



GRANT COUNTY SOUTH DAKOTA  
PLANNING AND ZONING OFFICE  
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**Minutes from the meeting of Grant County Board of Adjustments  
May 8th, 2023**

**Planning Commission members present:** Mark Leddy, Nancy Johnson, John Seffrood, Mike Mach, Tom Pillatzki, and Richard Hansen.

Alternate(s) present: Don Weber, Jeff McCulloch

**Planning Commission board members absent:** James Berg

**Others present:** Tom Kaye, LaVerne Kaye, Shane Zemlicka, Todd Kays (First District), and Steve Berkner (Grant County Planning Commission officer.)

**Meeting Date:** Monday, May 8th, 2023

**Meeting Time: 4 P.M.** In-person in the Community Room in the basement of the Courthouse.

1. Chairman Leddy calls the Board of Adjustment meeting to order at 4:01.
2. Leddy appoints alternate Weber to sit in for Berg who is absent.
3. Leddy asks if the board, or any staff member, had anything to add to the agenda with none being offered.
4. Leddy makes an invitation for anyone present wanting to address the Board of Adjustments with an item not on the agenda with no one responding.
5. Leddy asks for a motion to approve the agenda with Mach making the first motion and Johnson making the second. Motion passes 7-0.
6. Leddy asks for a motion to approve the minutes as submitted from the April 18th, 2023, meeting which was made by Pillatzki and Weber making the second. Motion passes 7-0.
7. Leddy asks for any seated board member if they think they need to recuse themselves from any discussion topics on the agenda, or from voting on an agenda item with no board member responding.

8. Leddy calls for a motion to consider variance VAR03232023 asking for a 35' side lot setback, and a 25' back lot setback, for Shane Zemlicka. Hansen makes a first followed by a second by Pillatzki.

Leddy asks Kays to give the staff report presentation for the side and back lot variances for VAR03132023.

Kays reports that Zemlicka was seeking to construct a 32' x 56' storage shed 15' from the west side lot line instead of the required 50' setback, and 25' feet from the back lot setback instead of the required 50'. Kays said that by approving variance request it would allow for the proposed shed to better align with unique lot features to; 1) avoid building in a drainage swale that keeps surface water away from a walkout basement, 2) to avoid the existing septic tank and drain field which is located on the east side of the lot, and 3) to allow a straighter access to the proposed building.

Kays explained the responsibility of the board in voting "for or against" the variance request was done by identifying unique hardships related to the characteristics of the plated lot not found in other similar sized lots.

Kays made the recommendation that after the public hearing that the original motion should be amended to consider each specific setback, the 35' side lot, and the 25' back lot, separately to avoid any possible confusion if either needs to be modified to accept the other.

At Kays' conclusion of his staff report Leddy opened the public hearing asking Zemlicka if he wanted to add any additional information where he said he would be available for comments if needed.

Zemlicka was asked by Kays what his intentions were for the existing smaller storage shed he currently had on the lot and Zemlicka said it would be moved to give better access to the new shed.

Kays responded that the setback variance requests being considered were for the proposed new building only and would not allow the existing smaller storage shed to be included if they were granted. Zemlicka responded that if he couldn't follow the required set back distances for the older storage shed he would move it off the property.

Leddy then asked three times for any public comment "for or against" the variance request where no one responded. Leddy closed the public hearing.

A short discussion followed asking for conditions to the variance for Zemlicka to provide signatures from the neighbors that they were not against the variance request as well as that the old shed when moved abide by the 50' side lot and back lot setbacks.

With no more comments Kays was asked to read the Findings of Facts where he added the two conditions; 1) for the signatures from the adjoining property owner, and 2) that the existing smaller shed be only allowed to stay on the property if it met the minimum of 50' setback from both side and back lot lines.

Leddy then called for the original motion to be amended to consider the 35' side lot variance by itself with the two new conditions where Hansen and Pillatzki amended their original motions. With no more discussion Leddy called for that voice vote which passed 7-0.

9. Leddy calls for a second motion to consider the 25' backlot setback for VAR03232023 with the same conditions of the previous motion where again Hansen makes a first followed by a second by Pillatzki.

With no additional discussion on that motion Leddy calls for the voice vote which passes 7-0.

10. Leddy asks for a motion to consider granting a Conditional Use Permit (CUP) to O'Kayes Home Center, CUP04102023, to locate a "Contractor's Shop or Yard" on the 2-acre Commercially Zoned lot located at 48752 US Hwy 12, Big Stone City, SD. Mach makes a first followed by a second by Johnson.

Leddy asks Kays to give a staff report on the CUP request where Kays said that O'Kayes Home Center was looking at putting up an 8,000 square foot building to be used for their floor covering business on the site where CD Sales, currently operating through a CUP as a used vehicle dealership, that is located just west of Big Stone City on US Highway 12.

Kays explained that the primary business of O'Kayes Home Center was supplying floor covering materials and supplies for local independent installation contractors where their intention was to maintain a warehouse, as well as a small showroom, similar to their current operation located in Ortonville, MN, which Kays said they will be vacating once the new building is completed.

According to Kays the current county zoning ordinance would allow this use with the granting of a new CUP for O'Kayes Home Center to do business in that location but that for a period of time CD Sales would also still be selling their remaining used vehicle inventory, where the current owner is retiring and eventually will be going out of business.

Kays finished his staff report saying that with two businesses running out of the same location that this would be a violation of the current county CUP granted to CD Sales which only allows for that use at that location but that within the purchase agreement between O'Kayes Home Center and CD Sales they had agreed on a "sunset date" of October 31<sup>st</sup> 2024, or sooner, when CD Sales has officially agreed to cease to operate as a vehicle sales business and all of their inventory would have to be removed.

Kays concluded that same “sunset date” agreement between CD Sales and O’Kays Home Center could be a condition required by a new CUP that if it was not honored it would put O’Kays CUP in peril starting November 1<sup>st</sup>, 2024.

Leddy opened the public hearing asking three times for any comments in favor of or against granting the CUP where none was offered. Leddy asked Tom Kaye, who was representing O’Kays Furniture Center, if he had anything to add where he said he expected CD Sales to be out much sooner than the “sunset date” of October 31<sup>st</sup>, 2024, and would be available for any questions if they came up. Leddy then closed the public hearing inviting discussion between the board members.

During that discussion a recommendation was made to O’Kays Home Center that if it doesn’t already exist that it would be best for them to work out a shared ingress and egress agreement for the existing US Highway 12 access road that aerial photography showed that the two lots currently share.

With no more meaningful discussion Kays was asked to read the “Finding of Facts” where he emphasized the importance of the “sunset date” of October 31<sup>st</sup>, 2024, for CD Sales to cease to operate on the property. Leddy called for the voice vote which passed 7-0.

11. With no more agenda items Kays asked Berkner if there was anything pending for the June Board of Adjustment where Berkner said no. Kays said unless something came in by the deadline the next day that next month’s Board of Adjustment would not be meeting.
12. Leddy called for a motion to adjourn. Motion made by Seffrood and seconded by Weber. Motion passes unanimously 7-0 on a voice vote.

Board of Adjustment meeting ends at 4:43.

Steve Berkner  
Planning and Zoning Administrator  
Grant County