

Codington County Planning Commission/Board of Adjustment Minutes

December 17, 2018

The Codington County Planning Commission/Board of Adjustment met for their monthly meeting on December 17, 2018 at the Codington County Extension Complex. Members of the Planning Commission/Board of Adjustment present were: Myron Johnson, Mel Ries, Brenda Hanten, Mark O'Neill, Charles Rossow, Rodney Klatt, Bob Fox, and Luke Muller (Planner at First District Association of Local Governments/Codington County Zoning Officer).

Others present were Brian Boydston and Danica Boydston.

Bob Fox brought the Board of Adjustment and Planning Commission meeting to order at 9:24 am.

Motion by Johnson, second by Ries, to approve the November 19, 2018 meeting minutes. Motion passed unanimously.

Motion by Hanten, second by Ries, to approve the agenda. Motion passed unanimously.

Motion by Rossow, second by Klatt, to recess as the Planning Commission and convene as Board of Adjustment. Motion passed unanimously.

Motion by Hanten, second by Ries, to approve two variance requests made by Stephanie VanWell; and Brian and Danica Boydston. The applicants are requesting an existing farmstead exemption on property owned by Boydston and Stephanie VanWell on the following properties: 1) N1/2 of the N1/2 of the SE1/4, less the Westerly 1,760' running parallel with the Quarterline in Section 30-T116N-R52W, Codington County, South Dakota (Boydston); and 2) Westerly 1,760' running parallel with the Quarterline in Section 30-T116N-R52W, Codington County, South Dakota (VanWell); and 3) Lot 1, Kingslien Addition in the West Half of Section 30-T116N-R54W, Codington County, South Dakota (VanWell) (Sheridan Township). The second variance for to the minimum lot width on property owned by Boydston's in N1/2 of the N1/2 of SE1/4, less the Westerly 1,760' running parallel with the Quarterline in Section 30-T116N-R52W. Muller reviewed Staff Report History/Issue (attached). If approved, Stephanie VanWell will need to sign and record a Letter of Assurance transferring the "less-than-35-acre-building-right" from legal description #3 to legal description #1; and acknowledging that any future development on legal descriptions #2 and #3 will be required to be upon parcels of at least 35 acres. One member of the audience was in attendance to support the requests. Public hearing portion closed. Chairman Fox read the Findings of Fact. Motion passed unanimously.

Chairman Fox reconvened the joint Board of Adjustment and Planning Commission.

Discussion was held regarding the February 19, 2019 meeting date. It was decided to leave the date as is; however, the deadline for application will move ahead to January 28.

Discussion was also held about policies and procedures regarding upcoming meetings involving potential ordinance changes. There will continue to be public notices for any ordinance discussion. It was suggested that an article be outlined in the local paper. Written comments will be required to be submitted prior to meetings, by a specified deadline. The meeting format needs to be more organized and streamlined.

Muller provided a year-end report. As of December 7, there have been 130 building permits issues with an estimated value of construction to be \$11.2 million. There were 28 houses, including 2 manufactured homes. The Planning Department collected \$24,789.00 in fees for building permits. Graphs were shown displaying trend lines over the past years. There were 36 variances and 8 Conditional Use Permits granted. Those fees generated \$7,084.00; however, approximately one-third of this cost is used for mailing and publishing fees.

Motion by Klatt, second by Ries, to approve the continuation of Planning and Zoning Officer services provided by First District of Local Governments. Motion passed unanimously.

Discussion was held regarding increasing Variance and Conditional Use Permit fees.

Motion to adjourn by Johnson, second by Ries. Motion passed unanimously. Meeting adjourned at 10:53 am.

Respectfully Submitted,

Becky Goens, Secretary

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

CODINGTON COUNTY BOARD OF ADJUSTMENT

ITEM #1 (2) VARIANCES

Applicants/Owners: Brian and Danica Boydston; and Stephanie VanWell

Property Description:

1. N1/2 of the N1/2 of the SE1/4, less the Westerly 1,760' running parallel with the Quarterline in Section 30-T116N-R52W, Codington County, South Dakota (Boydston); and
2. Westerly 1,760' running parallel with the Quarterline in Section 30-T116N-R52W, Codington County, South Dakota (VanWell); and
3. Lot 1, Kingslien Addition in the West Half of Section 30-T116N-R54W, Codington County, South Dakota (VanWell) (Sheridan Township)

Action Items – Variances – Minimum lot size/Existing farmstead exemption (3.04.03.7.b), minimum lot width (3.04.03.2).

Zoning Designation: Agricultural

Request: The applicants seek variances from the minimum lot width, minimum lot area (by virtue of existing farmstead exemption), to retain building rights on a property adjacent to an existing farmstead.

History/Issue(s):

1. A building permit (#1399) for a house was issued to Sheila Grabow on September 10, 1996 on an approximate 40 acre parcel. (Legal Description #1)
2. In 2008, 26 acres of farmland was sold from the site issued permit #1399 (Legal Description #2), which rendered legal description #1 unable to attain future building permits.
3. The Boydston's purchased legal description #1 in 2016 after being made aware that the current status of the property allowed NO BUILDING PERMITS.
4. VanWell's purchased the legal description #2 in '08 and already owned legal description #3.
5. Legal description #3 contains an existing farmstead as defined by the Codington County Zoning Ordinance.
 - a. The property was used as a base for farming operations prior to 1976 and has been occupied in the last 50 years.
6. Codington County's Zoning Ordinance does allow for variance from the 35 acre-minimum lot requirement if the lot is determined to be an existing farmstead which contains at least five acres and thereby affording building rights.
7. The land use plan allows for transfer of those development rights to adjoining parcels under contiguous ownership but not across a right-of-way.
8. This application is unique in that:
 - a. Both property owners have signed the application, and the parcels are contiguous.
 - b. Stephanie VanWell understands that transferring the 5 acre development right from the farmstead requires them to retain at least 35-acres to build upon legal descriptions 2 and/or 3.

- c. The existing farmstead is located over the shallow aquifer, the Boydston's home (receiving 5-acre building right) is not.
 - d. The existing farmstead accesses a gravel township road, the Boydston's home (receiving 5-acre building right) accesses a US Highway.
9. The land use plan establishes the policy that property subdivided prior to 2004 may not be required to be platted. The Board will need to determine whether a plat is appropriate in this instance.

Staff Summary:

There is no record of a request where someone is seeking to transfer a farmstead exemption between two owners when both owners give consent to do so. If the VanWell's already owned legal description #1, this request would be exactly the same as the hundreds of farmstead exemptions this board has granted over the years. A "no" vote would essentially require the Boydston's and VanWell's to enter into simultaneous purchase agreements to transfer the property back and forth for the purposes of obtaining the farmstead exemption. A "yes" vote would allow the VanWell's to transfer their development right to the Boydston's without going through the process of buying and reselling the lot.

Staff Recommendation:

(Variance) –Existing Farmstead Exemption and variance to Minimum Lot Width- The request may be approved because 1) The lot does contain at least five acres which meets the terms of the Ordinance. 2) The Zoning Officer after review of anecdotal information, records and site-visit has determined that this parcel is under contiguous ownership of an existing farmstead by the two applicants. 3) The unique circumstances described above in the report. If approved it should be done so on the condition that the applicant's sign and record a letter of assurance transferring the "less-than-35-acre-building-right" from legal description #3 to legal description #1; and acknowledging that any future development on legal descriptions #2 and #3 will be required to be upon parcels of at least 35 acres. The request may be denied because the property is not under contiguous ownership (of own owner) at the time of application.

ISSUE #2 OPEN

ISSUE #3 ADMINISTRATIVE REPORT

- Year End Report
- First District Contract for Zoning Officer

ISSUE #4 EXECUTIVE SESSION