**Hamlin County Board of Adjustment**

Date: May 22nd, 2019

The Hamlin County Board of Adjustment met on May 22nd, 2019 at the Hamlin County 4-H Building in Hayti, SD. Board Members present were Larry Saathoff, Scott Popham, Len Kemnitz, Richard Wiarda, Robbie Fedt, John Pantzke, and Doug Noem. Also present was Thomas Nealon from First District in Watertown. A list of others attending the meeting is attached to the minutes and available in the Hamlin County Zoning Office.

Chairman Wiarda called the Board of Adjustment meeting to order at 7:11 P.M.

Motion by Pantzke, Second by Kenmitz to approve the May 22nd Board of Adjustment Agenda as amended. Motion passed unanimously.

Motion by Popham, Second by Saathoff to approve the April 29th Board of Adjustment meeting minutes. Motion approved unanimously.

1. **Board Discussion**: This discussion is a continuation from last month’s discussion on the Alsville Crossing Gas Station about drainage and fence issues. The Board asked Staff to bring in the Engineer who designed the drainage plans in for discussion and to answer questions from the Board. Andrew Kangas was present at the meeting and was sat alongside was Jeff Halme of Alsville to speak about the drainage plans. Kangas answered questions about the design of the drainage plans, going over specifics about the design parameters and details about the design with reference to the plan layouts shown on the projector screen. Halme states they constructed the drainage plan to the specifications laid out by the engineer. No requirements are mandated by the County or State for drainage on this particular use but during the initial hearing the Board required a designed drainage plan to accommodate the use and concerns of the adjoining property owners. The Board asked questions on drainage patterns, design parameters, and asked for explanations of how the system worked. Jordon, Deb, and Ken Kontz were allowed to speak as the main adjoining property owner’s concerned with the Alsville Crossing drainage plans and concerns over proper installation of the drainage system and other matters. They discussed their perspective on the failure of the Alsville in maintaining drainage of materials off their site and onto their property. They also listed a few other issues concerning the gas station such as the fence, septic systems, and drainfields as concerns of the design and construction of the project. They asked the Board to seek remedies to these issues. The Board instructed Staff to go inspect the drainage system at the site to determine if it was built to the plans submitted to Staff.
2. **Conditional Use**: Arlington Rental Property/John Hurley. Legal Description: Block 1, Petersen Second Edition in the E ½ of the SE ¼ of Section 36, Township 113N, Range 53W of the 5th P.M., Hamlin County, South Dakota (Norden Township). Motion by Kenmitz, Second by Saathoff to approve the conditional use permit to construct commercial storage garages. Nealon reviewed the staff report. The applicant is seeking to construct four commercial storage garage buildings for private personal storage of items to individuals. The property is currently owned by Mr. Hurley and upon approval would be transferred to Arlington Rental Property. Robert Jenkins of Arlington Rental Property spoke to the project. He talked about the need to raise the property higher to ensure water would not impede on the buildings as the water level in the surrounding area is quite high now. He talked about traffic pattern, highway access, construction materials, and the surrounding wetlands. Noem asked a question about the placement of the project, if he believed this was the best place to locate along the Highway. Jenkins was reassured about the location as it will grant easy access for people at the lake to store boats and other items nearby. Jenkins stated he was approached about possible multi-use office space on the property, but did not entertain the idea after learning it would not be compatible on this property as it sits in the Lake Park District. Wiarda opened the public hearing. No proponent or opponent testimony was heard. Wiarda closed the public hearing. Noem raised a point that while there was a need for storage at the lake, he felt they would need more time to think about this proposal. He was joined in this by Kemnitz and Pantzke that further review would be the best path forward. Motion by Kenmitz, Second by Pantzke to postpone discussion until the June Board meeting. Wiarda called a roll call vote on the motion. Motion to postpone passed unanimously.
3. **Conditional Use:** Josh Spilde. Legal Description: Block 1 Spilde First Addition in the SE ¼ of Section 36, Township 113N, Range 53W of the 5th P.M., Hamlin County, South Dakota (Norden Township). Nealon reviewed the staff report. Mr. Spilde is seeking to expand his campground for a total cumulative of 130 camping pads with the addition of property on the western side of the campground. Spilde spoke to this request. He stated that the camping pads north of the main road would not be implemented into the project as that low-lying area is susceptible to flooding, so there would be 125 camping pads in total. Pantzke asked questions about the sewer system, asking about State approval and inspection from the Lake Poinsett Sanitary Sewer District. Spilde had confirmed the increase in camping pads and increased sewer containment with the DENR, but could not confirm if the Sanitary District had done an inspection of the system. Wiarda asked about the previous plans and how they differed. The changes would also get rid of the planned commercial storage garages on the east side and those would be filled in with camping pads. Kemnitz asked about the shelter and their agreement with the local Methodist camp nearby. Kentmiz stated he would like to see a shelter on site. Pantzke stated he was not adequately assured the sewer requirements have been completed. Wiarda was not sure about the expansion and the next item on the agenda concerning the commercial storage garages Mr. Spilde seeks to place on property adjacent to the campground and how they would work together. The Board had reservations about these issues and as such a motion to postpone action on this item was made by Pantkze, Seconded by Fedt. Wiarda called a roll call vote on the motion. Motion to postpone was approved unanimously.
4. **Conditional Use:** Josh Spilde. Legal Description: Block 1, Bjorklund Addition in the E ½ of the SE ¼ of Section 36, Township 113N, Range 53W of the 5th P.M., Hamlin County, South Dakota (Norden Township). Before Nealon read the staff review, he asked if the Board would like to postpone this item after the last item and their concerns with Mr. Spilde’s plans and his intended use of the storage garages. Mr. Spilde stated he would like to see other commercial operations on site and Staff agreed that this proposal would not suit his desired outcome. Motion by Fedt, Second by Kemnitz to postpone action on this item. Wiarda called a roll call vote on this motion. Motion to postpone was approved unanimously.
5. **Conditional Use:** Riverview Dairy LLP/Roger Fritz. Legal Description: SE1/4 of Section 23, Township 115N, Range 54W of the 5th P.M., Hamlin County, South Dakota (Oxford Township). Motion by Pantzke, Second by Kenmitz to approve the conditional use permit to construct a Class A CAFO. Nealon reviewed the staff report. Riverview Dairy is seeking to construct and operate a 10,000 Jersey Cow Dairy on property owned by Roger Fritz in Oxford Township in Hamlin County. After Nealon read the staff report, Ben Stout, Brady Janzen, and Roger Fritz gave a presentation about the proposed project. Roger Fritz spoke first, explaining the reasoning for working with Riverview and choosing the location for the dairy. He believes the access to liquid manure for local farmers and potential for farmers to sell corn, silage, and alfalfa to Riverview will greatly benefit the area’s farming community. He talked about his family’s background in dairy farming and spoke more about Riverview’s operations and practices. Ben Stout of Riverview then began a presentation with a slide show overviewing the potential project and outlining their application and supporting materials. He talked about why they chose this site, proximity to the Agropur Cheese Plant and siting requirements for CAFO of this size. He went on to discuss the operations of the proposed dairy, traffic patterns, manure handling processes, design features and other items associated with the project. He stated Sioux Rural Water can provide them with their water supply, but they are still searching for an alternative water source to serve the site. Ben Stout finished the presentation and Board members began to asked questions. Kemnitz asked about the private drive leading from SD Highway 22 to the main site, if it would be paved or gravel. Janzen stated this would be gravel and they would used dust control measures to minimize dust from the 8-12 trucks that would travel on this road daily. Wiarda asked about the manure separation process. Stout stated the solid stacking pad, where by-products of the separation process end up, would be uncovered but the smell would be negligible. Janzen went further into detail on the manure handling process and stormwater retention ponds. Noem asked about the on-site living accommodations and how many they expect to live on site. Janzen stated it varies from site to site, they are designed for single people, but it was built to house up to 48 individuals. Saathoff asked about the quality of the liquid manure after the separation process. Janzen and Stout both regarded the quality of the liquid manure as highly rated and full of the nutrients desired by farmers. Before the public hearing was opened, Wiarda called for five minute recess before the public hearing portion. With no more questions by the Board at the time, Wiarda opened the public hearing. Proponent testimony was heard from the following individuals: Sonny Nicheson, Julie Veldhais, Denver Nickeson, Dorn Malpert, Dean Schmidt, Loren Beld, Nate Huttgre, LeeAnne Baruk, Kirby Hettver, Joe Lakness, Jon Anderson, Tim Czmowski, Jeff Halme, and Keith Smith. No further proponent testimony was heard. Opponent testimony was heard from: Vince Foley, representing two individuals who spoke for ten minutes about issues with Riverview’s application and issues with meeting all the regulations in the Zoning Ordinance concerning CAFO’s. Further opponent testimony was heard from: Richard Smith, Kent Roe, Larame Zimprich, Robert Schultz, Erik Schaefer, Stephanie Vetter, Marv Bonin, and Tyler Tesch. With no more opponent testimony to be heard, Wiarda closed the public hearing. Stout and Janzen were brought back up to answer questions raised during the public hearing. They answered specific questions raised by Mr. Foley concerning setbacks, wells, and the nutrient management plan. They stated they measured setbacks based upon the Zoning Ordinance definition of setbacks between uses and their measurements were accurate that they met all the requirements. They spoke to the site design features and that these are in place to reduce the impact the dairy has on the surrounding landowners. The nutrient management plan was included in Riverview’s application and met all the requirements necessary for a complete application. They addressed the issue concerning Mr. Zimprich’s testimony and would remedy the issue upon further inspection of the signed agreements. On the private roadway leading to the site, they stated it would accommodate the increase in traffic to the site and all seasonal truck traffic coming onto the site would most likely use township roads. They stated they would be working with Oxford Township to cover all extraordinary maintenance of the roads and provide help as needed. Janzen brought up Riverview’s application to the SD Governor’s Office of Economic Development for a sales tax rebate program that would assist the County. Staff was aware of this application prior to the hearing, yet it was determined it was not necessary for the Board to know of this development as it did not concern the basis upon which the Board would be making their decision and the possibility of pre-disposing the Board to this information. Janzen talked about stormwater drainage, aquifer, water source, and rendering facilities based upon questions brought up in the public hearing. Brian Donahoe, a lawyer representing Riverview, discussed issues relating to testimony brought forward by Mr. Foley regarding private well setbacks and the overall application. Popham interjected and stated there is a functioning well on his parent’s property that he maintains and uses. The well may or may not be within the ½ mile setback required for the applicant to meet. State’s Attorney John Delzer stated it upon the applicant to know of all the requirements they need to meet, including the location of all wells nearby to the site. Riverview stated they did not know about the location of the well and believe they should be able to measure this distance before a decision is made. Popham questioned Riverview further on if they had contacted his parents concerning the project. They stated they had not because of the relationship to a sitting Board Member. Donahoe made additional statements concerning the well. Chairman Wiarda called for a recess. The Board reconvened ten minutes later. No further questions were asked by the Board. Nealon read the findings of fact. Wiarda called a roll call vote. Motion to approve the conditional use for a Class A CAFO was denied 7-0.

With no further business, motion by Popham, Second by Noem to adjourn the Hamlin County Board of Adjustment meeting. Motion passed unanimously.

It is the policy of Hamlin County not to discriminate on the basis of color, national origin, sex, religion, age, or disability in employment or the provision of services.