

BROOKINGS COUNTY PLANNING & ZONING COMMISSION
MINUTES OF MARCH 1, 2022 REGULAR PLANNING & ZONING MEETING

The Brookings County Planning & Zoning Commission met at their regular meeting on Tuesday, March 1, 2022. The following members were present: Chad Ford, Mike Bartley, Darrel Kleinjan, Brian Gatzke, Spencar Diedrich and alternates Roger Erickson and Dale Storhaug. Absent were Kyle Vanderwal, Neil Trooien, and Randy Jensen. The board also has 1 vacant seat in District 3 to fill. Also present were Deputy Director Richard Haugen, and Senior Planner from First District Association of Local Governments Luke Muller. County Development Director/Emergency Manager Robert Hill was absent.

CALL TO ORDER

Chair Ford called the meeting to order at 7:06 PM

APPROVAL OF MINUTES

(Diedrich/Gatzke) Motion to approve the February 1, 2022, Meeting Minutes. All present voted aye. **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

(Bartley/Kleinjan) Motion to approve the agenda for the March 1, 2022 Meeting. All present voted aye. **MOTION CARRIED.**

Ford and Haugen noted only 7 members were in attendance. A conditional use request would require a majority of those present to pass (4 votes of the 7 present to pass). A variance request would need 2/3 approval of full board to pass which is 6 aye votes. Applicants were asked to consider and decide when their agenda item was brought up to have it heard or postpone to the April 5, 2022 meeting.

CONVENE AS BROOKINGS COUNTY BOARD OF ADJUSTMENT

2022CU005 – Applicant wished to proceed with his item being heard.

Application by Ted Weinrich for a variance. Article 11: Section 11.01: “A” Agricultural District, Conditional Use # 16: “One manufactured or mobile home as a secondary residence, on an established farmstead to be used for the occupancy of a farm employee, or by parents, grandparents, children or brothers and sisters of the occupant of the land, provided that said mobile home is removed within ninety (90) days of the vacation there
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from by the qualified occupant or occupants. The property is described as: "W1/2 SW1/4, W1/2 E1/2 SW1/4 of Section 35, T109N, R50W (Medary Township)" ~~ located at 47036 220th St, Brookings, SD 57006.

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

STAFF REPORT: Applicant is requesting a conditional use permit to move in a mobile/manufactured home as a secondary residence for his daughter and her family to live in. The daughter and family would assist the applicant with future care needs.

The report also noted: 1) the applicant's residence, a garage/shop with and existing septic system are located on the property. The proposed manufactured home would use the existing septic system that is currently used by the garage/shop. 2) Letters were sent to adjoining landowners, Medary Township Chairman and Clerk, and the Brookings County Highway Department. 3) Public notices were published in the Brookings Register on February 15 and 22, 2022.

PUBLIC HEARING: Applicant Ted Weinrich informed those present he had owned the property for about 15 years. He noted that he had been diagnosed with cancer and his wife also had care needs. He informed the board that an existing septic system would be used by the manufactured home. His youngest daughter and husband would move in a manufactured home and live in the manufacture/mobile home and help care for himself and his wife.

Proponents: None.

Opponents: None.

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

VOTE: Bartley-aye, Erickson-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Storhaug-aye, Ford-aye, 7-aye, 0-nay. **MOTION CARRIED.**

2022VAR004 – Applicant wished to proceed with his item being heard.

Application by Steven Tyler for a variance. Article IV District Requirements: Chapter 4.03 "LP" Lake-Park District: Section 4.03.03. Density, Area and Yard Regulation (Minimum Lake Front). The property is described as: "Lot 7 and Lot G of Wacek Beach in Govt Lot 4 in NW1/4 of Section 3, T112N, R52W (Laketon Township)" ~~ located at 302 SE Lake Dr, Estelline, SD 57234.

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

STAFF REPORT: The applicant has applied for a lake side variance to build a new home 41'3" from the highest know water mark on Lake Poinsett, a variance of 33'9". The required setback is 75 feet from the highest known water mark.

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The report also noted: 1) Applicant would need to complete a Flood Plain Development Permit to meet the Federal Emergency Management Agency (FEMA) Floodplain standards for building in the floodplain as a portion of the lot is in the floodplain. 2) Front yard setback of 25 feet and side yard setback of 8 feet will be met. 3) Considerations: shape and size of the lot. Wacek Beach Subdivision was platted on December 6, 1967, prior to the current zoning ordinance requirements. 4) Letters were sent to the adjoining landowners, and the Laketon Township Chairman and Clerk 5) Public notices were published in the Brookings Register on February 15 and 22, 2022 and in the Volga Tribune on February 17 and 24, 2022.

PUBLIC HEARING: Applicant Steven Tyler informed those present he had nothing to add.

Proponents: Haugen read a letter in support that the applicant had submitted from Tim & Carol Bryd and a phone message of support the office had received from Paul Julson.

Opponents: None.

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

VOTE: Erickson-aye, Gatzke-aye, Diedrich-aye, Kleinjan-aye, Storhaug-aye, Bartley-aye, Ford-aye. 7-aye, 0-nay. **MOTION CARRIED.**

Board member Diedrich asked for clarification on the next 2 agenda items that were after the fact requests. He asked, "since it's an after the fact variance and they do get denied what are the ramifications for them if they get denied are they required to remove it or how would that move forward? You said that yes, they could repetition in 6 months, but if their petition gets denied it's a little different." Haugen noted yes it would be the stipulations that are in the denied finding of facts and it's what you decide, and they could be required to remove the structure. Diedrich addressed the applicants stating, "That is one thing to keep in mind if you do feel that you want to move forward, which is fine it's your choice, but that could be one of the stipulations."

Haugen reminded the applicants that 6 of the 7 members would have to vote yes for the request to pass. If 5 vote yes and 2 vote no, it is denied, and you would have to follow the denied findings of facts that the board would come up with. An option would be to ask that the item be postponed until the next meeting to be heard by a full board of nine. Chair Ford reminded the applicants that a full board is 9 member and that 6 yes votes are need for a variance to pass no matter if there are 6 members present or 9 members present. 6 yes votes are needed for any variance request to pass.

2022VAR005

Application by Bradley Vostad for a variance request. Article IV District Requirements: Chapter 4.03 "LP" Lake-Park District: Section 4.03.02 Conditional Uses Permit # 6: Accessory buildings with a side-wall greater than fourteen (14) feet or more than 2,000 square feet and used accessory buildings greater than 120 square feet. The property is March 1, 2022

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described as: "Lot "A" of Wacek Beach Addition in Govt Lot 4 in Section 3, T112N, R52W (Laketon Township)".

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

Applicant Bradley Vostad asked that the item be postponed until the April meeting, and that he could update his application, with distances specified.

(Diedrich/Gatzke) Motion to postpone 2022var005 to the April 5, 2022 meeting. All present voted aye. **MOTION CARRIED.**

2022VAR006

Application by Larry Wittmeier for a variance request. Article IV District Requirements: Chapter 4.03 "LP" Lake-Park District: Section 4.03.03. Density, Area and Yard Regulation (Minimum Lake Front and Minimum Side Yard). The property is described as: "Lot 25 of DeBoer's Lake Tetonkaha West Subdivision in Govt Lots 1,4,5 & 6 in SE1/4 of Section 7, T111N, R51W (Oakwood Township)" ~~ located at 42 Oakwood Shoreline Dr, Bruce, SD 57220.

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

Applicant was consulted and wished to proceed with the hearing of the request.

STAFF REPORT: The applicant is requesting an after the fact variance for a deck and accessory building that was built with in the lakeside setback. The variance distance is for 0 (zero) feet, as the deck extends beyond the retaining wall into the shoreline. The required setback is 75 feet from the highest known water mark. The home was built in 1993 with variances granted on June 7, 1991, for side yard setbacks. The original deck and accessory building on the lakeside, were removed when the retaining wall was installed. The Zoning Office has no record of a variance for a deck or accessory building being granted in the past. The report noted: 1) Applicant was granted a shoreline modification permit to install a retaining wall along his property by the South Dakota Department of Game, Fish and Parks. A building permit was issued by the Zoning Office for the shoreline modification, the wooden deck and accessory building were not listed as part of the shoreline modification. 2) Considerations: a) shape and size of the lot. b) Lake lots and cabins have existed on Lake Tetonkaha (aka Lake Oakwood) since the 1930' and 1940' prior to zoning requirements. c) Subdivision was originally platted in 1984, replatted in June 2003 when the original road was vacated and relocated. 3) Public notices were published in the Brookings Register on February 15 and 22, 2022 and in the Volga Tribune on February 17 and 24, 2022. 4) letters were sent to adjoining landowners and the Oakwood Township Chairman and Clerk.

PUBLIC HEARING: Applicants Juliane and Larry Wittmeier informed those present: 1) they had been on the property since 1968, 2) History - prior 16x30 deck had been built 1990, prior 8x10 shed had been built in 1991 and new home built 1993 with variances granted on June 7, 1991, for side yard setbacks. 3) Fall 2020 Shoreline modification permit to install retaining wall approved by South Dakota Game, Fish and Park 4) Deck

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and shed had been completely removed to allow for the shoreline work. Mistakenly assumed could replace prior structures. 5) Hardship is shape and size of lot. 6) 16x30 Deck lays on top of the monster block and extends about 30" past the end of the blocks.

Proponents: Submitted letter from Russell and Jeri Snyder was read by Haugen noting the adjoining landowner had no objection to the location of the shed and give permission to allow it to remain. Bradley Vostad came forward and noted the area residents were trying to establish a larger recreational area, noting his lot adjacent had a 2:1 slope, and commented the ordinance doesn't account for topographic of lots. Ford noted the board did take that into consideration.

Opponents: None.

DISCUSSION: Board members Gatzke, Storhaug, Kleinjan, Bartley, Diedrich and Luke Muller from First District discussed: 1) shoreline modification monster blocks, location, relation to deck alignment/extension, 2) building permit requirements 3) location of actual high-water mark 4) Deck – why size, location in relation to high water mark, being a flat on grade deck 5) SDCL 43-17-2 6) concern for public safety if someone would hit the deck as it currently is over the water. Board put into the Findings of Facts to allow an already built 16'x30' deck to have a 0' setback from high-water mark and that no portion of the deck shall extend beyond the retaining wall into the shoreline and the deck shall be resting at grade. May be subject to SDCL 43-17-2 regulations, enforced by the South Dakota Game, Fish and Parks. A 7'x8' accessory building built on top as part of the deck is approximately 6' from the edge of the retaining wall and 3' from the south property line. Brookings County Floodplain Development Permit required and followed Brookings County Floodplain Ordinance for building in the floodplain. Building permit plans were required and after the fact fees would apply. Findings of Facts were reviewed and completed by the board, concurred with by Gatzke and placed on file.

VOTE: Gatzke-aye, Diedrich-aye, Kleinjan-aye, Storhaug-aye, Bartley-aye, Erickson-aye, Ford-aye. 7-aye, 0-nay. **MOTION CARRIED.**

DEPARTMENT REPORTS

Haugen reminded board members a joint work session with the city planning commission would be on Thursday, March 3, 2022, at 5:30 PM. Luke Muller indicated the CAFO section of the Joint Jurisdiction Ordinance. Mining section would follow.

ADJOURN

(Gatzke/Diedrich) Motion to adjourn. Chair Ford adjourned the meeting at 8:43 PM.

Rae Lynn Maher
Brookings County
Development Department

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