

Codington County Planning Commission/Board of Adjustment Minutes

May 21, 2018

The Codington County Planning Commission/Board of Adjustment met for their monthly meeting on May 21, 2018 at the Codington County Extension Complex. Members of the Planning Commission/Board of Adjustment present were: Myron Johnson, Brenda Hanten, Mel Ries, Mark O'Neill, Rodney Klatt, and Luke Muller (Planner at First District Association of Local Governments/ Codington County Zoning Officer).

Others present were Chris Coplan, Brian Brandriet, Earl Cass, Jeff DeVille, and Becky Goens.

Vice Chairman O'Neill brought the Board of Adjustment meeting to order at 7:45 pm.

Motion by Johnson, second by Ries, to approve the April 16, 2018 meeting minutes. Motion passed unanimously.

Motion by Hanten, second by Ries, to approve the lot width variance request by Brian Brandriet. Mr. Brandriet is requesting to retain residential building rights for a lot less than 1,300' in width on property located in SW1/4 less N1240' and less highway right-of-way in Section 1-T117N-R53W. Muller reviewed Staff Report (attached). Earl Cass, adjoining landowner, confirmed location of future access and residential building rights. Jeff DeVille, Watertown Municipal Utilities, requested a new home have a holding tank based on location in Zone A of Aquifer Protection District. Board did not add condition as this request does not add to density of development. Public hearing closed. Motion passed unanimously.

Motion by Johnson, second by Ries, to approve the front yard setback variance request by Chris Coplan for purposes of constructing a grain bin. Property is located in NE1/4 of Section 24-T116N-R55W, less H-1. Muller reviewed Staff Report (attached). Public hearing closed. Motion passed unanimously.

Motion by Hanten, second by Ries, to adjourn the Board of Adjustment. Motion passed unanimously.

Vice Chairman O'Neill brought the Planning commission meeting to order.

Motion by Ries, second by Klatt, to recommend approval of the Plat of Hopper Addition in Government Lot 3 and the North Half of the NW1/4 of Section 9-T116N-R53W. This is an 8-acre portion of farmland that would be tied to another lot which does contain building rights. If ownership becomes split, no building permits may be issued for this lot per a required deed restriction. Motion passed unanimously to recommend approval to the Board of County Commissioners.

Muller advised the board of a recent building permit issued May 18, 2018 for Michael Crinion for a hay shed. This is in relation to the dairy CAFO CUP issued May 20, 2015. This

permit did meet the three year deadline. The applicant has other conditions that must be met in which they are working on as well.

A complaint was received regarding MoDak Dairy spreading manure too close to a right of way and too close to a drainage way. MoDak was abiding by state rules but not county ordinance. MoDak was notified of the correct setbacks and has been noticed as their first offense this year.

Muller advised the Board of what has happened with Ordinance #68 at the Board of County Commissioners meeting. A public hearing on an amendment proposed by Commissioner Lee Gabel will be held June 7, 2018.

Motion by Ries, second by Johnson, to enter into Executive Session. Motion passed unanimously. Motion by Johnson, second by Hanten, to adjourn Executive Session. Motion passed unanimously.

Motion to adjourn by Hanten, second by Ries. Motion passed unanimously. Meeting adjourned at 9:05 p.m.

Respectfully Submitted,

Becky Goens, Secretary

**MAY 2018
CODINGTON COUNTY
PLANNING COMMISSION/BOARD OF ADJUSTMENT
STAFF REPORT**

MONDAY – MAY 21, 2018 – 7:30 p.m.

CODINGTON COUNTY BOARD OF ADJUSTMENT

ITEM #1 VARIANCE

Owner/Applicant: Brian Brandriet

Property Description SW1/4 less N1240' and less Highway right-of-way in Section 1-T117N-R53W, Codington County, South Dakota. (Lake Township)

Action Item – Variance – Lot Width (3.04.03.2)

Zoning Designation: Agricultural District District

Request: Mr. Brandriet seeks to split an 84 acre parcel into two narrow (less than 1,300' wide) lots fronting Sioux Conifer Road.

History/Issue(s):

Specifics of Property/Request:

1. Mr. Brandriet owned the entire Quarter Section.
 - a. In 2005 a Farmstead Exemption was granted to allow a lot of less than 35 acres to allow Gordon Bertsch to retain building rights at a house bought from Mr. Brandriet.
 - b. Mr. Brandriet sold approximately 70 acres (N1,240') to Kelly Ming. It is the interpretation of the zoning officer that the decision of the Board authorized the home owned by Kelly Ming to retain building rights despite being in the same quarter-quarter section.
 - c. Mr. Brandriet intends to sell two lots of at least 35 acres for residential purposes but to allow frontage on Sioux Conifer Road for each.
2. The intent is to split the road approximately across from a shared driveway on the west side of the road. At Sioux Conifer Road, the frontages (lot widths) would be approximately 350' and 1,100'.
3. Mr. Brandriet seeks to transfer the development right from the SE1/4 of the SW1/4 of this section to this lot thereby not exceeding the allowable density on this "80".
4. The only location in the SE1/4 of the SW1/4 of this section to build a house outside of the floodplain would require a driveway to cross a substantial creek in 2 locations.

Ordinance/Variance History regarding this request:

1. The zoning ordinance anticipates a (mostly) square 1,300' x 1,300' lot.
2. The ordinance does allow an exception for lots that are 660' in lot width.
3. The County Board of Adjustment has approved variances to this section in similar instances adjacent to county roads and township roads if the road authority did not object to the request.
4. The County Board did require one individual to make both lots 660' wide due to objection by the [township] road authority. (Schmeling 2015)

5. At the time of the report staff has not received objection from the County Highway Superintendent.

Staff Recommendation:

Staff recommendation – **Lot width less than 1,300 ft** The Board could postpone, deny or approve the request. Staff recommends that if approved the Board could use the following findings:

- a. Following the required lot width would lead to the applicant constructing in the floodplain and having to cross two blue lines (USGS) with a driveway.
- b. The highway authority does not object to the request.
- c. The variance can be granted but still allowing for each lot to contain at least 35 acres and not exceed the development density already allowed by ordinance provided a letter of assurance be signed and recorded agreeing to the following:
 - i. The residential development right associated with the SE1/4 of the SE1/4 be tied to the north lot
 - ii. The residential development right associated with the SW1/4 of the SE1/4 be tied to the south lot.

ITEM #2 VARIANCE

Applicant/Owner: Chris Coplan

Property Description: NE1/4 of Section 24-T116N-R55W less H-1, Codington County, South Dakota (Henry Township)

Action Items – Variance – Front yard setback (3.04.03.3)

Zoning Designation: Agricultural

Request: The applicant seeks to remove two smaller grain bins and replace them with one larger bin no closer than the two existing bins (35' variance).

History/Issue(s):

History and Specifics of Property/Request:

1. Mr. Coplan operates a non-permitted (existed prior to 1997) concentrated animal feeding operation and grain farm at this established farmstead.
2. 442nd Avenue is a paved county road with a 100' right-of-way.
3. In 2008 a 15' variance was granted to allow a grain bin to be placed 50' from the right-of-way, (~200') south of this bin site.
4. Mr. Coplan intends to remove one 18' (diameter) bin and one 21' diameter bin, closest of which is approximately 30' from the 442nd Avenue right-of-way (80' from the center of the road), and replace them with one 42' diameter bin.
5. The existing bins were constructed prior to any requirement for building permits for bins.
6. Mr. Coplan contends that meeting the setback by moving the bin:
 - a. to the north or south would block access to his feedlot and through the operation
 - b. to the west, would block access to and cause reconfiguration of the existing feedlot.
 - c. to another location would block access around the farmstead and/or unnecessarily spread out the grain handling for the site.

Ordinance/Variance History regarding this request:

1. The ordinance requires all structures to be built at least 65' feet from any right-of-way. In this case requiring the bin to be 115' from the center of the road.
2. The variance granted in 2008 would allow a bin to be built 100' from the center of the road without obtaining another variance.
 - a. There was no indication in the staff report or minutes if the Board was inclined but simply not asked to allow the applicant to be closer to the right-of-way.
 - b. The variance was granted due to the highway superintendent's support on the basis of the location of existing buildings and the established shelterbelt west of the building site minimizing impact of snow accumulation.
3. The Board has a history of granting variance to front yard setback requirements for the replacement and construction of new grain bins where no objection is received from the road authority. (Codington County Highway Superintendent in this case). Most applicable in this case:
 - a. 2008 – Gene Coplan (on this property) (15' variance)
 - b. 2008 – Steve Horning (5-miles north on the same road) (50' variance)
4. As of the date of this report, staff has received no objection from the Codington County Highway Superintendent.

Staff Summary and Recommendation:

Staff Summary – A “no” vote would still allow the bin to be constructed 100' from the center of 442nd Avenue. It would however cause significant changes to the long established grain handling and traffic configuration of the lot which existed prior to the adoption of zoning. A “yes” vote would not be out of character of past decisions of this board adjacent to this same road.

Staff recommendation – **30' Variance to front yard setback**- The Board could table, deny or approve the request. Staff recommends that if approved the Board could use the following findings:

- a. The proposal is to replace bins which have not caused a snow problem in the past.
- b. Location of a shelterbelt on this property to the west limit the impact this bin will have on snow accumulation on the road.
- c. There is no objection from the Codington County Highway Superintendent to the replacement of these bins.
- d. The unique size, shape, and configuration of the lot.

If denied the Board could use the following findings:

- a. The configuration and size of the lot is not so unique to necessitate further relaxation of the setback requirement in that:
 - 1) The variance granted in 2008 already allows the bin to be located closer than allowed by ordinance.
- b. The special conditions warranting the granting of the variance are largely a result of actions by the applicant or past owners, and therefore does not warrant relaxation of setback requirements.

CODINGTON COUNTY PLANNING COMMISSION

ISSUE #1 PLAT

Applicant/Property Owners: Jesse and Ellen Hopper; Diamond M1 LLC

Property Description: Plat of Hopper Addition in Government Lot 3 and the North Half of the Northwest Quarter of Section 9-T116N-R53W, in the County of Codington, South Dakota. (Pelican Township)

Zoning Designation: A-Agricultural District

Request: Plat an 8 acre portion of farmland (adjacent to residential lot). (This plat is being drawn for transfer purposes only.) No access is provided to this lot. Staff recommends approval subject to letter of assurance tying these two lots together for building permit purposes. If ownership becomes split, no building permits may be issued for this lot.

ISSUE #2 OPEN/STAFF REPORT

ISSUE #3 EXECUTIVE SESSION