**Hamlin County Board of Adjustment**

Date: June 24th, 2019

The Hamlin County Board of Adjustment met on June 24th, 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 and Todd Kays 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 6:00 P.M.

Motion by Pantzke, Second by Fedt to approve the June 24th Board of Adjustment Agenda. Motion passed unanimously.

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

1. Motion to Reconsider – Oxford Dairy Conditional Use. As request by Board Member Kenmitz, he wished to have a discussion on the decision made at the May 22nd Board of Adjustment meeting on the decision to deny Riverview their application to construct and operate a 10,000 head Dairy. Wiarda began with an introduction to the topic at hand and went through with the Board Members if they believed they needed to recuse themselves from this discussion and further procedure. No Board Member stated as such and no challenges were made to these decisions. Nealon reviewed the course of events and the procedure for how this action are to play out. Wiarda called for a motion to reconsider to bring the matter to a vote. Motion was made by Noem and seconded by Fedt. Noem offered a reasoning for making the motion stating he felt the applicant met all the requirements and had doubts about the decision made based upon the information they had at the previous meeting. Wiarda called for a roll call vote on the motion. The vote was 4-3 in favor of continuing discussion, but the motion required a two-thirds majority to continue discussion, thus the motion was not approved. Discussion then continued as to the proper procedure if the motion required a simple majority or two-thirds. State’s Attorney John Delzer stated that the motion required a two-thirds majority as stated in SDCL under the supremacy clause. Legal Counsel for Riverview stated it should just be a simple majority. Staff began to look at Roberts Rules for a clarification, determining it does require a two-thirds majority on a motion to reconsider, State’s Attorney concurred with this determination. Wiarda agreed with this recommendation and stated a two-thirds majority was necessary and thus the motion did not pass.
2. Board Discussion: Alsville Crossing Gas Station. After last month’s discussion with the operators of the gas station and adjacent landowners, the Board instructed Staff to do a site visit of the gas station accompanied by an Engineer to certify the site’s drainage plans were constructed as submitted. Staff presented the report conducted by Civil Design outlining the drainage plans and what was observed on site. Based upon the report, the drainage plans were consistent with what was built on site with as much as they could determine without excavating portions of the property. Jeff Halme was there to discuss the report and answer questions of the Board. Pantzke asked if the sandbags on the east side of the property would be permanent. Halme stated those would be there temporarily once the curb they plan to install was finished. Saathoff asked if there would be sealant between the curb and pad. Halme confirmed this and there would be a pipe running to the catch basins. Kenmitz asked about the discharge to the north of the property, if there would be any rip-rap to protect it. Halme stated they could do that if requested. Pantzke commented on the overall design plans, stating he thought they were better than the original design plans for a surface retention pond. Board members also discussed matters of the fence, stating they believed the one installed is sufficient and with landscaping between the bottom of the fence and ground that is should serve its purpose. The Board had no other issues to discuss with this matter.
3. **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). This was a postponed item from last month and picks up after the public hearing was closed and motion to approve on the table. Wiarda asked about wetlands surrounding the property. Jenkins stated they would ultimately build up 2 to 3 feet for the base elevation of the buildings to address those concerns. Kenmitz asked about screening of the property and siding of the building. Jenkins stated they would have a fence on the south and west portions of the property, and they would have Morton style buildings with two-tone siding. Runoff from the property would drain to the ditch adjacent to the highway and portions to the slough on the north side of the property. Kenmitz asked again about siding, wondering if a more appealing option was available. Jenkins stated this was their intention, there wouldn’t be any outdoor storage, fencing should help with site design and outward appearances. Noem asked about the location and if there were any better locations in his mind for commercial storage. Jenkins stated they chose this location for its proximity to the campgrounds and concentration of housing nearby for Lake residents to store items. Kays asked questions of the applicant concerning screening and buffering, utilities, and signage. With no further questions, Nealon read the findings of fact and restated the motion. Wiarda called a roll call vote. Motion to approve the conditional use passed 7-0.
4. **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). This was a postponed item from the last meeting and picked up at the public hearing portion of the meeting with the motion to approve on the table. Pantzke asked if he had met all the requirements for his sewer installation. Spilde stated he had received approval from DENR and had to install a few last components to complete it. Wiarda asked the reasoning for changing plans. Spilde stated with no commercial storage garages, the plan was to infill with more camping pads as he was approved to up to 118 camping pads last year. Fedt asked about the possibility of having a storm shelter onsite. Spilde noted there were no state or local requirements at the time of construction and would need to know what specifications to follow in order to build a proper storm shelter. Kays stated FEMA does have specifications but that the Board can also impose additional requirements. Delzer, representing Spilde, stated the Board need not impose commercial requirements in the Lake Park District. Pantzke discussed Spilde’s agreement with the Methodist Camp at Lake Poinsett to take campground residents during the severe weather. Spilde wondered if this was objectionable to members now, why didn’t they speak of this at the original hearing. Kays spoke of other similar storm shelter projects in Lake Preston and Flandreau. Spilde offered a compromise in that he would expand his campground to the maximum currently allowed (118 camping pads) and would begin looking into what costs would be to construct a storm shelter and if he wishes to expand beyond 118 pads. Spilde and Bob Westal confirmed he was in line with Lake Poinsett Sanitary Sewer requirements for his site. With no further discussion, Nealon read the findings of fact and restated the motion. Wiarda called a roll call vote. Motion to approve was passed unanimously.
5. **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). Motion by Kenmitz, Second by Fedt to approve the conditional use to construct commercial storage garages. Nealon reviewed the staff report. Spilde seeks to place four buildings for commercial storage garages/future mixed use commercial. Board was encouraged about Spilde’s future plans for the site and want to see an ordinance amendment to make this happen to allow for mixed-use properties in the LP district. Wiarda opened the public hearing. No proponent or opponent testimony was heard. Wiarda closed the public hearing. Nealon read the findings of fact. Wiarda called a roll call vote. Motion to approve the conditional use passed unanimously 7-0.
6. **Conditional Use:** Otter Tail Power Company. Property Description: 50’ wide easement that would be parallel and adjoining township/county road right-of-way on certain property situated in Norden, Hayti, Florence, Dempster, and Estelline Townships. Motion by Fedt, Second by Schubloom. Nealon reviewed the staff report. Otter Tail is seeking to construct a similar electrical transmission line as they did last year from Lake Norden down to Badger. This line would run from Lake Norden north out of town east to Toronto in Deuel County. Jesse Clorving of Otter Tail spoke to the project. He stated they have about 79% of the easements they need and sought to not have the requirement that all easements were needed before the construction can begin. Wiarda opened the public hearing. Vicki Severson of Otter Tail spoke, reiterating the need to begin construct sooner rather than later. Kenmitz asked about previous project if they acquired all easements as they laid out. Severson said no, they had to zig-zag across properties. No further proponent or opponent testimony was heard. Wiarda closed the public hearing. No further questions were asked by the Board. Nealon read the findings of fact. Wiarda called for a roll call vote. Motion to approve the conditional use passed unanimously 7-0.
7. **Conditional Use:** Jeff Brannen. Legal Description: S ½ of Lot 10, All of 11& 11A & N ½ of Lot 12 of the 5th P.M., Hamlin County, South Dakota (Estelline Township). Motion by Kenmitz, Second by Pantkze to approve the conditional use for an unattached garage with dimensions greater than 36’ x 42’ and 10 1/2 ‘ sidewalls. Nealon reviewed the staff report. Brannen is seeking to construct a garage on his backlot property at Lake Poinsett. Similar size to adjoining properties and would meet all required setbacks. Wiarda opened the public hearing. No proponent or opponent testimony was heard. Wiarda closed the public hearing. With no further questions by the Board, Nealon read the findings of fact. Wiarda called a roll call vote. Motion to approve the conditional use was approved unanimously 7-0.
8. **Variance:** Jerome Johnson. Legal Description: Nelson’s Beach: Lots 9 & 9A of the 5th P.M., Hamlin County, South Dakota (Estelline Township). Motion by Pantzke, Second by Saathoff to approve the variance request for a reduced rear yard lake front setback. Nealon reviewed the staff report. Johnson is seeking a reduced setback for the reconstruction of a deck and enclosed porch. Footprint of the deck and porch would not change from the existing site. Johnson spoke about his project. Wiarda opened the public hearing. No proponent or opponent testimony was heard. Wiarda closed the public hearing. With no further questions by the Board, Nealon read the findings of fact. Wiarda called for a roll call vote. Motion to approve the variance was approved unanimously.
9. **Conditional Use & Variance:**  Rick Stevens. Legal Description: Lots 4, 6, and Lots 8-19 of Lake Albert First Auxiliary Addition in the E ½ of Section 25, Township 113N, Range 53W of the 5th P.M., Hamlin County, South Dakota (Norden Township). Nealon reviewed the staff report. Stevens is seeking to construct commercial storage garages nearby Lake Albert in the North Bay area. Stevens spoke about his project. During discussion, Kays offered the solution that he could condo plat this property and the variance would need not be required to construct the buildings. The Board agreed to have this as a condition instead of granting another variance. Kenmitz asked about sewer requirements, road issues, and layout of the property. Wiarda opened the public hearing. No proponent testimony was heard. Opponent testimony was heard from Bob Westhal. No further testimony was heard. Wiarda closed the public hearing. With conditions of condo plat approval and covenant concerns, the applicant withdrew his variance request and proceeded with the conditional use. Motion by Fedt, Second by Saathoff to approve the conditional use. Nealon read the findings of fact. Wiarda called for a roll call vote. Motion to approve the conditional use with conditions was approved unanimously 7-0.

With no further business, motion by Kenmitz, Second by Pantzke 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.