



GRANT COUNTY SOUTH DAKOTA
PLANNING AND ZONING OFFICE
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Minutes from the meeting of Grant County Board of Adjustments April 11th, 2022

Planning Commission members present: Mark Leddy, Nancy Johnson, John Seffrood, Mike Mach (Grant Count Commissioner), Tom Pillatzki, Richard Hansen and Jim Berg.

Alternate(s) present: Don Weber, Jeff McCulloch

Planning Commission board members absent: none

Others present: Clee Braake, Darin Mertens, Evan Grong, Doug Fraasch, Holli Seehafer (Grant County Review), Jim DeVaal, Keith Christians, Bill Tostenson (Grant County Commissioner), Marty Buttke (Grant County Commissioner), Jackson Schwandt (States Attorney), Karen Layher (Grant Count Auditor), Todd Kays (First District), and Steve Berkner (Grant County Planning Commission officer.)

Meeting Date: Monday, April 11th, 2022

Meeting Time: 4 P.M. In-person in basement of the Courthouse.

1. Chairman Mark Leddy calls the Board of Adjustment meeting to order at 4:00 with a quorum of 7 board members and two alternates present.
2. Leddy ask if the board or any staff member had anything to add to the agenda with none being made.
3. Leddy makes an invitation for anyone present wanting to address the Board of Adjustments with an item not on the agenda with no one responding.
4. Leddy asks for a motion to accept the agenda as presented. Johnson makes a first to accept the agenda with Mach making a second. Motion passes unanimously 7-0.
5. Leddy asks for a motion to except the Board of Adjustment minutes from February 7th, 2022. Motion made by Johnson with a second by Hansen. Motion passes unanimously 7-0.

6. Leddy asks if there are any Conflicts / Ex Parte Communication with any seated board member. No one responds.
7. Leddy asks for a motion for the board to consider item “7A” on the agenda, Variance VAR02222022, a multiple setback variance for D & L Mertens asking to be 65’ from the front-yard Right-of-Way and 30’ from the west side-yard property line. Leddy recognizes a first by Mach and a second by Johnson to consider the variance.

Leddy asks Kays to make a staff report presentation on that “Mertens” variance application.

Kays begins his report by stating that there was a communication oversight between his office and Planning and Zoning Administrator Berkner that a set-back variance of 30’ was also requested to the north side-lot and that at this time that couldn’t be considered as intended by the applicant due that that third setback was not in the official Public Notice but that consideration of the front yard and west side-yard setback variances could continue with an option to revisit the omitted north set back variance at the next meeting if it was still needed.

Kays continued his report stating that the platted lot seeking setback variances was approximately 3.5 acres in size, 230’ deep (north to south) by 665’ wide (west to east), and was directly parallel on the longest side to 150th Street to the south.

Kays said the applicant was seeking to move in a 50’ x 70’ “second-use” post-frame style building and to add a 32’ x 50’ addition, making the total combined building footprint 102’ x 50’. According to Kays the applicant wanted the two buildings to set the long-way, north to south, which required the setback variances. Kays noted that if the building and its planned addition was turned 90 degrees on the property it would eliminate the need for any setback variances.

Kays added that the application has photos showing that the land does have a tendency for standing water accumulating in the center after snowmelt and heavy rains, but that fill could be used to raise the building enough to avoid flooding if the variances were turned down and the building was to be turned 90 degrees.

With Kays finishing his presentation Leddy opened the public hearing portion of the variance asking the permittee, Mertens, to make any additional comments missed in the presentation.

Mertens said that the building being moved in, and the addition to be added, would be used for storage of a mix of agriculture equipment as well as some personal vehicles.

Mertens addressed the chosen positioning of the building “north and south” stating the following reasons for that placement; 1) that due to prevailing winds he didn’t want the

existing overhead doorway facing either north or west where he would prefer to have all overhead doors face south which would also aid in melting snow and ice from the driveway slab in front of the doors, 2) that he was trying to avoid any seasonal flooding areas located mostly in the center of the lot as that water came from the north and west and flowed toward the southeast corner of his property, and 3) that he wanted to accommodate a possible future smaller building that could be built on the east side of the lot, again outside the areas where water tends to stand in the middle of the lot.

Leddy asked for any comments from the public attending the meeting where Doug Fraasch, the neighbor directly adjacent to the west, spoke about his concerns with the building being too close to the township road to the south possibly causing snow to drift across the road. According to Fraasch at times there already is a problem with snow drifting across the road and any building allowed to be closer could cause additional problems.

Grant Center Township Supervisor Clee Brakke, who stated he also lives on the same road further to the west, testified that he thought that building too close to the road, as others have been allowed to do already along that stretch of 150th Street, as well as the close proximity to large shelterbelt overgrown trees in that section of road to the north, are already causing problems with snow drifting across the road.

With no more comments from the public Leddy closed the public hearing portion of the Mertens' Variance request where the Board of Adjustment members discussed topics related to the shallow depth of the platted lots (230' from north to south) in the area that don't allow enough distance for setbacks without a variance.

It was noted that other setbacks of area buildings along the road were even closer, especially within Milbank City Limits, which share the same roadway, where setbacks are even less from road Right-of-Ways. It was stated that it appeared the average of most buildings along that section of 150th Street had a setback of around 65' to 70'.

The board asked Mertens if he would possibly consider seeking a smaller 10' or 5' setback from the north lot line that would then only call for a front-yard setback of 85' to 90' instead of the 65' he was asking for. Mertens said he would consider it once he had a chance to look at the property after the meeting where he thought if conditions were right that could possibly work.

Fraasch was asked by the board if he had any concerns about the 30' side-lot setback variance request from their shared property line and he responded that he had no problems about that request as long as the building didn't get any closer than that to the existing fence line. Fraasch also re-stated that his biggest concern was with possible additional snow drifting on the road to the south where placing the building as far to the north as possible would be better in his opinion.

After further discussion Kays suggested that the proper way to do the variance request now that Mertens was considering moving the whole building north to possibly within 5' of that

property line would be to postpone any vote until a future meeting date where a new variance request could be made on all three setback distances. Mertens indicated he would make a new variance request following that recommendation.

Leddy asked for a motion to postpone the current motion for a variance request until the next meeting which was made by Pillatzki with Seffrood making a second. A vote was called with all 7 board members voting yes.

Leddy asks for a motion for the board to consider item “7B” on the agenda, Variance VAR03072022, a setback variance for Evan Grong asking to be 62’ from the front-yard Right-of-Way. Leddy recognizes a first by Hanson and a second by Mach to consider the variance.

Leddy asks Kays to make his staff report presentation on the Grong variance application.

Kays begins his report by stating that Grong was seeking a variance to build a 30’ by 40’ pole building 62’ from the Right-of Way of County Road 150 where the Zoning Ordinance called for a 100’ set back from the R.O.W.

Kays also said that the applicant had inadvertently started construction of the building before either a variance, or building permit, had been obtained, and that the county had asked Grong to cease all building activity until a variance hearing could be held to decide the fate of the building project.

Kays also said that the property seeking the setback variance was located directly east of the Merten’s property and its setback variance request that was just discussed, where action on that variance was being postponed till the next Board of Adjustment meeting, and that both lots had the same characteristics with being 230’ deep by 665’ wide and acceptable to flooding in their low lying areas from surface drainage from the west and to the north as it flowed to the south and east along 150th Street.

Kays finished his report pointing out that it looked like other buildable areas may be available on the 3.5 acre lot site if the board did not grant the variance request where the fact that construction of the building had already started without a variance or building permit where those two facts should not be considered as a “hardship” for granting the variance.

Leddy than asked Grong if he had any comments to add to the conditions surrounding the variance request and Grong apologized for not seeking a variance and the needed building permit in advance as he just plain forgot to.

Grong also stated that area runoff, primarily from the north, tends to run through the north of where he has chosen to build and that he also had to be careful as to not get too close to his drain field and septic tank which are located to the north and west of where he wants to build. Grong also added that he wanted to line up with the circular driveway that already

existed and when he took all that into account and the location he choose was the best one available.

Grong also referred to other building setbacks along 150th Street where he said some buildings further west are as close as being directly on the right-of-way just a mile or so further west. Grong also noted that just east of his place along the section of 150th Street, which is in Milbank city limits (known also as West 12th Avenue), some buildings are only 30' to 40' from the right-of-way.

With no more comments from Grong, Leddy asked for any additional public comments where no one spoke up. Leddy addressed both Fraasch and Braake if they had any concerns for drifting snow across the township road like they did with the prior Merten's variance request and they indicated they did.

Leddy asked twice again for any public comments and with hearing none closed the public hearing portion of the variance request.

Kays explained that if granted any setback variance allowed the property to build any additional future structures at least the same distance from the property line so careful consideration needs to be taken and realize that additional buildings could be built just as close and not need an additional variance as any setback variance, if granted, would run the length of the lot.

A short discussion revolved around the problem with platted shallow lots where they may meet the minimum lot size to be a "buildable lot" but that if the lot was too shallow, like both the Mertens and Grong lots, that a variance almost always needs to be sought. Kays commented on how those type of concerns relate to the pending Comprehensive Plan Review and the importance of making changes to what is a proper buildable lot

With no further discussion Leddy called for the vote which passed 6 to 1 with Berg casting the only "no" vote.

8. With no more business to consider Leddy asks for a motion to adjourn the Grant County Board of Adjustments.

Board member Pillatzki made the motion to adjourn, Mach made the second. Before calling for the vote the next regular Board of Adjustment meeting was set for Monday May 2nd. Leddy than called for the vote to adjourn which carries unanimously 7-0.

Board of Adjustment meeting ends at 5:26

Steve Berkner
Planning and Zoning Administrator
Grant County