



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

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

Alternates present:

Members absent:

Others present: Sean Simpson, Mike Adolph, Jan Rickard, Diane Pike, Terry Lee, Gerry Bermel, Lonnie Nelson, Ricky Hesser, Kris Bronson, David Nelson, Bradley Kent, Paul Tschetter, Al Koeckeritz, Holly Hilbrands, Brittany Schwinger, Roger Loeschke, Eunice Amdahl, Eugene Schmig, Darrel Rennich, Jason Mischel, Denise Scoblic, Kevin Souza, Steph Schuknecht, Wendell Falk, Jim DeVaal, Gretchen Weber, Brian Friedrichsen, Mike Strobl, Tim Tyler, Gene Rickard, Nick Adolph, Deverne Rickard, Mitch Peterson, Dustin Nelson, Arjan Blok, Brian Donahoe, Lynette Pillatzki, Kate Capp, Jeff Brink, Bill Street, Bobbie Bohlen, Shirley Wiese, Kenneth Wiese, Allen Amdahl, Kathy Tyler, Dan Scoblic, Jan Storm, Corey Schwinger, Roger McCulloch, Holli Seehafer, Natasha Hall, Mike Crinion, Tom Schuneman, Jim Block, Rudy Nef, Marty Buttke, Fred Deutsch, Barth Adolph, Gerry Adolph, Richard Pike, Laura Krebsbach, Alex Kahnke, Steve Kahnke, Roger Steuck, Kolt Ruesink, Sarah Hesser, Vicki Severson, Scott Kneeland, Clayton Whiting, Ann Loeschke, Jerry Zubke, Paul Dummann, Roger Foote, Marv Post, Sam Wilman, Megan Rabe, Ed Brenna, Jody Kuper, John Lundin, Jeff Kurtz, Karen Davis, Jim Davis, Jim White, Dan Mikkelson, Renee Osborn, Suzanna Souza, Tamara Peschong, Karla DeVaal

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

Meeting Date: **Monday May 11, 2015** **Meeting Time: 4:30 P.M.**

1. Call Meeting to Order by Johnson at 4:30 pm.
2. Reading of Grant County Board of Adjustment Procedural and Rules of Conduct
3. Approval of Minutes:
 - a. Monday, April, 13, 2015 Motion by Mach second by Brandt carries 7-0
 - b. Tuesday, April 28, 2015 Motion by Mach second by Brandt to defer until next meeting in the absence of stenographers minutes from this meeting so they can be included in the minutes. Motion carries 7-0.
4. Plat Approvals
 - a. Victoria L. Lee, owner, requests the replat of Lot 1 of Larrow Addition located in the North Half of the Southeast Quarter of Section 21, Township 121 North, Range 50 West of the 5th P.M., Grant County, South Dakota. (Osceola Township) Motion by Hansen second by Pillatzki carries 7-0.
 - b. James and Valerie Amdahl, joint tenants request the plat of Lot 1 of Amdahl Addition located in the Southwest Quarter of Section 35, Township 121 North, Range 52 West of the 5th P.M., Grant County, South Dakota. (Blooming Valley Township) Motion by Brandt second by Lindeman carries 7-0.
5. New Business
 - a. Findings of Fact and Conclusions of Law recording for appeal decision: change of Permit Requirements for CAFO Conditional Use Permit for the Nelson Dairy dated April 9, 2015. Johnson read findings of fact aloud and passed around for each board member to approve and sign.
 - b. Kathy Tyler, Teton Hog facility conditional use permit concerns about the conditions having been met for trees and biofilters.
 - i. Her concerns are the biofilters that were installed on the ground. She has called John Apland and he has no idea how what she has described could work, Dr

Nicolai who was also contacted states it needs to be damp to form a biofilm for microorganisms to do their work. State of the art facility advertised at the open house should have the best technology because they have used this twice all ready but they don't know if it works yet- as quoted in the newspaper, should be installed before the animals were introduced.

- ii. Planning & Zoning Administrator reported the compliance of conditions in the information presented by email to the Planning & Zoning Board on April 29, 2015. The report was being filed prematurely to the board so they would have an awareness. It included the information passed along by NRCS that the trees would be planted as soon as construction was completed and SDSU showing compliance of design and maintenance as they are being installed at this time on all populated buildings. The Board could request the P&Z officer to send a letter to the facility to depopulate until all the conditions are completed but that met with no discussion.
 - c. Public Hearing to consider an appeal filed with the Office of Planning & Zoning Board of Adjustment alleging Grant County violation of due process by the placing of the hearing of the Nelson Dairy CAFO CUP Application directly after and on the same day as the Appeal of the Nelson Dairy Application change in application form. Withdrawal received in the Planning & Zoning Office 5-11-2015 was read aloud for the board to make a motion to remove from the agenda. Motion by Brandt second by Hansen carries 7-0.
6. Conditional Use/Variance Requests/Rezoning
- a. 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.
 - i. Permit applicant and their representatives who were seated at the table to present to the board: Dustin Nelson- requested the permit, Arjan Blok- discussed the layout of the cross ventilation of the free stall with vacuum truck manure management in the alleys, Brian Friedrichsen discussed the engineering specs and summarized how the site and plan meets the regulations of the ordinance, Brian Dunahoe- attorney.
 - ii. Those opposed that spoke were: Gerry Adolph, Paul Dumann, Terry Lee, Laura Krebsbach, Roger Foote, Jeff Brink, Deverne Rickard, Richard Pike, Mitch Peterson, Gene Rickard, Nicholas Adolph, Roger Steuck. Items discussed in opposition were: location, too many cows at the top of the watershed, storm water retention, DENR funding cut and 24 less people, legislature removed beaches from rankings, AJ Bos owner, sewer concerns, monitoring and test wells, administration, silage leachate, capacity of the catch basin storm water, fewer rotations of crop, CAFO concentration, manure conveyance have a solid pipe over water, watershed informed 24 hour prior to application, CAFO has a potential to pollute, respiratory potential issues, land values, dust, seal & sign 1 page, clay versus synthetic liner, fly and odor, ordinance controls, questions unanswered, better time and location, antibiotic usage and leaching, cow manure and airborne pathogens.
 - iii. Those in Favor that spoke were: Jason Mischel, Kris Bronson, Kolt Ruesink, Darrel Rennich. Discussion items: relationships with AJ and Arjan that go way back, assumption that something will go wrong, well qualified engineer, hold up over time, good management and good designs is not adversely affected by number of cows, questions that will be answered, site choice is a good location, huge economic impact, family farm allowed to continue with dairy built on their land, high nutrient value to the land, good stewards, good containment, no odor, contribution to the community, good neighbors, well built, meet specifications of the ordinance.

- iv. Questions asked by board for clarification were: antibiotics in feed rations- no, feed pile seepage is covered by capture ponds, leachate calculations cover the claimed minimum and over, different locations showed the soil samples weren't what they needed to be, matter of law and ordinance compliance have been met and it is just up to arguments that are outside the local authority and not required for the permit, placing additional conditions could be done, rules do not allow overuse of lands unless it needs it, less likely to cause harm with a natural product, watersheds and Watertown water will not be affected by runoff, roads and utilities have been addressed, setbacks in Iowa are far less for more density and they see economic benefit and are good stewards of the land, proven to improve the economy and increase land values.
 - v. Motion by Brandt to approve application for dairy as it meets all the rules and regulations of Grant County Ordinance. Second by Adler as he cited it meets all the rules and regulations of Grant County Ordinance. Discussion by Lindeman to amend the permit to require a synthetic liner in the lagoons. Motion to amend her original motion to include synthetic liner in the lagoon by Brandt and seconded by Adler. Motion carries 5/2 by Yes votes: Lindeman, Mach, Adler, Brandt and Johnson. Voting no were: Hansen and Pillatzki.
- b. 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.
- i. Permit applicant and their representatives who were seated at the table to present to the board: Al Koeckeritz- explained with powerpoint the overview and success they have had to get a majority of landowners to sign with options and they are working on road agreements and laydown yards and Paul Tschetter, attorney.
 - ii. Those opposed that spoke were: Jerry Zubke he has not made an agreement for them to pass through his land.
 - iii. Those in Favor that spoke were: None
 - iv. Questions asked by board: resolution for landowner disputes would be to continue to work with them and they can use eminent domain where they use a court valuation of the property and jury trial, they follow the ditches and try to make it easy to farm, marked with red flags- lathe and borings were done along the route.
 - v. Motion by Hansen to approve having met all regulations and being seconded by Pillatzki by a vote of 7-0. All voting yes were Adler, Pillatzki, Brandt, Lindeman, Hansen, Mach and Johnson.
- c. 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 5th Principal Meridian, Grant County, South Dakota. (Grant Center Township) This would allow the applicant/ owner to operate an extended home occupation fitness business.
- i. Permit applicant and their representatives who were seated at the table to present to the board: Corey and Brittany Schwinger. Brittany read a letter she had written stating how she had complied with the ordinance. Inception of the business in 2014 and was highlighted on KSFY What's Right on the positive impact the business has on Milbank in the past 13 months, a presentation of the business plan and questions were addressed, she stated she is looking for a permanent facility so she can have stationary equipment in a secure building that can be left in place.

- ii. Those opposed that spoke were: Karen Davis concerns raised were: history of the programs and 120 people using the services and the math produced 260 cars per week, noise regulation, ventilation, no history of businesses in subdivisions, site compliance, septic tanks, ADA public use regulations, road usage, ownership of the site, study done by state for kids, liability school busses, agrees it is a good business but should not be allowed in residential area, no association and no rules to ensure they don't infringe upon others with this opportunity.
 - iii. Those in Favor that spoke were: Rachel Ryburn, Tamara Peschong, Jan Storm, Alex Kahnke, Kevin Souza, Megan Rabe, Suzanne Souza. Topics discussed were: asset to community to stay healthy, jumped through the hoops to make the request, good addition to Milbank, different from any other service in Grant County, professional, searched for other facilities, good small business, helping people, clients with her since the start, life changes for a positive lifestyle, country feeling and should be no added commotion.
 - iv. Questions addressed to applicant: Not a fan of loud music, current 4 wheeler traffic is more detrimental, no classes are held at bus times, classes will be held during the day with the personal training classes being discontinued, most kids families are not at home during the class schedule during the day, compliance to be completed after CUP will be done for fire, extinguishers and exits, clients are not zooming through the subdivision and not using jake brakes.
 - v. Motion to approve Hansen second by Brandt to approve the permit as it meets the regulations of the Grant County Zoning Ordinance. Pillatzki abstained as he has a bid out for the concrete for the facility. Voting yes were: Brandt, Adler, Hansen, Mach and Johnson. Voting No: Lindeman and voting no by abstention was Pillatzki.
 - d. 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 5th 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.
 - i. Permit applicant and their representatives who were seated at the table to present to the board: Kevin Souza requested the calves to be housed in hutches and the heifers in the bermed and contained area as proposed in the Don Larson structural plans, Brian Friedrichsen reported they now move on to DENR plans and the easements cover more than enough acres for manure management.
 - ii. Those opposed that spoke were: None
 - iii. Those in Favor that spoke were: Jody Kuper talked about the many year relationship with Valley Queen.
 - iv. Motion to approve by Adler citing it has met all the regulations of a request for expansion in the Grant County Ordinance seconded by Lindeman. Voting yes were: Pillatzki, Adler, Brandt, Lindeman, Hansen, Mach, and Johnson.
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. Action items
9. Next meetings:
 - a. Regular meeting: Monday, June 8, 2015 4:30 pm

- b. Tuesday, May 26, 2015 Nelson Dairy if appeal is upheld will be republished in a new public hearing notice by direction of the Board of Adjustment. It is not necessary to have this meeting since the withdrawal of appeal removed the grievance from the agenda.
 - c. Study Group Meeting Wednesday, May 27, 2015 5-7 pm.
10. Adjournment Motion by Brandt seconded by Tom Pillatzki carried 7-0.

Krista Atyeo-Gortmaker
Planning and Zoning Officer
Grant County