

BROOKINGS COUNTY DEVELOPMENT DIRECTOR
BROOKINGS CITY & COUNTY GOVERNMENT CENTER
520 3rd Street, Suite 200
BROOKINGS, SOUTH DAKOTA 57006
(605)-696-8350
ROBERT W. HILL
TELEPHONE (605) 696-8350
FAX (605) 696-8355
E-MAIL: zoning@brookingscountysd.gov

March 1st, 2016 Minutes

Brookings County Planning & Zoning Commission
March 1st, 2016 – 7:00 P.M.
Brookings City & County Government Center
310 Chambers

Chair Robbins called the meeting to order at 7:01 P.M. Commission members present were: Lee Ann Pierce, Kimberly Elenkiwich, Robert Rochel, Darrell Nelson, Darrel Kleinjan, Laurie Nichols, Terrell Spence and alternate board member Roger Erickson. Randy Jensen and alternate Tom Davis were absent.

Chair Robbins read **agenda item # 1: Approval of Minutes from January 5th, 2016 and January 26th, 2016 meeting.** Roger Erickson moved to approve the minutes. Darrell Nelson second. Chair Robbins opened for discussion. Seeing none he called for a voice vote. 9-ayes and 0-nays, motion carried.

Chair Robbins read **agenda item # 2: Items to be added to agenda by commission members or staff.** Mr. Hill noted, Zoning Ordinance updates would be discussed at the end before the staff reports. Richard Haugen added: a) Question regarding deck on Harold Jefferis property.

Chair Robbins read **agenda item # 3: Invitation for citizen to schedule time on the commission agenda for an item not listed. Time limited to 5 minutes per person to address the board.** No one scheduled time to address the board.

Chair Robbins read **agenda item # 4: Approval of Agenda.** Robert Rochel moved to approve the agenda. Terrell Spence second. Chair Robbins opened for discussion. Seeing none, he called for a voice vote. 9-ayes and 0-nays, motion carried.

Chair Robbins stated, "We are now acting as the Brookings County Board of Adjustment", read the opening statement and **agenda item # 5. 2016var001: Zachary Boyle has made an application, 2016var001, to the Brookings County Board of Adjustment for a variance. Article 13.00: Section 13.01: "LP" Lake-Park District: Density, Area and Yard Regulation (Lake Front). The property is described as: "Lot 6 Bortnem Beach Addition in Govt Lots**

3 & 4 Section 32, T109N, R50W of the 5th P.M. Brookings County, South Dakota (Medary Township)” -- located at 8988 Bortnem Beach Rd, Volga, SD 57071. Darrell Nelson moved to approve the variance request. Laurie Nichols second. Chair Robbins opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, “Zachary Boyle has applied for a variance to build a 26 foot wide x 25 foot deep x 10 foot sidewall detached garage, 20 feet from the road and 6 feet from the side property line, a front yard variance of 5 feet and side yard variance of 2 feet. The property is located on Lake Campbell. The lot is part of the Bortnem Beach Addition that was platted in June 1962, prior to the current zoning ordinances. Hardships are shape and size of the lot, location of: existing building, septic system, water lines and electric lines.” Chair Robbins asked Mr. Boyle to address the board. Mr. Boyle stated, “I actually have a correction on the side variance, I had it surveyed and found out that the side variance isn’t needed as it would be 8 feet from side property line but the front variance would still be needed. This is the only location that I could put a two stall garage with loft for storage due to the location of the septic and electric and water lines. The reason it isn’t attached to the side of the house is, that is where the two bedrooms are and the windows would be lost, thus they would no longer be legal bedrooms.” Mr. Haugen asked, “Would it have a firewall on the inside of the garage next to the house?” Mr. Boyle stated, “Yes it would.” Chair Robbins opened up for discussion from the board, hearing none he opened for discussion from the audience. Mr. Haugen stated, “No comments or questions were received in the office regarding this request.” Chair Robbins asked for further discussion from the board. Board member Rochel asked Mr. Boyle to describe what the firewall was and where it would be located. Mr. Boyle noted, “It is a layer of sheetrock put on the wall closest to the garage and it would be 10 foot high.” Chair Robbins asked Mr. Haugen to go over the findings of the facts, with any additions, which are on file. Chair Robbins called for a roll-call vote: Pierce-aye, Rochel-aye, Nelson-aye, Kleinjan-aye, Nichols-aye, Spence-aye, Elenkiwich-aye, Erickson-aye, Robbins-aye. 9-ayes, 0-nays. Motion carried.

Chair Robbins read agenda item # 6: 2016var002: Eric Peterson has made an application, 2016var002, to the Brookings County Board of Adjustment for a variance. Article 11.00: Section 11.01 “A” Agricultural District: Area Regulation # 2: Front Yard: The minimum depth of the front yard shall be one hundred (100) feet. A corner lot will have two front yards. The property is described as: “E107’ of W1096’ of S317’ and E420’ of W1516’ of S424’ of SE1/4 Section 5, T110N, R49W (Aurora Township)” -- located at 47372 209th St, Aurora, SD. Kimberly Elenkiwich moved to approve the variance request. Robert Rochel second. Chair Robbins opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, “Mr. Peterson has applied for a front yard variance to build a 44 foot long x 30 foot wide attached garage onto his existing residence, approximately 117 feet from the center of 209th street (Brookings Count Road 46). It would be a variance of 33 feet.” Mr. Haugen described the property as having an elevation drop of 4-5 feet and the proposed new garage location being put at an angle to allow for lay of the land. Other hardships he noted were the location of geothermal, electric

and water lines. Mr. Haugen also noted that the Board of Adjustment granted similar variances in the past and listed and described five others from the years: 2015, 2013, 2012, 2009 and 2007. Chair Robbins asked Mr. Peterson to address the board. Mr. Peterson stated, "I want to add a 3-stall garage onto the existing garage. I am not able to turn it straight, because of what is built in the back already and the slope along with the septic. I am not able to build it on the west end of the house due to electrical, water and geothermal loops, and straight east of the house the land drops off considerably." Chair Robbins opened up for discussion from the board. Board member Lee Ann Pierce asked for clarification of the drop off/slope area of the site. Chair Robbins opened up for discussion from the audience. Mark Jorenby came forward and identified himself as the Aurora Township Supervisor and neighbor and noted the township board was in favor of granting the variance. Mr. Haugen noted that Dick Birk the Brookings County Highway Superintendent was given a copy of the staff report, reviewed it and had no comments. Chair Robbins asked for further comments from the audience, seeing none he asked for further discussion from the board. Board member Nelson asked a question regarding the depth of the garage. Mr. Peterson noted that this was to allow for dog kennels and runs. Chair Robbins asked for further questions from the board, hearing none the asked Mr. Haugen to go over the findings of the facts, with any additions, which are on file. Chair Robbins called for a roll-call vote: Rochel-aye, Nelson-aye, Erickson-aye, Kleinjan-aye, Nichols-aye, Spence-aye, Elenkiwich-aye, Pierce-aye, Robbins-aye. 9-ayes, 0-nays, motion carried.

Chair Robbins stated, "We are now acting as the Brookings County Planning and Zoning Commission", read the opening statement and **agenda item # 7: 2016cu002: Norfeld Colony by Joseph Stahl has made an application, 2016cu002, to the Brookings County Planning and Zoning Commission for a conditional use. Article 11: Section 11.01: "A" Agricultural District: Conditional Use Permit # 11: Class A, B, C and D Concentrated Animal Feeding Operation. The property is described as: "NW1/4 Sec. 14, T111N, R48W and SW1/4 Sec. 14, T111N, R48W (ShermanTownship)" ~~ located at 20426 482nd Ave, White, SD.** Lee Ann Pierce moved to approve the conditional use request. Darrell Nelson second. Chair Robbins opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, "Norfeld Colony by Joseph Stahl has made an application for a Class "B" CAFO (Confined Animal Feeding Operation) for: Farrow to feeder pig (up to 55 pounds) swine operation consisting of: 252 farrowing sows (with litters), 998 gestating sows, 200 gilts being raised as replacement stock and 5,600 nursery pigs (Total of 1,274 animal units). They were granted a Class "B" CAFO for turkeys at the current location on May 2nd, 2006 and have a state CAFO permit from the SD DENR (South Dakota Department of Environment and Natural Resources). They also have a Class "B" feeder to finish swine operation 2 ½ miles south of the main farm, where they are permitted for 3,920 head or 1,568 animal units. This conditional use CAFO application will be for a swine breeding, gestation, farrowing and nursery facility, with the feeder pigs being moved out before or at 55 pounds. Only the

replacement selected gilt piglets will be kept on site for breeding stock replacements. The animals will all be housed in one building. Letters were sent to the adjoining landowners, Sherman Township Chairman and Clerk, Brookings County Highway Department and Brookings-Deuel Rural Water. In the engineering report they have met all the requirements per Article 22; Section 8, and the zoning office has reviewed the documents. The proposed site location is not located in the Zone "A" (Well head Protection Areas) or Zone "B" (shallow/surficial aquifer not included in Zone "A"). The earthen storage pond has been designed for 365 days of storage, along with added volume designed into the pond for additional events, plus an additional 2 feet of free board. Also include is a proposed secondary berm that would be located south of the pond site, to act as a buffer or secondary containment. Secondary berms have and are being used in other existing CAFO operations. The applicant (Norfeld Colony) has a clean, well-kept facility and the zoning office has not received any complaints with the current operation. With the existing Class "B" Turkey and combined with the new swine operation if approved the SD DENR would classify this as a Class "A" CAFO for the total combined (AU) animal units." Mr. Haugen also noted that the Brookings County Highway Superintendent, Dick Birk was given a copy of the staff report and had no comments. Chair Robbins asked Mr. Stahl or a representative to address the board. Joseph Stahl came forward, identified himself and stated, "We are here to propose a swine operation and have researched it well. We have been buying feeder pigs for over 10 years and would like to raise our own, make it more efficient. We have 98 members and have the work force." Chair Robbins opened up for discussion from the board. Board members Nelson and Rochel asked questions regarding: manure handling methods - expressing preference with an injection method being use for all the liquid manure and discussed equipment needed to allow for this to be implemented, and asked for clarification regarding the state permit and if it was looked at as being one or two operations. Chair Robbins noted that the Engineer for the project was present and requested that he go over the report. The engineer identified himself as Brian Friedrichsen from Dakota Environmental, Inc. located in Huron, SD. Mr. Friedrichsen went thru the report stating, "In general what you have is a farrowing operation with an attached nursery where the piglets are born and raised to about 50 pounds. Everything would be housed in one large barn with shallow concrete pits, pull plug sewers to periodically drain the pits by gravity to an earthen storage pond. This is typical operation that we have seen with farrowing operations. This is mostly for health reasons of the size of the pigs. The storage is for 365 days of manure and waste water storage. The storage structure itself is sized with 2 feet of free board, capacity for a 100 year storm event and residual of 1 foot on the bottom that is not accounted for in net storage. The land that is included in this plan is part of the turkey operation and is viable with the increased animals in this swine operation. All areas of the plan will be reviewed and commented on by DENR before the plan is approved. An odor footprint tool was used will planning and showed improvements with the addition of shelterbelts. Norfeld Colony is willing to plant additional shelterbelts in the site area. All setbacks are met, soil borings have been done and are favorable." Chair

Robbins asked if the board had additional questions. Board members Pierce, Nichols and Elenkiwich asked questions regarding lagoon size and odor concerns in relation to the location of neighbors. Chair Robbins opened up for discussion from the audience. Mr. Haugen read comments that the zoning office received from Alan Nelson, Scott Underwood and Emily Reitman. They all expressed opposition to the request and noted concerns regarding: odor, addition of another lagoon on the site, increase in traffic, threat of disease, water quality concerns and possible effect on property values. Members of the audience that came forward to express concerns were: William Kephart, Alan Nelson, Bill Gibbons, Byron Ramlo, Joel Brandt and Catherine Carter. They remarked concerns with: odor and the need have a depth requirement to make sure manure is injected into the ground, increase in traffic and airborne disease risk, lagoon placement, possible run-off contamination of Deer Creek, water quality, possible threat to the Topeka shiner, nutrient management plan, Phosphate levels and possible need for more fields to dispose of manure waste. Those that spoke in favor were: Kevin Gross and Ryan Wieman. Comments made regarded: living near an 8,000 farrow to finish facility and the low odors, lagoon and shallow pit type facility used for pig health when raising young piglets' vs a deep pit in a finish type operation, and the location selected to keep it near current facility. Following the public portion Chair Robbins called Joseph Stahl and Brian Friedrichsen back up to the podium to address any responses to the concerns and answer any questions from the board. Mr. Stahl addressed the traffic and airborne disease concern, lagoon type and placement. Mr. Friedrichsen addressed: Topeka shiner concern, Deer Creek and lagoon concerns noting - lagoon was built below existing grade, designed with excess volume built in and a secondary containment berm. He also discussed the nutrient management plan that was include in the engineering report. Chair Robbins asked for further questions from the board. Board members discussed nutrient management plan, deep pit vs lagoon advantages/disadvantages, shelterbelt location and possible addition of additional trees, manure handling, traffic, lagoon design and location, soil boring results. Chair Robbins asked for additional comments from the board hearing none he asked Mr. Haugen to go over the findings of the facts, with any additions, which are on file. Chair Robbins called for a roll-call vote: Nelson-aye, Kleinjan-aye, Nichols-nay, Spence-nay, Elenkiwich-aye, Erickson-aye, Pierce-aye, Rochel-aye, Robbins-aye, 7-ayes, 2-nays, motion carried.

Chair Robbins called for a 5 minute recess at 9:30 P.M.

Chair Robbins reconvened the meeting at 9:38 P.M. and read **agenda item # 8: Consideration of Plats: a. 2016 preliminary plat001: "Preliminary Plat of Lots 1 to 10 in Block 1; and Block 2 of Pearson-Overby Addition an Addition in Govt. Lot 4 in Sec. 11, T112N, R47W of the 5th P.M., Brookings County, South Dakota."** Lee Ann Pierce moved to approve the preliminary plat. Kimberly Elenkiwich second. Chair Robbins opened up for discussion and asked Mr. Haugen for his staff report. Mr. Haugen stated, "Greg Pearson has applied for a preliminary plat for an area near Lake Hendricks, he has a purchase agreement with the current owners (Benjamin and Shelley Gates) to purchase

the property. The current land use is agricultural and is being farmed. The proposed lots are non-lake front lots and meet or exceed the 20,000 square foot size requirement, have utility easement noted, contour lines and setback building notes on each lot. All lots meet the non-lake front setback requirements of: 50 feet front yard, 50 feet rear yard and 8 feet side yard. Lots 1 and 3 (corner lots) are unique, they are long and narrow and may require future owners to apply for a variance for the rear yard setbacks, depending on the shape and size of building being constructed. The lay of the land is gently rolling with a slight crest in the middle, sloping to the north and south ends. The property is not in the floodplain and is located in the Lake Park District.” Chair Robbins asked the applicants to come forward and address the board. Greg Pearson identified himself and Shane Overby and noted they are purchasing the property. Mr. Pearson noted, “Lots 1 and 3 are unique, they are large lots and are for residential use – garages and possibly houses.” Chair Robbins opened up for discussion from the board. Lee Ann Pierce requested that board members look over the code book definitions – Chapter 2 page 10 regarding the definition of front yard that is under yard front. Ms. Pierce stated, “It truly doesn’t make sense and I am hoping when we look at our ordinances that we clean this up as this definition truly does not make sense.” Haugen noted, “The way the plat is outlined, it meets our current zoning ordinances.” Chair Robbins asked for clarification of the purchase agreement. Mr. Haugen stated, “This is subject to the purchase agreement going thru, we do have a letter from the current owners that acknowledges there is a preliminary plat on the property and there is a purchase agreement on it.” Chair Robbins opened up for discussion from the audience, hearing none. Mr. Hill added a comment, “By this being a preliminary plat and if it is approved and the applicant comes in to finalize all the other lots and keeps lots 1-3 as preliminary and we do change our ordinances, it is an easy fix and is actually in the hands of the applicant and how he handles the preliminary plat.” Mr. Haugen stated, “In visiting with Mr. Pearson he would do a final plat on some of the lots and on others as they are sold.” Mr. Haugen asked if there were any drainage stipulation on the area to the north. Mr. Pearson stated, “There is a fairly good sized ditch on the east and the north side of the property and it will be required that culverts be placed in the approaches.” Chair Robbins asked the board for further discussion, seeing none he called for a roll call vote. Nichols-aye, Spence-aye, Erickson-aye, Elenkiwich-aye, Pierce-aye, Rochel-aye, Nelson-aye, Kleinjan-aye, Robbins-aye. 9-ayes and 0-nays, motion carried.

Chair Robbins read **agenda item # 2: Items to be added to agenda by commission members or staff and asked Mr. Haugen to address the board:**
a) Question regarding deck on Harold Jefferis property. Mr. Haugen stated, “Mr. Jefferis lives on Lake Campbell on the east side, south of Danceland. A variance was granted to build their house in 2002, 45 feet from the high water mark. They have an existing 12 foot x 40 foot deck on the house and would like to screen in a 14 foot portion off the existing deck making it a screened porch. I told them I would check with the board. With reference to the board in December 2014 a similar situation occurred on Lake Poinsett. The December 2nd, 2014

minutes noted in board discussion on a variance request – ‘As far as the footprint of the building. I don’t believe we can say much about that because it was approved with the past variance, but now we have the height of the building to deal with, that we can say something about.’ That is how I based my finding. The variance was already approved for the house, this is not enlarging it is just enclosing part of the existing deck so that they can have a screened in porch area.” Board member discussed and noted they wanted the neighbors to be contacted in regards to the request and for Mr. Haugen to further review the 2002 building permit to verify if it was for the house only or house and deck at the time it (variance) was granted in 2002.

Chair Robbins read **agenda item # 9. Department Reports.** Chair Robbins turned the meeting over to Mr. Hill. Mr. Hill discussed Updating the Zoning Ordinance. And stated, “The new Comprehensive plan takes effect March 14, 2016. So starting in April we need to start updated the Zoning Ordinances.” Mr. Hill and the board members discussed how they would like to handle scheduling the reviewing of ordinances. It has decided that Mr. Hill, Mr. Haugen and Commissioner Pierce would review and bring a schedule of ordinance reviews to the April 5th, 2016 meeting. Mr. Hill then reviewed the 2015 Year-end report with the board. Mr. Hill also discussed 2016 calendar year upcoming events.

Board member and County Commissioner Lee Ann Pierce announced, “On behalf of the County Commission I want to let you know that only one person showed up for the public hearing of the Comprehensive Plan, everything went well.” Ms. Pierre also stated, “As a representative of the Brookings County Commissioners, I want to extend our thanks for all the hard work that was put into the Comprehensive Plan.”

Board member Rochel added, “I need to comment on our staff reports, I think we finally have staff reports that I really like to read. And I thank Richard for that, I like the way it is put together, it is well thought out and a very good job.”

Chair Robbins asked for formal motion to adjourn. Laurie Nichols made the motion to adjourn, Terrell Spence second.

Chair Robbins adjourned the meeting 10:11 P.M.

Rae Lynn Maher
Brookings County
Development Department