

**BROOKINGS COUNTY PLANNING & ZONING COMMISSION  
MINUTES OF MARCH 2, 2021    REGULAR PLANNING & ZONING MEETING**

The Brookings County Planning & Zoning Commission met at their regular meeting on Tuesday, March 2, 2021. Modified meeting practices were used due to the global pandemic of COVID-19. Attendance for meetings to be via phone or for those in attendance the CDC recommended guidelines were followed in the Commission Chambers. The following members were present: Chad Ford, Mike Bartley, Spencar Diedrich, Darrel Kleinjan, Brian Gatzke, Kyle Vanderwal, Neal Trooien, and alternates Roger Erickson and Dale Storhaug. Member that phoned in was: Michael McHugh. Absent was: Randy Jensen. Todd Kays, Executive Director from First District Association of Local Governments also phoned in. Also present were: Deputy Director Richard Haugen and County Development Director/Emergency Manager Robert Hill.

**CALL TO ORDER**

Chair Ford called the meeting to order at 7:07 PM

**APPROVAL OF MINUTES**

(Vanderwal/Bartley) Motion to approve the February 2, 2021 Meeting Minutes. Roll call vote: Bartley-aye, McHugh-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Erickson-aye, Ford-aye. 9-ayes, 0-nays. **MOTION CARRIED.**

**ITEMS TO BE ADDED TO AGENDA BY COMMISSION MEMBERS OR STAFF.**

None added.

**INVITATION FOR CITIZENS TO SCHEDULE TIME ON AGENDA FOR ITEM NOT LISTED.** *Time limited to 5 minutes per person to address the board.*

No one scheduled time to address the board.

**DISCLOSURE OF CONFLICTS OF INTEREST**

None.

**APPROVAL OF AGENDA**

(Kleinjan/Vanderwal) Motion to approve the agenda for the March 2, 2021 Meeting. Roll call vote: McHugh-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Erickson-aye, Bartley-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

**CONVENE AS BROOKINGS COUNTY PLANNING & ZONING COMMISSION**

**CONSIDERATION OF PLATS**

**2021PLAT002**

For property described as "Plat of Lot 9 of Ramlo Shores Subdivision in Government Lot 4 in Section 21, T112N, R47W of the 5<sup>th</sup> P.M., Brookings County, South Dakota." Submitted by the Ramlo Family to plat off Lot 9 in Ramlo Shores Subdivision at Lake Hendricks. The preliminary plat was approved on May 1, 2001 by the Brookings County Planning and Zoning Commission. A final plat was submitted when a lot was

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sold. The lot contains 22,600 square feet meeting the Lake Park-Density, area and Yard Regulation for Lake Front lots.

(Diedrich/Kleinjan) Motion to approve the plat. Roll call vote: Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Erickson-aye, Bartley-aye, McHugh-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

## **CONVENE AS BROOKINGS COUNTY BOARD OF ADJUSTMENT**

### **2021VAR002**

Application for Steve and Eileen Scherer for a variance. Article IV District Requirements: Chapter 4.03 "LP" Lake-Park District: Section 4.03.03. Density, Area and Yard Regulation (Minimum Front yard and Minimum Side Yard). The property is described as: Lot 37 DeBoer's Lake Tetonkaha West Subdivision in SE1/4 of Section 7, T111N, R51W (Oakwood Township)" -- located at 55 Oakwood Shoreline Dr, Bruce, SD 57220.

(Vanderwal/Gatzke) Motion to approve the Variance request.

STAFF REPORT: Applicants are requesting a variance to build a 14 feet 8 inches wide x 28 feet 8 inches garage addition to be used for boat storage, onto their cabin on Lake Oakwood. 18 feet 8 inches from the road, 1 feet 6 inches from the side property line on the east end and 5 feet on the side property line on the west end. The required setbacks are 25 feet from the road and 8 feet from the side property line. Considerations: 1) The lot is irregular shaped, width of 66.7 feet wide on the west side and 63.21 feet wide on the lake side (east side); lot length is 80 feet on the north side and 112 feet on the south side. 2) Variance was granted April 4, 2006 to build house in current location – 21 feet from the road, 35 feet from the high water mark. 3) Cabin sits 10 feet above the water on the lake side. 4) Lots and cabins have existed on Lake Tetonkaha (aka Lake Oakwood) since the 1030's and 40's prior to zoning requirements. 5) DeBoer's Lake Tetonkaha West Subdivision was originally platted in 1984, and re-platted in June 2003, when original road was vacated and relocated. Adjoining landowner's were notified and written comment stating no objection was received from Rick & Becky Eggebrecht. Public notices were published in the Brookings Register on February 16 and 23, 2021 and the Volga Tribune on February 18 and 25, 2021.

PUBLIC HEARING: Applicant Steve Scherer informed those present the correct measurement was 1 foot 8 inches not 1 feet 6 inches.

Proponents: Haugen presented comments received from adjoining landowners' Rich & Becky Eggebrecht noting no objections to the request. He also noted Dennis DeBoer had called to inquire and had no objections to the side yard variance. But, he did not want the garage addition to be closer to the road and noted he would like it to be the same length as the existing garage.

Opponents: None.

DISCUSSION: Board members Bartley, Ford, Kleinjan, Diedrich and Gatzke discussed:  
1) Purpose and size of addition – addition was for storage of boat with trailer would

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require 28 feet. 2) Fire code requirements with close proximity to applicant's residence and adjoining neighbor's structures – sheetrock and other requirements would be noted in findings of facts. 3) Resulting hardship on adjoining landowner if they wanted to build close to side property line in the future – Board concerned adjoining landowner may experience undue hardship such as non-allowance of side variance for current or future adjoining property owner if variance allowed. 4) Concern that a 1 foot 8 inch allowance was excessive and in the past the 4-5 feet was the least the board had allowed. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: Diedrich-nay, Kleinjan-nay, Vanderwal-nay, Trooien-nay, Erickson-nay, Bartley-nay, McHugh-nay, Gatzke-nay, Ford-nay. 0-aye, 9-nay. **MOTION FAILED.**

Following failed motion Denied Findings of Facts were reviewed and completed by the board and placed on file.

### **2021VAR003**

Application for Old Tree Farms LLC by Frido and Sonja Verpaalen for a variance. Article 22.00: Section 22.01: Concentrated Animal Feeding Operation Regulations: Concentrated Animal Feeding Operation Control Requirements: # 6) Required Setbacks and Separation Distance – Established residences. The property is described as: "S1470' of SW1/4 Exc S295' of E295' of W1248' in Section 34, T110N, R51W (Volga Township)" ~~ located at 46316 214<sup>th</sup> St, Volga, SD 57071.

(Vanderwal/Diedrich) Motion to approve the Variance request.

STAFF REPORT: Applicants are requesting a variance to be 1,760 feet from a residence located in the NE1/4 of Section 4, T109N, R51W locate south of the operation (variance of 880 feet) and 2,265 feet from a residence located in the SE1/4 of Section 33, T110N, R51W located to the west of the operation (variance of 375 feet). Both residences are on established, existing homesteads. Also noted: 1) the dairy was permitted as a Class "B" CAFO (1,400 cow dairy) on April 7, 1998, prior to current setback requirements. 2) Expansion to a Class "A" CAFO (2,540 Animal units) on April 5, 2011. 3) Class "A" expansion (3,155 animal units) approved January 3, 2017. 4) Setback variances were approved when required in the past for expansions. 4) Adjoining landowners had been notified and written statements had been received from Jerry Nelson and Jerri Weinacht noting no objections to the variance request. 5) Public notices were published in the Brookings Register on February 16 and 23, 2021 and in the Volga Tribune on February 18 and 25, 2021.

PUBLIC HEARING: Applicant Frido Verpaalen informed those present he had nothing to add.

Proponents: Adjoining landowner support from J. Nelson and J. Weinacht was presented during staff report.

Opponents: None.

DISCUSSION: Bartley asked if Jay Gilbertson from East Dakota Water Development District had reviewed application. Haugen noted area was not is Zone A or B of the Aquifer

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so no review was needed. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: Kleinjan-aye, Vanderwal-aye, Trooien-aye, Erickson-aye, Bartley-aye, McHugh-aye, Gatzke-aye, Diedrich-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

#### **2021VAR004**

Application for Old Tree Farms LLC by Frido and Sonja Verpaalen for a variance. Article 22.00: Section 22.01: Concentrated Animal Feeding Operation Regulations: Concentrated Animal Feeding Operation Control Requirements: # 6) Required Setbacks and Separation Distance – Private Wells. The property is described as: “S1470’ of SW1/4 Exc S295’ of E295’ of W1248’ in Section 34, T110N, R51W (Volga Township)” ~~ located at 46316 214<sup>th</sup> St, Volga, SD 57071.

(Diedrich/Vanderwal) Motion to approve the Variance request.

STAFF REPORT: Applicants are requesting a variance to be 1,675 feet from a well located in the NE1/4 of Section 4, T109N, R51W located southwest of the operation, a variance of 965 feet and 2,475 feet from a well located in the SE1/4 of Section 33, T110N, R51W located west of the operation a variance of 165 feet. The required setback distance is 2,640 feet. Also noted: 1) Well in the NE1/4 of Section 4 was on record in the (SD DENR) South Dakota Department of Environment and Natural Resources Water Well Completion Report for that Township/Range/Section. 2) Well located in SE1/4 of Section 33 was not on the SD DENR Water Wells Completion Report, meaning the well was dug before the reporting requirement. 3) Dairy was permitted as Class “B” CAFO (1,400 cow dairy) on April 7, 1998 prior to current setback requirements. 4) Setback variances were approved for the past expansions which included: Class “B” to Class “A” CAFO (2,540 animal units) on April 5, 2011 and expansion of Class “A” Dairy CAFO to 3,155 animal units on January 3, 2017. Setback variances were approved for the expansions. 4) Adjoining landowners had been notified and written statements had been received from Jerry Nelson and Jerri Weinacht noting no objections to the variance request. 5) Public notices were published in the Brookings Register on February 16 and 23, 2021 and in the Volga Tribune on February 18 and 25, 2021.

PUBLIC HEARING: Applicant Frido Verpaalen informed those present he had nothing to add.

Proponents: Adjoining landowner support from J. Nelson and J. Weinacht was presented during staff report.

Opponents: None.

DISCUSSION: Board members had no questions or comments regarding the request. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: Vanderwal-aye, Trooien-aye, Erickson-aye, Bartley-aye, McHugh-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

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### **2021VAR005**

Application for Old Tree Farms LLC by Frido and Sonja Verpaalen for a variance. Article 22.00: Section 22.01: Concentrated Animal Feeding Operation Regulations: Concentrated Animal Feeding Operation Control Requirements: # 6) Required Setbacks and Separation Distance – Adjoining property lines. The property is described as: “S1470’ of SW1/4 Exc S295’ of E295’ of W1248’ in Section 34, T110N, R51W (Volga Township)” ~~ located at 46316 214<sup>th</sup> St, Volga, SD 57071.

(Vanderwal/Gatzke) Motion to approve the Variance request.

STAFF REPORT: Applicants are requesting a variance to build the bank of the proposed new storage basin 100 feet from an adjoining property line. Existing storage basins were constructed prior to the existing setback requirement. Keeping the proposed basin in line with the existing basins would allow existing infrastructure to be used in the connection of the additional basin and utilize the exiting available space. Also noting: 1) Adjoining landowners had been notified and written statement had been received from Marlys Vanderwal noting no objection to the request. 2) Public notices were published in the Brookings Register on February 16 and 23, 2021 and in the Volga Tribune on February 18 and 25, 2021.

PUBLIC HEARING: Applicant Frido Verpaalen informed those present he had nothing to add.

Proponents: Adjoining landowner support from M. Vanderwal was presented during staff report.

Opponents: None.

DISCUSSION: Board members had no questions or comments regarding the request. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: Trooien-aye, Erickson-aye, Bartley-aye, McHugh-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

### **2021CU003**

Application for Old Tree Farms LLC by Frido and Sonja 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 Operations. The property is described as: “S1470’ of SW1/4 Exc S295’ of E295’ of W1248’ in Section 34, T110N, R51W (Volga Township)” ~~ located at 46316 214<sup>th</sup> St, Volga, SD 57071.

(Diedrich/Bartley) Motion to approve the Conditional Use.

STAFF REPORT: The applicant is requesting a conditional use to expand their Class “A” Concentrated Animal Feeding Operation (CAFO) dairy for 3,155 animal units to 5,000 animal units, an expansion of 1,845 animal units. Currently they have 1,625 mature cows, 500 heifers and 450 calves under 400 pounds at the existing farm. Proposed expansion would consist of: 2,500 mature cows, 1,300 heifers and 500 calves (below 400 pounds) for a total of 5,000 animal units. Expansion would increase: mature cows by

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875 (1,225 animal units), replacement heifers by 800 (800 animal units) and calves by 50 (20 animal units). Also noting: 1) Applicant wanted to raise replacement heifers on site vs currently being raised off site. 2) To accommodate expansion additions would be added onto: east end of existing north free stall barn, additional bedding calf barn, free stall barn for dry and close-up cows, free stall barn for heifers, and an additional storage pond. 3) History of past expansions – Class “B” with 1,400 cows with 4 monitoring wells on site was permitted on April 7, 1998. Class “B” to Class “A” 2,540 animal units permitted on April 5, 2011. And Class “A” expansion permitted on January 3, 2017 for total of 3,155 animal units. 4) Dairy was permitted before current setback requirements. 5) Past variances granted: 2011var004-residence, 2011var005-well on April 5, 2011. 2017var001-residence, 2017var002-well on January 3, 2017. 6) Current variance requests: 2021var003-residence, 2021var004-well and 2021var005-property line. 7) Nutrient management plan exceeds the required acres needed to distribute the manure nutrients. 8) Site is not located in Zone “A” or Zone “B” of the Aquifer or the floodplain. 9) Engineers report and road agreements with Volga and Oslo Townships were completed. 10) Letters were sent to adjoining landowners, Volga Township Chairman and Clerk, Oslo Township Chairman and Clerk, Brookings County Highway Department and Kingbrook Rural Water. Public notices were published in the Brookings Register on February 16 and 23, 2021 and in the Volga Tribune on February 18 and 25, 2021.

PUBLIC HEARING: Applicant Frido Verpaalen informed those present he had nothing to add.

Proponents: Haugen noted adjoining landowners had given approval thru prior variance approvals.

Opponents: None.

DISCUSSION: Board members had no questions or comments regarding the request. Findings of Facts were reviewed and completed by the board and placed on file.

VOTE: Erickson-aye, Bartley-aye, McHugh-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.**

## **DEPARTMENT REPORTS**

Todd Kays, Executive Director from First District Association of Local Governments noted that Luke Muller wanted to present a training session to board members and asked for a possible date and time. Board members discussed and at this time set a tentative date of Wednesday, March 31, 2021 at 1 PM.

Hill reported that a second COVID-19 Community Vaccination Center would be occurring in the future and those in the public interested should watch for instructions to sign up to receive shots.

Haugen noted that the April meeting agenda was filling up and would possibly include a Joint meeting with the City prior to the regular zoning meeting. Time of Joint meeting yet to be determined.

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**ADJOURN**

(Diedrich/Bartley) Motion to adjourn. Roll call vote: Bartley-aye, McHugh-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Vanderwal-aye, Trooien-aye, Erickson-aye, Ford-aye. 9-aye, 0-nay. **MOTION CARRIED.** Chair Ford adjourned the meeting at 8:45 PM.

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Rae Lynn Maher  
Brookings County  
Development Department