

January 30, 2026

Re: Proposed plan for back lot on 158 N. Lake Drive, Castlewood, SD, 57223

To Whom It May Concern:

On December 16, 2025, the Hamlin County Zoning Office sent a Notice to Alan and Stephanie Grey advising them of the Office's findings that their property does not comply with the Zoning Ordinance of Hamlin County governing Lake Park District 1. The Notice required the Greys to submit a plan "for the removal of the structure and/or bringing it into compliance by December 31, 2025." On December 31, 2025, the First District Association of Local Governments, on behalf of the Zoning Office, granted an extension to January 30, 2026, to submit a plan for the structure to comply with the Ordinance. On January 6, 2026, the Greys and their contractor, Prairie Grass Construction, submitted an appeal of the Office's determinations. This letter constitutes the proposed plan requested by the Zoning Office.

**A. Sidewalls**

**BACKGROUND**

The Notice identified the Greys' sidewalls as non-compliant under Ordinance 3.07.11 and Table 3.07.11.1 because they exceed 12 feet in height. As noted in the Notice, sidewalls on back lot accessory buildings may be higher than 12 feet if a landowner obtains "adjoining landowner signature[s]." In their appeal packet, the Greys enclosed signatures from Brian Hanson and Cherri Olson, the owners of the adjoining parcel to their west, and Craig Brooks, one of the owners of the parcel to their east, assenting to sidewalls greater than 12 feet high.

In correspondence dated January 23, 2026, the First District stated that the Greys only submitted the signature of one adjacent landowner. However, the appeals packet shows that the Greys submitted signatures from the landowners on both the east and west sides. Further, the First District added that the Greys must also obtain the signature of the landowner of the parcel across from the Greys, north of Highway 28. Submission of the additional signatures includes a "\$400 After-the-Fact Special Permitted Use Application Fee."

**PROPOSED PLAN**

The Greys have obtained signatures from the landowners of the three parcels consenting to the as-built sidewall heights. However, the Greys note that requiring assent from the landowner across Highway 28 is not contemplated by the plain language of the ordinance. Under Ordinance 3.07.11, the table identifies "adjoining landowner signature" as the requirement for building more than 12-foot-high sidewalls. The terms "adjoining" or "adjoining landowner" are not defined by the Ordinance. Under Article II of the Ordinance, "[a]ny word not herein defined shall be as defined in any recognized Standard English dictionary." Black's Law Dictionary defines "adjoining" to mean "touching; sharing a common boundary." The Merriam-Webster Dictionary, online edition, defines "adjoining" as "touching or bounding at a point or line."

Therefore, the Greys would not have understood they were required to obtain signatures from Roger and Diane Starks, the property owners north of Highway 28, because their properties are not “adjoining.” The right-of-way intervenes between their property lines. Indeed, using the measurement tool provided by the First District’s GIS map, the Starks’ and Greys’ property lines are approximately 150 feet apart. Accordingly, the Starks were not understood as an “adjoining” property owner.

Nevertheless, to show their good faith and attempt to comply with the Zoning Ordinance, the Greys obtained signatures from the Starks and will pay the \$400 fee associated with submitting the Starks’s signatures, along with the new Special Permitted Use application. Nevertheless, the Greys respectfully request that the Office and Board consider the signatures of the landowners of the neighboring east and west parcels sufficient under the definition of “adjoining.”

#### **B. “Dwelling Unit”**

#### **BACKGROUND**

The Notice also stated the Greys were required to “[r]emov[e] the dwelling unit” in the structure. In their appeal dated January 6, 2026, the Greys noted that the structure does not contain a “dwelling unit,” as defined by the Ordinance under Section 264.

In correspondence dated January 23, 2026, the First District noted that the Zoning Office will accept the use of the structure as an accessory structure without a dwelling unit if the Greys submit affidavits attesting that the structure is not, and will not be, used as a dwelling unit. The form of the affidavits is subject to approval by the Hamlin County State’s Attorney.

#### **PROPOSED PLAN**

The Greys submitted proposed affidavits for approval to the Hamlin County State’s Attorney. The Greys are enclosing the signed affidavits with this proposed plan. They will amend the affidavits if required by the State’s Attorney.

#### **C. Setbacks**

#### **BACKGROUND**

Finally, the Notice identified that the back lot is subject to a 30-foot setback adjacent to both SD Highway 28 to the north and North Lake Drive to the south. The Notice observed that the Ordinance allows a reduced 25-foot setback as a special permitted use. Under the Ordinance, the reduced setback is permitted with “adjoining property owner and road authority approval.” (Section 3.07.10(5).)

## PROPOSED PLAN

1. **Appeal:** The Greys are appealing the Zoning Office's determination that a 30-foot setback, or 25-foot permitted setback, applies to the property line adjoining SD Highway 28. Under the Ordinance, a back lot's rear yard setback is eight feet. (Section 3.07.10(9).)

The January 23, 2026, letter from the First District cited Section 5.06.02(3) and Section 435 as authority to support the thirty-foot setback for both SD Highway 28 and N. Lake Drive. Under Section 5.06.02(3), "on through lots and reversed frontage lots, a front yard must be provided on both streets." However, the terms "through lots" and "reversed frontage lots" are undefined by the Ordinance. After a diligent search, the Greys cannot find a definition for "reversed frontage lot" in a "Standard English dictionary." (Article II.)

Conversely, Black's Law Dictionary defines a "through lot" as a "lot that abuts a street at each end." The Dictionary defines "street" as a "road or public thoroughfare used for travel in an urban area," and notes that "the term is not ordinarily applicable to roads and highways outside of municipalities." Section 435, the definition for "yard, front" similarly references a "street," noting that "[t]here shall be a front yard on each street which a lot abuts regardless of zoning district." Similarly, in Sections 407-410, which define "street, highway, or road," each definition specifies that each term has its own meaning by referencing "street, highway *or* road" separately within the definition. (emphasis added); *see State through Att'y Gen. v. Buffalo Chip*, 2020 S.D. 63 (containing extensive discussion among justices about the word "or" as a disjunctive word "to communicate a choice between exclusive possibilities.") Therefore, under the dictionary's definition and the Ordinance, a "highway" and a "street" are not synonymous. Accordingly, the Greys' back lot is not a "through lot" because it does not abut a street at each end—it abuts a street on one side and a highway on the other.

Therefore, the Greys maintain that an 8-foot setback applies to the property line abutting SD Highway 28.

2. **Special Permitted Use.** In the correspondence dated January 23, 2026, the First District included Special Permitted Use forms to obtain consent for reduced setbacks for the north property line (adjoining Highway 28) and the south property line (adjoining N. Lake Drive). (Section 3.07.10(5).) The consents included signatures for the Starks, who own the property north of Highway 28. As explained above, the Greys would not logically understand the Starks to be an "adjoining landowner." (See Section A of this letter).

The Greys obtained consents from the adjoining landowners, including the Starks. The Greys also obtained consents from the SD Department of Transportation, the applicable road authority for SD Highway 28. The Greys have also contacted a representative from Estelline Township, the applicable road authority for N. Lake Drive, and wish to continue to work with the Township in good faith.

The Special Permitted Use applications note that the current, as-built setbacks applying to the structure are approximately eight feet for the north line (adjoining SD Highway 28) and approximately 24 feet for the south line (adjoining N. Lake Drive). These estimates are subject

to confirmation by a surveyor or engineer. Out of an abundance of caution, the Greys will seek to obtain consent for both the as-built setbacks and the reduced setback of 25 feet contemplated by the ordinance.

**3. Variance.** Additionally, the Greys will apply for a variance with the Hamlin County Board of Adjustment. Under Section 4.04.02, the Board of Adjustment has the power to grant a variance

“where, by reason of exception, narrowness, shallowness, or shape of a specific piece of property . . . the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property, to authorize, upon an appeal relating to such property, a variance from strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantially impairing the intent and purpose of this Ordinance.”

Under Section 4.04.02(5)(1), the Ordinance identifies six factors for the Board of Adjustment to consider when determining whether to grant a variance. In the interest of economy, the factors are not reproduced here. Under the first three and fifth factors, the Greys request a variance because “literal interpretation” of the Ordinance, when read to require a 30-foot setback, or reduced 25-foot permitted setback, for both SD Highway 28 and N. Lake Drive, would “deprive [them] of rights commonly enjoyed by other properties” in Lake Park District 1.

Accessory buildings substantially similar to the Greys’ are located on back lots throughout the District, including two specific buildings that are nearly identical to the Greys’ garage in dimension and appearance. These buildings are also located on parcels adjoining both N. Lake Drive and SD Highway 28. However, even applying a reduced setback of 25 feet, the Greys would only be permitted to have a structure approximately half as long as other property owners in similar circumstances, including their adjoining property neighbors to the east and west.

Therefore, the “narrowness, shallowness, or shape” of the Greys’ back lot between SD Highway 28 and N. Lake Drive, and the structure’s similarity to other structures in the Lake Park District fulfill the first three and fifth factors. (*See* Section 4.04.02.) The narrowness of the Greys’ back lot, the narrowness of which did not result from the Greys’ actions, would deprive the Greys of a right commonly enjoyed by their neighbors. A survey of the 2025 GIS map shows that structures on back lots similar to the Greys are exceedingly common around Lake Poinsett. The Greys would not be granted a special privilege by being permitted to have a garage on their back lot, like others in the area. The Greys should be permitted to have a structure like those that their neighbors commonly enjoy.

Next, the Ordinance notes that “[f]inancial disadvantage of the property owner shall not constitute proof of unnecessary hardship within the purposes of zoning.” Notably, the Ordinance does not preclude consideration of financial hardship. Here, the Greys built an approximately \$220,000 accessory structure on their back lot. The Notice calls for “[r]emoving any portion of the structure that does not meet the required setback[.]”

The Greys and Mr. Bonestroo acknowledge the Zoning Office's and Board of Adjustment's responsibility to administer and enforce the Ordinance. Considering the similarity of the Greys' structure to other buildings on the same street and throughout Lake Park District 1, destruction of potentially significant portions, or all, of the Greys' garage is a harsh remedy. The Greys' hard-earned money spent to build a valuable improvement on their land would be gone, with nothing to show for it. The Greys would also face the hardship of the expenses of removal and potential reconstruction of a different building. Accordingly, the Greys respectfully request the Board consider the financial hardship imposed on them if the Board orders removal of some or all of the garage.

Finally, the Ordinance specifies that "no non-conforming use of neighboring lands, structures, or buildings in the same district . . . shall be considered grounds for the issuance of a variance." The Greys assume that the neighboring properties on North Lake Drive conform to the Ordinance. Visual observation of the First District's GIS map and its measuring tool reveal that the setbacks for the Greys back lot garage are similar to, or greater than, several properties on North Lake Drive and adjoining SD Highway 28. Accordingly, if the setbacks for these conforming buildings are less than 25 feet, then the Greys respectfully request that the Board grant their variance application so their structure also conforms to a "strict application" of the Ordinance. (Section 4.04.02.)

Therefore, the Greys respectfully request that the Board grant their variance request to keep their structure intact as built. Alternatively, the Greys respectfully request that the Board order the removal or alteration of their garage to the least extent possible.

**4. Removal.** As noted before, the Notice ordered "[r]emoving any portion of the structure that does not meet the required setback[.] Without prejudice to their legal rights, including the right to appeal the Board's decision to a circuit court and other remedies (see Section 4.03.02(1) ("recourse from the decision of the Board of Adjustment shall be to the courts as provided by the laws of the State of South Dakota")), the Greys understand that the removal the non-conforming portions of the structure is a possible outcome. Nevertheless, the Greys respectfully request the Board grant their requested relief to keep their garage as built.

## CONCLUSION

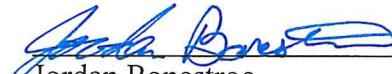
As requested by the Hamlin County Zoning Office, the Greys submit this proposal to address the sidewall, dwelling unit, and setback issues identified in the Notice dated December 16, 2025. The Greys respectfully request the Board grant the requested relief, including their appeal, applications for special permitted uses, and variance. The Greys wish to cooperate with the First District, Zoning Office, and Board of Adjustment throughout this process and welcome any questions and requests related to this matter.

Stephanie Grey

Stephanie Grey  
6325 S. Wicklow Ave.  
Sioux Falls, SD 57108

Alan Grey

Alan Grey  
6325 S. Wicklow Ave.  
Sioux Falls, SD 57108



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Jordan Bonestroo  
Prairie Grass Construction  
504 N. Willow Creek Ave.  
Sioux Falls, SD 57110  
On behalf of Prairie Grass Construction