



GRANT COUNTY SOUTH DAKOTA
PLANNING AND ZONING OFFICE
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Minutes from the meeting of Grant County Board of Adjustments October 10th, 2023

Board of Adjustment members present: Nancy Johnson, Mike Mach, James Berg and Richard Hansen.

Alternate(s) present: Don Weber

Board of Adjustment members absent: Mark Leddy, John Seffrood, Tom Pillatzki and Jeff McCulloch

Others present: Tim Holtquist, Becky Holtquist, Lenny Stahl (Dakota Storage Buildings), Lundee Stadtler and Richard Misterek (Holton Engineering), Todd Kays via zoom (First District), and Steve Berkner (Grant County Planning Commission officer.)

Meeting Date: Tuesday, October 10th, 2023

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

1. Vice-Chairwoman Johnson sitting in for Chairman Leddy who is absent calls the Board of Adjustment meeting to order at 4:07.
2. Johnson asks if the board, or any staff member, had anything to add to the agenda with none being offered.
3. Johnson 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. Johnson asks for a motion to approve the agenda with Mach making the first motion and Berg making the second. Motion passes 5-0.
5. Johnson asks for a motion to approve the minutes as submitted from the August 14th, 2023, meeting which was made by Mach with Berg making the second. Motion passes 5-0.
6. Johnson asks for any seated board member if they think they need to recuse themselves from any discussion topics on the agenda, or from voting on an agenda item with no board member responding.

7. Johnson calls for a motion to consider Conditional Use Permit (CUP) CUP08232023 for the Koopman Brother's Dairy to add accessory worker housing to their CAFO CUP. Berg makes a first followed by a second by Mach.

Johnson asks Kays to give the staff report for CUP08232023.

Kays begins his staff report saying that Koopmans were seeking to officially add worker accessory housing to their Class A Dairy CAFO where the dairy is located on 160 acres southwest of Milbank within the N1/2 of Section 33 in Alban West Township.

Kays said currently that non-conforming worker housing already existed at the 160-acre dairy site, which was constructed around 2004/2005, where a few years later some office and meeting space was repurposed into worker housing but the only recently was it brought to the County's attention during a building permit request by Koopmans who bought the dairy in 2021.

According to Kays the County's Zoning Ordinance was amended in 2021 to allow accessory housing where existing Class A CAFOs had until October 1st of 2023 to amend their original CUP to allow worker accessory housing and that the current CUP amendment had met that deadline by officially applying on August 23. Kays went on to say that Koopmans Brothers' Class A Dairy was eligible to add housing for up to 18 workers in as many as 6 different dwellings.

At the conclusion of Kays staff report Johnson opened the public hearing for the CUP amendment request to add accessory worker housing to the Koopmans' Dairy asking three times for comments "in favor" or "against" the amendment where no one responded.

Planning & Zoning Officer Berkner announced that Koopmans was unable to attend the current meeting due to travel scheduling conflicts where Berkner said he may be able to answer basic questions related to the CUP amendment being considered from his conversations with Koopmans.

Berkner added that he wanted to stress to the Board that the non-conforming worker housing currently at the dairy likely began between 10 to 15 years earlier where according to Milbank Fire Department officials it was noticed during one of their routine fire safety inspections, and that since then there have been multiple owners of the dairy prior to Koopmans owning the dairy.

Berkner said in his comments saying that the dairy was also currently seeking to add a fourth residential dwelling for the dairy's manager and his family where according to Koopmans that would bring the number of actual dairy workers being housed at the dairy location to around 12 total.

Johnson then invited board discussion which focused primarily on that the re-proposed buildings, formerly known as the "chalet" and "the main office," should at the minimum

conform with International Building Codes for safety and South Dakota Codified Laws related to sanitary sewers where the following conditions were read aloud during Kays reading of the “Findings of Fact” to granting CUP08232023:

- A. Based on the size of the existing permitted CAFO, the maximum number of dwellings is 6 and the maximum number of persons living in Accessory Agricultural Housing is 18 unrelated adults.
- B. Prior to occupying the accessory agricultural housing dwelling/shared dwelling, the applicant shall provide documentation of compliance with the most recently adopted version of the International Building Code in accordance with SDCL 11-10-6 for any dwelling structure with two (2) or more dwelling units.
- C. Prior to occupying the accessory agricultural housing dwelling/shared dwelling, the applicant shall provide documentation of compliance with any South Dakota Administrative Rules 74:53.
- D. The dwelling/shared dwelling shall be removed or renovated into a single-family dwelling in the event the permit for the CAFO becomes void.
- E. In the event the accessory agricultural housing dwelling/shared dwelling remains unoccupied for a period of one (1) year; or is not used in conformance with this Chapter, the accessory agricultural housing dwelling/shared dwelling shall be removed or with permission of the Board of Adjustment may be used for any use accessory to the CAFO.

The motion to grant a CAFO Accessory Housing CUP to Koopman’s Brothers Dairy with the preceding conditions passed with a voice vote of 5-0.

8. Johnson calls for a motion to be made to consider CUP09052023 to amend a previous CUP for Dakota Buildings to grant a setback variance from SD Highway 15. Motion made by Mach with a second made by Weber.

During Kays staff report for CUP09022023 he explained that his report would also be related to the next listed agenda item as well, VAR09052023, and that while putting together his staff reports it was his opinion that there was no clear path to grant any setback variance due to continuity errors in the County’s Zoning Ordinance where in one section of the ordinance it allows a CUP to determine setbacks for non-residential structures saying in AG Zones that is perfectly clear but in Commercial Zones it is less clear.

Kays went on to explain that there also was a current zoning error to the land occupied by Dakota Buildings in that some of it was still zoned AG, where during a recent re-platting of

land due to the State of South Dakota widening their right-of way to Highway 15 the landowner had to vacate and replat existing AG land to offset the land lost to the right-of-way expansion where the next step after approving that plat was for the landowner to rezone that land to Commercial which hasn't happened yet.

Kays concluded that his recommendation to go forward was to have the landowner rezone the affected AG plat to Commercial to align with its use and to amend the County's Zoning Ordinance to clarify that any non-residential housing related CUP can be used to determine setbacks in any zone.

After a brief discussion it was the consensus of the board to amend the motion to postpone action on both CUP09052023, and setback related Variance VAR09052023, until the November meeting. Johnson called for the vote to postpone which passed 5-0.

9. With no more Board of Adjustment items to consider Johnson called for a motion to adjourn. Motion made by Weber and seconded by Mach. Motion passes unanimously 5-0 on a voice vote.

Board of Adjustment meeting ends at 4:41.

Steve Berkner
Planning and Zoning Administrator
Grant County