

The Deuel County Zoning Board met on Thursday, September 15, 2016 at 6:30 P.M., at the 4-H Service Center, Deuel County Fairgrounds in Clear Lake. Those present were members Dennis Kanengieter, Gary Jaeger, Steve Rhody, Paul Brandt, and Mike Dahl. Also present were Attorney John Knight and Zoning Officer Jodi Theisen.

Chairman Dennis Kanengieter called the meeting to order. The minutes from the August 8, 2016 meeting were discussed. Motion by Dahl, seconded by Jaeger, to approve the August 8, 2016 minutes. All voted in favor and motion carried.

Motion by Brandt, seconded by Rhody, to approve the September 15, 2016 Agenda. All voted in favor and motion carried.

1. David Hentges applied for Variance permit. The request, if granted, would permit the applicant to use the following property: Lot 23-24 & W16 2/3' Lot 25 Shady Beach in Gov Lot 7 in SE1/4 Lake Cochrane of Section 4-114-47 Norden Township, to remove old house and leave basement and construct a new house that is closer than 50 feet from the high water mark in the Lake Park District. Hentges stated that his house has many old additions and the insulation is very poor. He purchased the house about 18 years ago and at that time the pipes in the basement froze and broke. So Hentges lifted the house up and built a new block basement. He stated that he called the zoning office and they told him he didn't need a building permit because he was repairing the basement. Hentges stated that he would like to leave the current basement and to build a year round home on top. He would extend the bedroom and basement by 8 more feet which is 15 feet from the high water mark. He also would like to extend the back of the house facing the road about 4 more feet. This would not need a basement or a crawl space. The reason he can't go any further toward the road is that there is a big oak tree that is about 14 feet from the current house. Hentges would leave the current deck that is located between the house and the high water mark. Brandt stated that the house is currently a nonconforming structure because it is closer than 50 feet from the high water mark. Curtis Mulder, a Lake Cochrane resident, stated that thinks Hentge's plan is a good plan because it doesn't affect the shoreline. Motion by Dahl, seconded by Brandt, to grant the removal of the old house, leave the basement and construct a new house that is no closer than 30 feet from the high water mark in the Lake Park District. Kanengieter called a roll call vote Dahl=yes, Brandt=yes, Jaeger=yes, Rhody=yes, Kanengieter=no motion carried. Hentges stated that will not rebuild then.
2. Lowell & Susan Crooks applied for a Variance Permit. The request, if granted, would permit the applicant to use the following property: N1/2SE1/4 & N1/2S1/2SE1/4 Less OL 1 & Less OL 5 & less RR Row of Section 26-113-48, to build 60' x 120 cattle/hay shed closer than 150' from the road right-of-way in an AG zoned district. Crooks stated that he would like to remove a cattle shed and build this new shed 105' from the road right-of-

way. Motion by Rhody, seconded by Jaeger, to grant a Variance to build a 60' x 120 cattle/hay shed 105 feet from the road right-of-way. The zoning board findings are the road right-of-way is 50' and there is an existing shelterbelt surrounding the building site and there are 2 buildings closer to the road right-of-way. The new shed is not a safety and will not cause a snow problem. All voted in favor of and the motion carried.

3. Pete Eng applied for a Special Exception and Variance. The request, if granted, would permit the applicant to use the following property: Lot 2B & N1/2 2C Christianson in Outlot 2 in Gov Lot 1 SE1/4NE1/4, Lake Cochrane, of section 4-114-47, Norden Township, to build a 30' x 45' storage shed that is closer than 50 feet from the back lot in a Lake Park District. The shed will be 18 feet from the back lot and 12 feet from the side lot. Motion by Dahl, seconded by Brandt, to grant the Special Exception and Variance to build an 30 x 45' shed for storage that is 18 feet from the back lot. All voted in favor of and the motion carried.
4. Bruce Sorenson applied for a Special Exception permit. The request, if granted, would permit the applicant to use the following property: Southwest Acres in SW1/4 Section 13-116-49 Altamont Township, to build a 12' x 20' storage shed in a Commercial District. The new structure is more than 150 feet from the road right-of-way. Motion by Brandt, seconded by Jaeger, to approve the Special Exception to build to build 12' x 20' storage shed in a Commercial District. All voted in favor of and the motion carried.
5. Dan Gates applied for a Special Exception permit. The request, if granted, would permit the applicant to use the following property: W156' E364' of Lot 1 West Side Acres Addition in SE1/4SE1/4 Section 21-115-49 Clear Lake Township, to operate a truck and trailer repair shop in existing building in a Commercial District. Gates stated that he would like to use existing building to do manufacturing for his heating components. The board stated that the property is already zoned commercial and it is along a state highway. It would be a good location for the business. Motion by Jaeger, seconded by Rhody, to approve the special exception to operate a wholesale, distribution & manufacturing facility for heating components. All voted in favor and motion carried.
6. Gerald Jelen applied for a Special Exception. The request, if granted, would permit the applicant to use the following property: Lots G Hillcrest (replat of Lot D) in Gov Lot 6 in NE1/4, Lake Cochrane, of Section 4-114-47, Norden Township, to build a garage addition on to existing detached garage that is closer than 30 feet from the existing easement in a Lake Park District. Jelen stated per phone that they would like to expand the existing garage by 20' x 24' addition. They would like to have more space in the existing garage because their current house is getting too small with all of their family. This space will help when they entertain. The addition will not become a second living space. They do have a bathroom but no bedrooms. Ellenbecker's do store their boat in the garage. The addition will be within 30 feet from the existing easement. Motion by Dahl, seconded by Rhody, to grant the Special Exception to build a 20' x 24' garage addition on to existing

detached garage that is closer than 30 feet from the existing easement in a Lake Park District. All voted in favor of and the motion carried.

7. Richard Ellenbecker applied for a Special Exception. The request, if granted, would permit the applicant to use the following property: Lots 10-11 Elms in Gov Lot 6 in NE1/4, Lake Cochrane, of Section 4-114-47, Norden Township, to repair the shoreline within 35 feet from the high water mark in a Lake Park District. Ellenbecker stated that they had about 22 feet of shoreline that wash out by the dock and they wanted to repair that area. They reconstructed the rest of the 40 feet to allow better drainage off the yard. They used gravel and sandy soil that was removed from the washed out area and placed fabric down and replaces the rock wall. Also they removed the sandy soil behind the remaining 40 feet and replaced it with black soil and planted grass. They covered 60 feet with black dirt with a straw mat. Motion by Brandt, seconded by Jaeger, to grant the Special Exception to repair the shoreline line with rock retaining wall and to place black dirt behind the retaining wall and to plant grass with a straw mat to help with the washing out. All voted in favor of and the motion carried.
8. Robert & Melissa Declark applied for a Special Exception permit. The request, if granted, would permit the applicant to use the following property: Lot 74C (replat Lot 74 & S1/2 Lot 75 & Lot 74A & Lot 74B) Thokola Beach in Gov Lot 2, Lake Cochrane, of section 8-114-47, Norden Township, to alter the shoreline by building a retaining wall and building a patio within 35 feet from the high water mark. Shane Mack their landscaper stated that the rock that are located near the high-water mark have washed away and they would like to place Pro Five Fabric down. Then place rock along the fabric to build up the shoreline. Mack also explained that they will remove the dirt 3 feet above the high-water mark behind the new rock along the shoreline 17 feet back from the rip rap which is about 120 yards. The patio will have a retaining wall 6 feet tall and 16 long that goes around the patio. The 2<sup>nd</sup> retaining wall is located behind the first retaining wall. They are also going to replace the stairs going to the lake with concrete precast steps along the boat house. Steve Grong a resident of Lake Cochrane stated that Shane Mack has did work for him in the past and has done very good work. Motion by Rhody, seconded by Dahl, to approve the Special Exception to remove 120 yards and build a patio and to build two 2 retaining walls that is 1 foot tall and one that 6 feet high within 35 feet from the high water mark, and to replace the steps going toward the lake because the old ones were washing out. They need to use a silt fence during alteration and let the Zoning Officer know when they start construction. All voted in favor and motion carried.
9. Flying Cow Wind LLC, in care of Jeff Jackson applied for a Special Exception permit. The request, if granted, would permit the applicant to construct up to 12 wind turbines that are 3.45 megawatts in size for a wind farm in Norden Township (T114N, R47W) in Sections 21 & 22 and in Herrick Township (T115N, R47W) in Sections 16,21,22,27,28 & 29, Deuel County. Jackson stated that that the 1/3 of the wind project would be located in Deuel County. The project would have 2 towers south of Lake Cochrane and 10 towers north of

Lake Cochrane and south of Gary, SD. Dahl asked why these sites. Jackson stated that they are generally located and adjacent to the project in Yellow Medicine County in Minnesota. The total project would have 43 towers. Jaeger asked the project time. Jackson stated that the roads and excavating would be in 2018 or 2019, the complete project would be in 2018 and 2019. Jackson stated that they want to take advantage of the tax credit. The overhead lines would be in Minnesota and South Dakota would have the underground lines. The board asked about the size of the turbines. Jackson stated that the size depends on the turbines. If the turbines went down in size then they would have more turbines. Jaeger asked about the decommission plan. Kanengieter stated that the wind towers in the southern county have the decommission plan in the application. Jackson stated that Excel took over their last two projects and they have a decommission plan and account to cover all the expenses.

Sean Flannery who works with Jeff Jackson stated that they have done an environmental impact study. They have done a lot of surveys and reviews of this area during the summer and have contacted the SD Game & Fish. Flannery stated that they have biologist in this area and will have them in this area in the future to collect data. Cory Borg who is head of the Deuel County Emergency Management stated that he received a study that indicated that the Gary Tower that services the Lake Cochrane area will not have any interference from the towers. Borg also stated that the report stated that the cell phone coverage shouldn't be affected.

John Knight stated that the Zoning Office received about 90 emails that stated their concerns and how they don't want them around Lake Cochrane. It will disturb the view and the tranquility of the lake. Jackson stated that their company recognizes the concerns of the public. Jackson stated that they contacted some of the lake residents in early 2016. They had 2 towers closer to the lake than the three towers to the north that are about 1 ½ away they removed those towers from the project. Jackson stated that their reputation is very important to the company.

Larry Grong, Curtis Mulder, and Jim Ekholm stated that they are concerned about the noise, the view, and the environmental impact. Ekholm stated that the lake is flat and the noise will be a big concern to the residents of the lake. The sky line is also a concern to the residents as they don't want to see the blinking red lights. They also showed concerns about the property value having the towers near. He stated that they were notified about two days ago. The board asked Jodi Theisen, Deuel County Zoning Officer, when the application was publicized. Theisen stated that the application was published in the local paper August 31, 2016, which was two weeks prior to the meeting and it was published the following week because of the rescheduling date. Also Theisen sent the agenda to the Deuel Lake Association on August 31, 2016, and it was put on the facebook page and their web page. Theisen also stated that she sent the agenda to the Deuel County web page manager to be placed on the Deuel County Web page. Theisen

also stated that she sent letters to the abutting land owners on September 2, 2016, which is more than 7 days before the scheduled meeting.

The lake residents stated that they would like no towers near the lake. They would like them at least 4 to 5 miles away. Jerry Durfee stated that the board and the county should review the setback for the wind towers.

Joan Ovall, Fay & Will Stone, Mike Taylor, and other small acreages and rural land owners had concerns about property values, the setbacks concerning noise and impact that these towers would have on the surrounding property. There were questions about the noise standard. Flannery stated that the noise standard is 50 DVA and the the state of Minnesota is the same. Jackson stated that 40 DVA will be the lowest. A normal conversation is at 50 DVA. Stone stated that they thought the company would have come and talked to the surrounding property owners. They stated they found out from the letter they received from the county about this project. Jackson stated that they had a landowner meeting in Canby and they have been in contact with the zoning office and some commissioners about the project.

Paul & Jenalle Tol are property owners that have a lease signed with the company and they stated it is not farmers against non-farmers. We are all in it together and every person has property rights. If they don't allow towers you are taking the rights away from the property owner.

Todd Kays from First District from Watertown, SD stated that the Deuel County Zoning Ordinance was designed from the Brookings County Ordinance. The 50 DVA is common throughout the state and 1000 feet to 3/8 mile from residents is the most common setbacks. A question about what if these went up by the city, Kays stated that the setback and the ordinance would be the same.

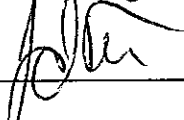
Dean Maeyaert, co-president of the Lake Cochrane Association had some questions about the project and stated that haste is waste and to make sure that they take their time with the wind tower project. The questions he asked were about the lighting, the size, road repair, and will the current company be the owner later on, or do they sell these projects. Jackson stated that, yes, they usually develop these projects and then they sell to a bigger company. Also the lighting on the towers is the minimum the FAA requires, and the mega watts are determined by the project. Jackson requested the zoning board to table their special exception application until the October meeting so they can visit with the lake and the property owners around the proposed tower sites. They are willing and want to work with the public and the property owners that are and not involved in the project. Motion by Rhody, seconded by Jaeger, to table the Special Exception to construct up to 12 wind turbines that are 3.45 megawatts in size for a wind farm in Norden Township (T114N, R47W) in sections 21 & 22 and in Herrick Township (T115N, R47W) in

sections 16,21,22,27,28 & 29, Deuel County until the next zoning meeting on October 17, 2016. All voted in favor and motion carried

10. James Ries applied for a Special Exception Permit. The request, if granted, would permit the applicant to use the following property: Lots 10, 11 & 12 in the Grabow Addition in Gov Lot 1 & 5 in the SW1/4NE1/4 Section 5-114-47, Lake Cochrane, Norden Township to build an accessory structure, a garage, located on a lot adjacent a lot with principle structure which is separated by a public or private road in Lake Park District. Ries stated that we would like to build a Morton pole shed/garage for additional storage. The board was concerned that if they allow this shed that is could be sold later and could have living quarters, or it could be sold to another person for their personal storage and they don't have a house near this property. The board discussed and if this scenario would happen it would be a special exception. Ries stated that there will be a bathroom and it will be a pole structure with 16 foot sidewalls with concrete floor. This shed will have a roof covered porch toward the road and the shed will be located 50 from the edge of the road. Ries also stated that he would like to plant trees on his lot to help with visibility of his lot. Motion by Jaeger, seconded by Brandt, to grant a Special Exception to build a 42' x 58' pole shed located on a lot adjacent a lot with principle structure which is separated by a public or private road in Lake Park District. All voted in favor and motion carried.

11. Motion by Dahl, seconded by Jaeger, to approve Plat of Musch Addition in the SW1/4 Section 24-117-49 Portland Township. All voted in favor and motion carried.

12. Kanengieter called the meeting.



Jodi Theisen  
Zoning Officer



Dennis Kanengieter  
Chairman, Zoning Board