



GRANT COUNTY SOUTH DAKOTA
PLANNING AND ZONING OFFICE
210 East 5th Avenue
Milbank, SD 57252-2499
Phone: 605-432-7580
Fax: 605-432-7515

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

Members present: Nancy Johnson Mike Mach Bob Spartz Richard Hansen Tom Adler in at 4:15

Alternates present: Dave Kruger

Members absent: Gary Lindeman Tom Pillatzki

Others present: LeRoy Capp Mark Schuler Ron Anderson Tim Waldner Paul A Anderson Tim Wollschlager Denise Scoblic James L Anderson Kristi Mogen Bill Street Todd Lounsbury Blake Sime Kare Layher David Kruger Vincent Meyer Patricia Meyer Keith Welberg Doug Wollschlager Chuck Wollschlager Adam Pauli Adam Hunt John Loeschke Roger Loeschke Dave Wollschlager Dakota Giossi Rebecca Coomes Michael Coomes Dan Loehrer

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

Meeting Date: Monday, February 13, 2017 **Meeting Time: 4:00 P.M.**

Because of the Hearing- we will meet in the Court Room- 3rd floor

1. Call Meeting to Order at 4:05 pm by Chair Johnson
2. Acknowledgement of Grant County Board of Adjustment Procedural and Rules of Conduct available at the sign in desk.
3. Approval of Minutes: January 9, 2017 amended to reflect Jan 9 to be a Monday Motion by Mach with that correction and second by Hanson carries 4-0.
4. Plat Approvals
 - a. Michael D and Nancy J Johnson, request the plat of Lot 1 of Dana Johnson Addition, located in Government Lot 2 of Section 11, Township 120 North, Range 48 West of the 5th P.M., Grant County, South Dakota (Alban Township) Motion by Mach second by Kruger
 - b. Cal Stengel, owner request the plat of Lots 1, 2, 3 of Stengel First Addition located in the S1/2 of the SE1/4 of Section 26, Township 121 North, Range 48 West of the 5th P.M., In the County of Grant, South Dakota (Melrose Township) Motion by Hanson second by Mach carries 4-0.
 - c. Harold R Dimberg Jr Family Trust and the Ellen M Dimberg Trust, request the plat of Lot 2, Ronglien Subdivision, located in the E1/2NE1/4 of Section 20, Township 121 North, Range 46 West of the 5th P.M., Grant County, South Dakota (Big Stone Township) Motion by Spartz second by Adler carries 5-0.
5. Conditional Use/Variance Requests/Rezoning
 - a. Permit No. VAR01112017, Joseph Frevert, Applicant in Lot 2A of Subdivision of Lot 2 Schumacher's Subdivision Section 33, Township 121, Range 47 of the 5th Principal Meridian, Grant County, South Dakota. (Big Stone Township) The request, if granted, would, allow the replacement of existing house with a new house to use the existing hook ups. The house request is for 145 feet and the garage would be 127 feet from 482nd Ave. (Big Stone Township) Motion by Kruger second by Spartz after only a few clarifying questions were answered to the board. Motion carries 5-0.
 - b. Permit No. VAR01172017, Blue Sky Colony by Tim Waldner, Applicant Lot 1 Roggenbucks Addn in SW1/4 Section 19 of Township 119, Range 47 and SE1/4 Section 24 of Township 121, Range 48 of the 5th Principal Meridian, Grant County, South Dakota. (Vernon Township) The request, if granted, would, allow a Hutterite Colony and agribusiness.

A presentation of the permit by Krista Atyeo-Gortmaker accompanied by a reading of the definition of institutional farm and ordinance item number in the Ag District for a CUP. A discussion started between the board and Tim Waldner of the Blue Sky Colony. Questions such as: nature of the agribusiness and shop, location of their Britton colony 7 miles from town in Marshall county, 30 plus families some with 1-2 people, coming to find more work, will have livestock. State could provide a

teacher if requested but the district gets the student allotment and count. Their intentions are to have homes built and 5 families living here by the end of 2017.

Those opposed were called to state their name and their opposition: Keith Welberg stated the newspaper notice was given for Twp 121 instead of 119 and needed to be republished to have the hearing. Kristi Mogen wanted to know if the school accepted public funds if her kids could go there, would the rules be the same for them with confined animals, she had to prove to farm credit their 40 acres would support their family and for the colony to be sustainable it would take a certain number of animal units according to the US government. Blake Sime stated there were 3 houses there now- but 1 is the school building, asked if they paid state taxes and sales taxes and income taxes etc. Waldner stated they do not get off the hook for that and they pay all the taxes except on the school and church. Chuck Wollschlager said the benefits to the county would be none as they would move their own products in and out such as hay and straw. Waldner stated they are actually buying grain now and they do as much locally as possible. Chuck asked Waldner to stop in and talk to the neighbors and Waldner asked if he was the seed dealer.

Anyone else opposed to speak? call once call twice

Bill Street asked why the CUP was only for the 163.05 acres and not the total acres that were purchased. It was explained the request to conditionally use the acres listed here are for the colony location and the other acres would be tillable or farmed acres. Dan Loehrer reported he was opposed as this is an end to the next generation of farmers. If they come in a take over it would be like a knife in his back and the county is twisting it. If any land comes up for sale it will be gone and we will lose the next generation and it won't give Stewart a chance or Pauls kids. Maybe he is wrong but there is no future for us and he urges a vote against.

Anyone else opposed to speak? call one call twice

Dave Kruger agrees with those opposed but it isn't the authority of the P&Z Board to judge who can/ can't operate. If the board is honest it will be approved. Who is to say your family isn't going to become large and take it from us too.

Anyone else opposed to speak? called 3 times

Call for those in Favor to speak? called 3 times no one came forward.

Meeting was closed to public comment and Mach stated there were good comments about open enrollment and keeping business local. Hanson pointed out the grain in our area isn't staying here with others either and that isn't affecting the next generation.

Johnson calls for motion- Kruger states he needs more than 3 days to consider the request and would like to table to March 13th meeting and requested the republication of the corrected township. He also requested answered for the taxing information and school attendance information. Seconded by Adler. Motion carries 5-0.

6. New Business

- a. Kathy Tyler complaint – Mark Reedstrom meeting was arranged by phone as Tyler was unable to attend. Reedstrom gave options to the board for the complaint and he was asked to address the board and give his thoughts. A review of the January 19, 2017 letter and request asked the board to amend their findings and change them to reflect the CUP in which Teton was requested to place the most effective Phase 1 fans at the facility and there is a difference in the verbiage of the conditions of most cost effective. Davenport Evans made the requesting document and requires a decision by February 15 and Reedstrom advised no action. This is a writ of mandamus to compel the board or specifically require the board to do an action. Ms Tyler feels it was not an approval of the board and only was signed by the chair. Reedstrom advises do nothing and leave her to her course of writ of mandamus to circuit court.

The reason why is this: a decision makes rise to appeal and issues reviewed are of changes. Findings of Fact have become a settled record with atleast 2 actions and Supreme Court decisions. These documents were reviewed several times and have been relied upon for determinations and it would be inappropriate to change the record at this time. This is defensible under the writ of mandamus and the board used a manner of review and it is Reedstrom's advice and explanation that a decision on this question would be easier to defend if the board did nothing and there was no change.

The inconsistencies at the time had a remedy to appeal. Kathy Tyler did exercise that right with atleast 2 successive court hearings in which no one complained. Spartz stated it was his understanding there will be no change but acknowledges the difference

in the minutes compared to the contract. Reedstrom answers yes, but it was accepted that way and this is now the time to either make a motion or if there is none the complaint and appeal dies.

- b. Light Industrial Agribusiness ordinance review and recommendation Mach made a motion to recommend the Agribusiness Ordinance as written to the County Commissioners and Hanson seconds carrying 4-1 with Kruger voting no.
 - c. A discussion about receiving information as it is published for conditional use permits and variances. After discussion it was noted that receiving the hearing publication information would be sufficient to allow the P&Z member an alert to the request before the public receives it.
 - d. A discussion about timing the permit requests by Mach asking the question of why they are waiting until the last minute and our decision putting them behind. Why don't they get it in early like 6 months or a year and we set a time limit or a deadline earlier? That way we can table them for consideration like the CUP for today. LeRoy Capp interjects he would like everything they give the board to be read and considered or it feels like a slap in the face.
7. Old Business
 - a. Adoption of ordinance 2016-01A- 1-31-2017
 - b. Administrative form completions Chair Johnson requested an electronic copy to be sent out to the board for their review.
 8. Next meetings:
 - a. Regular meeting: March 13, 2017 at 4 PM
 9. Adjournment Motion by Spartz second by Kruger carries 5-0.

Krista Atyeo-Gortmaker
Planning and Zoning Officer
Grant County