

JANUARY 2019  
CODINGTON COUNTY/CITY OF WATERTOWN  
JOINT PLANNING COMMISSION/ JOINT BOARD OF ADJUSTMENT  
CODINGTON COUNTY  
PLANNING COMMISSION/BOARD OF ADJUSTMENT  
STAFF REPORT

TUESDAY – JANUARY 22, 2019 – 12:30 p.m.

CODINGTON COUNTY/CITY OF WATERTOWN JOINT BOARD OF ADJUSTMENT

ITEM #1 (2) VARIANCES

**Applicant/Owner:** Viola Engels

**Property Description:** 12-acre parcel in a portion of a 90+ tract to be known as Viola Engels Addition in the SE1/4, Section 18-T117N-R53W, Codington County, South Dakota. (Lake 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 applicant seeks variances from the minimum lot width, minimum lot area (by virtue of existing farmstead exemption), to retain building rights on property with an existing farmstead.

**History/Issue(s):**

1. The applicant seeks to split the farmstead from the farmland.
2. The property was used as a base for farming operations prior to 1976 and has remained lived in.
3. 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.
4. Based upon site visit and review of department of equalization records it appears this site meets the definition of an existing farmstead.
5. Staff recommendation **(Variance) –Existing Farmstead Exemption and variance to Minimum Lot Width-** Approve request 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/residential site prior to November 26, 1976. If approved it should be done so on the condition that the applicant plat a lot of at least five (5) acres in accordance with the Codington County Subdivision Ordinance.

## CODINGTON COUNTY BOARD OF ADJUSTMENT

### ITEM #1 VARIANCE

**Applicant/Owner:** Terry Little

**Property Description:** NW1/4, Section 19-T116N-R52W, Codington County, South Dakota.  
(Sheridan Township)

**Action Item: Variance – Minimum Required Setback for Shelterbelts (5.08.01)**

**Zoning Designation:** A – Agricultural

**Request:** Mr. Little requests to plant a shelterbelt parallel to and 50' east of the 454<sup>th</sup> Avenue "Right-of-Way".

#### **History/Issue(s):**

1. Mr. Little lives and operates a farm on the above described parcel.
2. Mr. Little requests to place several rows of trees as a windbreak/screening for his future bin site on the above described property in this location.
3. Mr. Little's farmstead (south on this property) includes a shelterbelt that surrounds the perimeter of the farmyard with trees closer to the road than are proposed here.
4. This site is crossed by a main transmission line operated by WAPA.
  - a. Mr. Little agrees that he will not encroach upon their existing easement.
5. Shelterbelts are established to the north and northwest of this proposed treebelt.
6. Codington County Ordinance requires shelterbelts on the east side of a road to be at least 100' from the right-of-way; however variance may be granted if the following conditions are met:
  - a. An established treebelt is located within ½ mile to the (north)
  - b. Approval is granted from the (township)
  - c. No trees are planted closer than 50' north of the right-of-way.
7. In the past the Board has required agreements between applicants for variances to the shelterbelt setback requirement and applicable road authorities to participate in snow removal for the specified stretch of road.
8. Staff has received no comments regarding this variance.
9. Staff recommendation – Variance – ***Shelterbelt setback*** - Staff recommends approval of the request based upon the following findings:
  - a. An established shelterbelt is located parallel to and north of the proposed shelterbelt.
  - b. Approval is conditioned upon approval of the Sheridan Township Board of Supervisors.
  - c. The closest row will be planted no closer to the 454<sup>th</sup> Avenue right-of-way than 50'.
  - d. Applicant agrees to the following conditions:
    - i. Applicant shall submit documentation of approval or agreement by Sheridan Township that the shelterbelt may be placed no less than 50' north of the 454<sup>th</sup> Avenue Right-of-way.
    - ii. Approval of this variance is no way construed to authorize the applicant to plant or maintain trees in a manner to allow growth within established easements, specifically for electrical transmission, across this property.

If the Board is reluctant to approve the request conditioned upon the applicant submitting "approval" by Sheridan Township in lieu of including it with this application, Staff recommends postponing action until notification of formal decision of the Township Board is provided instead of outright denial.

## **ITEM #2 CONDITIONAL USE PERMIT**

**Applicant/Property Owner:** Steve and Rita Wishard

**Property Description:** a portion of Government Lot 4, Section 19-T118N-R54 West of the 5th P.M., Codington County, South Dakota, to be known as Wishard Cemetery Addition. (Fuller Township)

**Zoning Designation:** A - Agricultural

**Request:** The Wishards seek to create a Family Cemetery upon the above property.

**History/Issue(s):**

### Specifics of Request:

1. The Wishards own the above described property.
2. They seek to create a "Family Cemetery" on a 29,280 square foot (183' x 160') portion of the above described 12-acre property.
  - a. 84 plots are proposed to be platted (not all expected to be used, but are planned to fully utilize the space.)
  - b. Plots **will not** be for sale to non-family individuals, as a result the cemetery would not be subject to "perpetual care cemetery" requirements in state law. (Other rules would apply.)
  - c. The Wishards plan to have a gate with the name of the cemetery (sign) at the entrance of the property from the right-of-way.
3. The property is accessed by an unimproved section-line right-of-way (443<sup>rd</sup> Avenue). This right-of-way must be traveled one-half mile to the nearest maintained Township road (163<sup>rd</sup> Street). Given that this section line provides access to US Fish and Wildlife owned land it is highly unlikely the right-of-way could be vacated.
4. Wishards understand the Township is under no obligation to maintain the right-of-way any different than is currently performed as a result of this application and potential approval.

### Ordinance and Comprehensive Land Use Plan regarding this request:

1. The Comprehensive Land Use Plan lists considerations for "Religious Institutions and associated uses" on page 67.
  - a. Under this section it notes that Cemeteries shall be located adjacent to roads determined to be sufficiently capable of handling the anticipated traffic needs of the cemetery.
2. A fence and gate with the name of the Cemetery are proposed to be constructed. The structures will require a building permit but are not proposed to be more than 30% opaque. Thus they may be located anywhere on the proposed property within one (1) foot of the property line (or one foot from the section line right-of-way (34' from the center of the section).)
3. No haul road agreement with Fuller Township has been provided. The applicant intends to be responsible for the maintenance of 443<sup>rd</sup> Avenue for the purpose of accessing the cemetery.
4. No additional need for utilities, lighting, garbage services are anticipated with this request.
5. The intent is to leave the entire site vegetated. There is no intent to provide gravel or other hard surfacing. This plan is consistent with existing cemeteries in the county.

Staff Recommendation:

Conditional Use Permit – **Cemetery...** The Board may postpone the request, deny the request or approve the request. If approved staff recommends the following conditions be agreed to in a letter of assurance signed by the applicant(s):

- 1) Effective Date:
  - a. Signing of the Letter of Assurance
- 2) General Requirements:
  - a. There will be no storage of junk on site.
  - b. The applicant will control noxious weeds.
  - c. Applicant shall adhere to all applicable state and federal laws relating to cemeteries and care for the deceased.
- 3) Haul Road Agreements:
  - a. Applicant shall provide a haul road agreement for the use of 443<sup>rd</sup> Avenue for the purpose of providing access. If no agreement is required by the Fuller Township, documentation of such decision by the applicable authority is required.
- 4) Violation and Penalties:
  - a. Applicant is put on notice that failure to abide by the requirements of this letter of assurance will result in a hearing of the Board of Adjustment to consider revocation of the conditional use permit associated herewith.

**CODINGTON COUNTY PLANNING COMMISSION**

**ISSUE #1 PLAT**

**Applicant/Property Owners: Viola Engels**

**Property Description:** Plat of Viola Engels Addition in the SE1/4 of Section 18-T117N-53W. (Lake Township)

**Zoning Designation:** A-Agricultural District

**Request:** Plat a 12-acre residential lot at site of farmstead. The Plat is located with the Plat Jurisdiction of the City of Watertown.

**ISSUE #2 PLAT**

**Applicant/Property Owners: Steve Wishard**

**Property Description:** Plat of Wishard Cemetery Addition in Government Lot 4 in Section 19-T118N-54W. (Fuller Township)

**Zoning Designation:** A-Agricultural District

**Request:** Plat 29,280 sq. ft. with 84 cemetery plots and 40' surrounding the plots for vehicular/pedestrian access.

**ISSUE #3 OPEN**

**ISSUE #4 ADMINISTRATIVE REPORT**

**ISSUE #5 EXECUTIVE SESSION**