

Monday September 11, 2017

The Deuel County Zoning Board met on Monday, September 11, 2017, at 6:30 P.M., in the Commissioners' room of the Courthouse in Clear Lake. Those present were members Dennis Kanengieter, Mike Dahl, Steve Rhody, Paul Brandt, and Kevin Deboer. Also present were States Attorney John Knight and Zoning Officer Jodi Theisen.

Chairman Dennis Kanengieter called the meeting to order. The minutes from the August 10, 2017, were discussed.

Motion by Rhody, seconded by Dahl, to approve the August 14, 2017, minutes. All voted in favor and motion carried.

Motion by Dahl, seconded by Deboer, to approve the September 11, 2017, Agenda All voted in favor and motion carried.

1. David Beyer & Laurie Seefeldt representing Jill Pinkert, Julie Rokusek, Debi Ploeger, and Michael Peterson applied for a Variance Permit. The request, if granted, would permit the applicant to use the following property: W1/2NW1/4 (Peterson First Addition in the W1/2NW1/4) in Section 4-117-49, Portland Township to plat a parcel less than 3 acres in an AG Zoned District. The Zoning Officer, Jodi Theisen, provided a letter that the zoning office received on September 11, 2017 from Michael Smith stating concerns about the plat. Smith stated that the plat should be tabled or denied until the land auction on September 28, 2017 which the Peterson's are selling plus or minus 68.5 acres. Beyer and Seefeldt stated that they have a purchase agreement with the Peterson family to purchase Lot 1 Peterson First Addition. They have an informal fence line agreement so they did this plat to correct the fence line to make it formal. Beyer and Seefeldt stated that they own the land to the north and to the east. They do not want to improve the land with a building just a fence. Beyer stated that the land auction on September 28, 2017 doesn't include Lot 1. Knight stated to the board that in our ordinance the minimum size to plat is 3 acres to build. Calvin Musch had concerns about platting less than 3 acres. The Board stated that you can plat less than 3 acres but could not build on that parcel. Motion by Deboer, seconded by Rhody, to grant the Variance to plat a parcel less than 3 acres in an AG Zoned District contingent that it is not used as a building site. All voted in favor and motion carried. The findings for this Variance are the use is constant with historical use of the property, the future owners of this plat own land to the north and the east
2. Motion by Brandt, seconded by Rhody, to approve the Plat of Peterson First Addition in the W1/2NW1/4 Section 4-117-49, Portland Township. All voted in favor and motion carried.

3. Motion by Dahl, seconded by Deboer to table the Plat of Balo Addition in the NE1/4 Section 26-114-50, Hidewood Township until they apply for a variance to allow existing buildings to have less than 150' front yard in an AG zoned district. All voted in favor and motion carried.

4. Olerud Enterprises LLC applied for a Variance & Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Block 1 Agri Partners Addition in NW1/4NE1/4 in Section 28-115-49, Clear Lake Township to construct a flat storage building closer than 50 feet from the side lot line in a Commercial Zoned District. Rory Olerud & Lisa Olerud owners of Olerud Enterprise LLC stated that they would like to build another storage building on their property. The building would be 80' x 200' that is 321 feet from the road right-of-way and would be 10 feet from the side lot line. Olerud provided a letter from Chuck Langrock the adjacent owner giving approval to build approximately 10 feet away from his property line. Motion by Brandt, seconded by Rhody, to grant the Variance to construct a flat storage building 10 feet from the side lot line in a Commercial Zoned District. The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504, subparagraph 5(a-h), of the ordinance. Motion by Dahl, seconded by Deboer, to grant the Special Exception to construct a storage building in a Commercial Zoned District. All voted in favor and motion carried.
 - a. Entrance to and exit from property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe: Applicant has preexisting access access to the property and proposed structures and there is no issue with automotive and pedestrian safety and convenience, traffic flow and control or access in case of fire or catastrophe.
 - b. Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Applicant has sufficient off-street parking. Loading is not a concern. The special exception will have no or minimal economic, noise, glare, odor or other effects on the adjoining properties or properties generally in the district.
 - c. Utilities, with reference to locations, availability, and compatibility: Applicants have adequate utilities.
 - d. Screening and buffering with reference to type, dimensions, and character. Does not apply.

- e. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: Does not apply.
 - f. Required yards and other open spaces: Applicant has adequate yard and other open spaces.
 - g. General compatibility with adjacent properties and other property: Applicant's proposed use is generally compatible with the adjacent properties and other properties in the Commercial District.
 - h. Refuse and service areas, with particular reference to the items in (a) and (b) above: There are no concerns regarding refuse or service areas. Applicants have a dumpster service.
5. Tom Flicek Representing the Estate of Robert J Flicek applied for a Variance Permit. The request, if granted, would permit the applicant to use the following property: Lots 35-36-37 in Severson Bay in Gov Lot 5, in NE1/4 Section 5-114-47, Lake Cochrane to replat three lots into two lots with lake frontage less than the ordinance requires which is 75 feet of lake footage in a Lake Park Zone District. Dick Travis, an attorney representing Tom Flicek, stated that Flicek's have been permanent residents since 1988 and the father Robert J Flicek passed away in 2016. The parent's idea for the three lots was to pass them on to the children and to have them live there. However, the children do not plan to live on the property. Due to the location of the campers located to right of the property is a deterrent to the sale of three lots together. The variance to allow a 57 foot lake frontage lot and 63 foot lake frontage lot would allow the lots to be sold at a lower price and to have more growth for the county. The two lots would have the ability to have two homes on them instead of only one home. Travis stated the board has granted variance in the past to split lots less than 75 foot of lake frontage. The board stated that those variance that were granted were two owners that purchased the lot together to split in the future to have their own lots. The other variance was commercial land and split into two lots for residential. The board stated that they do not like to split contiguous lots into smaller lots because houses are not getting any smaller. Motion by Dahl, seconded by Brandt, to deny the Variance to replat three lots into two lots with lake footage less than the ordinance requires which is 75 feet of lake footage in a Lake Park Zone District. Kanengieter called a roll call vote: Dahl-yes, Rhody-yes, Deboer-no, Brandt-yes, Kanengieter-yes. Motion carried.
6. Aaron & Laurie Johnston applied for a Variance Permit. The request, if granted, would permit the applicant to use the following property: Lot 12 & SE 40' of NW 180' Lot 17 Clearwater Beach in Gov Lot 6, in Section 4-114-47, Lake Cochrane to enclose a part of the existing deck and build a patio that is within 50 feet from the high water mark in a Lake Park Zone District. Aaron Johnston stated the current cabin has a roof covered deck which part of it is approximately 48 to 47

feet from the high water mark. Johnston stated that he would like to enclose the deck for living space. They would like to start from the existing house and go 6 feet to increase the living space and to keep the about 10 feet of the covered deck. Johnston stated that there are pavers in front of the covered deck and they slope/drop down and slide out of the bottom. They would like to remove the pavers and build an elevated patio about ten feet in depth and a maximum of 36 inches high in front of the deck. Motion by Deboer, seconded by Dahl to to grant the Variance to allow an elevated patio no taller than 36 inches within the 50 feet from the high water mark and to enclose an area 6' x 26' of the existing deck with the 50 feet from the high water mark into living quarters. All voted in favor and motion carried.

7. Crooks Collision (Sheldon Crooks) applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: SW 5 acres (S338' W606') of SW1/4 in Section 13-113-48, Scandinavia Township to construct an addition that will be used as a paint booth on to the existing commercial building in a Commercial Zoned District. Sheldon stated that he has to build a new paint booth for insurance purposes. The Board determined that it is empowered under the section of the ordinance described in the application to grant the special exception and that granting the special exception will not adversely affect the public interest. The Board then made written findings as required by Section 504, subparagraph 5(a-h), of the ordinance. Motion by Brandt, seconded by Rhody, to grant the Special Exception to construct an addition that will be used as a paint booth on to the existing commercial building in a Commercial Zoned District. All voted in favor and motion carried.

- a. Entrance to and exit from property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe: Applicant has preexisting access access to the property and proposed structures and there is no issue with automotive and pedestrian safety and convenience, traffic flow and control or access in case of fire or catastrophe.

- b. Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare, odor or other effects of the special exception on adjoining properties and properties generally in the district: Applicant has sufficient off-street parking. Loading is not a concern. The special exception will have no or minimal economic, noise, glare, odor or other effects on the adjoining properties or properties generally in the district.

- c. Utilities, with reference to locations, availability, and compatibility: Applicants have adequate utilities.

- d. Screening and buffering with reference to type, dimensions, and character. The Applicants has adequate screening and buffering.
- e. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district: Does not apply.
- f. Required yards and other open spaces: Applicant has adequate yard and other open spaces.
- g. General compatibility with adjacent properties and other property: Applicant's proposed use is generally compatible with the adjacent properties and other properties in the Commercial District.
- g. Refuse and service areas, with particular reference to the items in (a) and (b) above: There are no concerns regarding refuse or service areas. Applicants has no outside garage.

8. Connie Winter representing, Phyllis Strouth applied for a Variance. The request, if granted, would permit the applicant to use the following property: N1/2 (Strouth Addition) in Section 30-117-49, Portland Township to plat a parcel with existing buildings and trees that are closer to the road right-of-way than the ordinance allows in an AG Zoned District. Winter stated that they platted the building site to sell. The existing garage is approximately 134 feet from the road right-of-way and the existing granary is approximately 142 from the road right-of-way. Also the existing trees to the north and the south were there prior to 1958 are closer to the road right-of-way than the ordinance allows. Motion by Deboer, seconded by Rhody to grant the Variance to plat a parcel with existing buildings and trees that are closer to the road right-of-way than the ordinance allows in an AG Zoned District. All voted in favor and motion carried. The findings for this Variance are the existing trees have been there since 1958 and won't cause a safety or snow problem. It is a 50 foot road right-of-way. There are trees to the north, south, and west of the property and they haven't cause a snow or safety problem.
9. Motion by Dahl, seconded by Deboer to approve the Plat of (Strouth Addition) in Section 30-117-49, Portland Township. All voted in favor and motion carried.
10. Darwin Hunt applied for a Variance. The request, if granted, would permit the applicant to use the following property: W1/2NW1/4 & W1/2SW1/4 in Section 36-116-48, Glenwood Township to build a machine shed closer than 150' from the road right-of-way in an AG Zoned District. Hunt stated that because of the layout of his yard he can't build his pole shed 150 feet from the road right-of-way. The north west corner of the shed would be approximately 47 feet from the road right-of-way. The land at the proposed site slopes to the east and that is where his fuel barrels are located. Motion by Brandt, seconded by Rhody to grant the variance to construct a 48' x 56' machine shed no closer than 35 feet from the

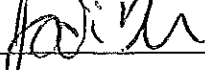
road right-of-way. All voted in favor and motion carried. The findings for this Variance are the new machine shed is within existing trees and will not cause a safety or snow problem. The road is a low maintenance and Hunt provides most of the snow removal.

11. Brad Fairchild came to the board to discuss the property is going to purchase by Lake Cochrane. The property is 3 acres and is located on Highway 22. It is in an Ag Zoned District and has a fireworks stand on the property, Fairchild was wondering if he could sell vehicles or trailers on the property. Fairchild stated that way he could make some more income off the land instead of the nine days he can sell fireworks. The board stated that he would have to rezone the property to Commercial because that business is not allowed in the Ag Zoned District.

12. John Homan and his lawyer, Christina Kilby, discussed with the Zoning Board the assurance letter for John Homan's private air strip that was not accepted at the August 14, 2017 meeting. Kilby provided the board a letter from Homan stating their concerns and they want in the record. Christina read the letter and explained their concerns. Homan stated that he thought he had to provide an assurance letter from the discussion from the last meeting. Homan submitted a letter of assurance to the zoning office. The Zoning Officer then provided that letter to the Zoning Board. The Zoning Board provides the letter of assurance. Kanengieter stated that Zoning Officer called him and stated what the assurance letter would contain. Then that letter was sent to Homan. Then Homan provided another letter to the Zoning Office and that letter was not accepted. Homan added that they were not waiving any legal rights. They didn't want to waive their rights to object to any wind towers that would restrict their runway. The board stated that was not the intent of the assurance letter. Homan thought they were signing a waiver of their rights. The board stated that they are looking at all of the property owners rights. The board stated that the runway and the future wind towers or any improvements to the land surrounding the runway could be compatible. The board stated that they were under the understanding that Homan could come to any of the meetings concerning wind development and state there concerns. Homan felt the board was one sided about the future wind development because they have mentioned about future wind towers and the setbacks for runways and the flight path around wind towers. Homan and Kilby also thought the board had already sided with the wind towers. Brandt was under the understanding from the North Dakota FAA the property owner would have to get permission from the surrounding property owners to get unrestricted air rights. Deboer stated that they haven't been told the grade to the approach to the runway and the amount of flight pattern to approach. Motion by Rhody, seconded by Dahl, to accept the applicant requested language in the letter of assurance and to add that the applicant would communicate with adjacent

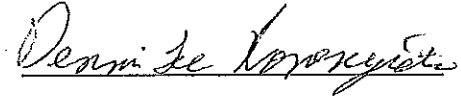
property owners. Kanengieter called a roll call vote: Dahl-yes, Rhody-yes, Deboer-yes, Brandt-no, Kanengieter-yes. Motion carried.

Kanengieter called the meeting.



Jodi Theisen

Zoning Officer



Dennis Kanengieter

Chairman, Zoning Board