influenced by those conversations.

May 24, 2016

Dear Mr Healy:

I have received your letter of concern for the ex parte conversation not appearing in the unapproved minutes. In this matter, the transcripts by the court reporter will become the official record of the minutes of the hearing for CAFO04182017 with their adoption at an upcoming meeting.

I do acknowledge the conversation about the ex parte conversation and that it is not included in the minutes as perhaps some other points that I had during the hearing, the reasoning for this is that I take notes to the best of my ability during these meetings but while I am speaking those notes go unattended.

During the meeting I had a conversation with Richard Hansen about a report to my office of an uninvited visit to his home in which a review of the permit was presented to him. During this conversation Lindeman acknowledged having a couple farmers come to his home as well to share information about the Berg permit.

At this time, I will not be amending the minutes to include these items but will address the comments to the Board of Adjustment at their next meeting in which these unapproved minutes will be up for discussion and approval.

Sincerely,

Krista Atyeo-Gortmaker
Planning & Zoning Officer