



GRANT COUNTY SOUTH DAKOTA
PLANNING AND ZONING OFFICE
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UNAPPROVED

Minutes for the meeting of Grant County Planning and Zoning/Board of Adjustment.

Members present: Mike Mach Bob Spartz Tom Adler Tom Pillatzki Gary Lindeman Richard Hansen Nancy Johnson

Alternates present: Don Weber

Members absent:

Others present: Terry Pellman Brian Riniker

Agenda for the meeting of Grant County Planning and Zoning/Board of Adjustment.

Meeting Date: **Aug 14, 2017** **Meeting Time: 4:00 P.M.** **The Court Room- 3rd floor**

1. Call Meeting of the Planning & Zoning to Order by Chair Johnson at 4:00 pm.
2. Approval of Minutes:
 - a. Monday, July 10, 2017 Motion by Adler
Question from Chair on clarification for Pillatzki- that would be handled by virtue of adopting the stenographers minutes that were made official. So this would just be a record of discussion and Pillatzki states there is nothing further needed by him. Mach seconds the minutes for approval. Carries 7-0.
3. Plat Approvals
 - a. Owners, Jodi Hormann, William Schellberg, Chad Schellberg and Carla Schellberg request the plat of Lots 1 & 2 of Schellberg Addition in the NW1/4 of NE1/4 of Section 24, Township 121 North, Range 47 West of the 5th P.M., Grant County, South Dakota. (Big Stone Township)
No signing of documents as they are going to be reprinted to obtain the treasurer signature. It is smaller than the preliminary plat and will be on the 11x17 paper with the vicinity map shrunk down. The new legal is as it is presented and it will be reprinted for her. All else is in order and will be brought back on Monday with the addition of the new legal description for the Treasurer certificate.
Platting into 2 lots question by Mach with part sold to NextEra hook up into substation right next to Ottertail. Motion by Pillatzki second by Adler carries 7-0.
 - b. Bert & Amy Loehrer, owners are requesting the plat of Lt1 Peschong Farm Second Subdivision in N1/2 NE1/4 of Section 25, Township 120 North, Range 48 West of the 5th P.M., Grant County, South Dakota. (Alban Township)
Presentation of the plat meets all the specifications to plat the buildings from the farmable ground to sell the building site. Motion by Spartz second by Hanson carries 7-0.
4. Adjourn as the Grant County Planning & Zoning Board
Motion by Adler second by Lindeman carries 7-0.

Call Meeting of the Grant County Board of Adjustment to Order

5. Table 1304.1 clarification of definition in *
A discussion of common ownership for future purposes of Grant County citizens. Beef cattle on either side of proposed site would create 1 cafo if under same ownership. They are proposing to form an LLC to keep the animal operations as is without investments for nutrient management and manure management plans at each of the existing locations and they would be separate ownership. Mark Reedstrom explains that an LLC is a full and separate entity. The applicant would not be an owner of this cafo. An LLC is like another person and it is a different person. Almost identical to a corporation or a trust- it would be an entity under the law that is capable of contracting owning property and suing and being sued and pays taxes. If the LLC was formed in his opinion if the applicant was not involved in the LLC he would not be the same person. An LLC has shares that own percentages as long as it is 100% in total and as long as the applicant is not listing a name in common with the existing permitted operations would be a separate entity.

If the existing cafo owner is not an owner on the LLC it is separate and he could still be involved as an employee/manager or an officer of the LLC. If he owns the land and the LLC is purchasing the land by contract for deed it doesn't matter. Only the interest in the LLC would change the ownership. There is also a requirement in our ordinance that the manure plans and nutrient management plans could not use the common areas. Co-mingling of the manure acres is not allowed and is important to keep in mind and that can be shown with separate plans.

Atyeo-Gortmaker states this is what the board needed education on so they can make an educated decision when the situation occurs. Example given that Gary Lindeman is not the same as the LLC but that he could represent as an employee or manager, etc. A relative, adult children will own the LLC and if Tom passes the children would not be able to inherit the operation because they would be the same owner. It was observed that the rule would be if it was to expand that it would be a grandfathered operation and would be separate permits and the discussion stated would make it 1 operation and Reedstrom concurred with common ownership. Atyeo-Gortmaker read the ordinance in the event of change of ownership of a,b,c, or e operation which was previously issued a county permit would have 60 days to apply and keep the said current permit valid. LLC at the state level would be able to have his name in the LLC and they could keep the permit so SD wouldn't take it away, stated Atyeo-Gortmaker. Reedstrom agrees with Lindeman at the point that children inherit it and have their name on the LLC and would gain interest in the other permits the situation changes and that is what makes sense to him. Johnson states the LLC stands alone and the children would inherit it. Reedstrom states that a change of events would place it under common ownership. Johnson states it would be the Trust that owns it. Mach states that it could still be two different owners depending whose name is on the LLC and all agreed. A new LLC could be formed with grandkids names, etc. Reedstrom reports that would be an issue for the future and a reclassification at that time would be a larger facility and would be addressed at that time.

At this time the 2 vested and permitted operations are recorded but manure management or anything else has not been required asks Johnson. Atyeo-Gortmaker states this is why we are discussing this today so we have it clear to be able to bring the other operations up to date for these plans to our level to show separation of manure and nutrients for each of the cafo's. Those questions need to be asked and it will show acres are different for each. Reedstrom points out that they are probably going to want to see that they have formed an LLC and filed with the Secretary of State and is in good standing and they have articles of organization which shows who owns that LLC. Johnson points out this is extremely technical at that point. Mach asked if the owner would be able to come up with enough acres to run a poop line and the rough calculations were given to the board for tillable versus property with buildings too. Points to existing the cafo's and it would be under LLC and no other setback issues exist at this time. Setback waivers were discussed with Bon Homme county current news and a neighbor will not sign off for the increase of a herd because "you shoved a pig lot down my throat 2 years ago and I am not signing off". And this is why we visit about setting a precedent- if you do something for somebody then you do that for others as you move forward and this is a family that is trying to do things right. Mach asks about location of residences in area and it was discussed there was a sale of property in the area but it does not show in the courthouse records at this time but it is located South of Strandburg. Johnson asks- if he was more than a mile away they are considered two separate operations but by placing 1 in between them it brings all of them closer unless they create the LLC all of the operations would need to have manure management and nutrient management plans and facilities approved by the state.

Johnson asks if there are hogs on his place that may be empty and he has hogs in Codington county. He has other property and if he was further away than 1 mile he would be able to have his name on the LLC but there is an economics issue when your feed mill is located at 1 place and you drive to the other place and this is within passing distance to the other facility. You can use feeding facilities for more than 1 facility. We don't know what is going to be proposed without a permit but knowing what common ownership is will help to place that on the table after the landowner's investment in the property and paperwork. Pillatzki points out there will be some work involved and it was acknowledged the position of the P&Z Officer is to know the rules and assist the producer through the permit process without getting the rug pulled out from underneath them. Johnson asks if this would be an expansion if it would be grandfathered in but that would put them under 1 owner and then he would have to put in 2 lagoons plus the hog confinement at his age just to bring his children home. He is trying to put the barn up without going over the state permit numbers but be a new cafo that meets those specifications.

Liquid fertilizer is used on the property at this time but he would propose separation of species and systems according to the state rules even for his class e operations. Johnson states he wants to stay at his current with cattle but add a barn without combining the numbers. Mach replies that is

understandable. At the point there is a permit all of this information would be presented in which you are asking for. It would just need to be a long term plan showing different acres states Pillatzki. State would treat it separate even if his name was in the new LLC and on the other property the county is stronger in this situation for common ownership.

6. Next meetings:
 - a. Regular meeting: September 11, 2017 at 4 PM
Mention of October meeting moved to Tuesday as the Monday is a holiday.
7. Adjournment of the Grant County Board of Adjustment Motion by Mach second by Spartz passes unanimously.

Krista Atyeo-Gortmaker
Planning and Zoning Officer
Grant County