

Codington County Planning Commission/Board of Adjustment Minutes

May 20, 2019

The Codington County Planning Commission/Board of Adjustment met for their monthly meeting on May 20, 2019 at the Codington County Extension Complex. Members of the Planning Commission/Board of Adjustment present were: Myron Johnson, Brenda Hanten, Mark O'Neill, Mel Ries, Rodney Klatt, Bob Fox, and Luke Muller (Planner at First District Association of Local Governments/Codington County Zoning Officer).

Others present were Darwin Carlson, Brian Riniker, Joe Moes, Karla Moes, Kevin Geiger, Jim Beskow, Greg Moes, Dave Greenman, Duane Popham, Julie Moes, Melody Kerkvliet, Kraig Schleusner, John Egge, Wade Prouty, Roger Fritz, Jeff DeVille, and Becky Goens.

Bob Fox brought the Board of Adjustment and Planning Commission meeting to order at 7:40 pm.

Motion by Hanten, second by Johnson, to approve the March 18, 2019 meeting minutes. Motion passed unanimously.

Motion by Hanten, second by Klatt, to approve the April 15, 2019 Board of Adjustment meeting minutes. Motion passed unanimously.

Motion by O'Neill, second by Ries, to approve the April 15, 2019 Planning Commission and Board of County Commission meeting minutes. Motion passed unanimously.

Motion by Hanten, second by Ries, to approve the April 29, 2019 Planning Commission and Board of County Commission meeting minutes. Motion passed unanimously.

Motion by Hanten, second by Klatt, to approve the agenda including the withdrawal of Velocitel's request. Motion passed unanimously.

Motion by Johnson, second by O'Neill, 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 Deborah Waldner on her property in N1455' of W363' in NW1/4, Section 29-T116N-R55W (12.13 acres). The requests are for an existing farmstead exemption and minimum lot width variances. Muller reviewed Staff Report (attached). A plat would be required. Chairman Fox read the Findings of Fact. There were no objections or questions. Motion passed unanimously.

Motion by Klatt, second by Ries, to approve two variance requests for Joe and Karla Moes: Existing Farmstead Exemption and Minimum Lot Size. Property is located in S258' of N1385' of E268' of NE1/4, Section 29-T119N-R52W (1.5 acres). Muller reviewed Staff Report History/Issue (attached). Chairman Fox read the Findings of Fact. There were no objections or questions. Motion passed unanimously.

Motion by Hanten, second by Johnson, to approve the existing location of Joe and Karla Moes' home as well as their request for a 69' front yard setback variance on property in S258' of N1385' of E268' of NE1/4, Section 29-T119N-R52W. This motion is recommended for approval based upon Muller's Staff Report History/Issue (attached). Chairman Fox advised the audience that in 1996, the zoning offer at the time issued permits without seeking proper approval from the Board of Adjustment. Rather than requiring landowners to remove those structures, the current Board does allow for these properties/structures to become conforming. Approval for the front yard setback was given by the township supervisor. Chairman Fox read the Findings of Fact. There were no objections or questions. Motion passed unanimously.

Motion by Hanten, second by Johnson, to approve the Conditional Use request by Kraig Schleusner to construct a single family dwelling constructed less than one-half mile from existing Concentrated Animal Feeding Operation (CAFO). Property is owned by Louie Schleusner and located in W1/2 of S1335' of SE1/4, Section 18-T116N-R51W. Muller reviewed Staff Report History/Issue (attached). This request is an acknowledgment that the CAFO existed prior to the residence. Muller provide an aerial map showing the location of the CAFO and the proposed home. No one was present to speak on this issue. Public hearing closed. This Conditional Use is recorded at the Register of Deeds and will transfer with the property. Chairman Fox read the Findings of Fact. There were no objections or questions. Motion passed unanimously.

Motion by Johnson, second by Hanten, to approve the Conditional Use request by Prairie Lakes Wellness Center for a one-time military-style obstacle course known as Rumble on the Ranch. Property is owned by Joy Ranch of Lutheran Outdoors and Darrell, Toni, Duane, and Deb Popham and located in Lots 1 and 2 Lutheran Outdoors Addition; S1/2 of NE1/4 and SE1/4 of NW1/4 and SE1/4 less H-1 all in Section 36-T118N-R54W. Muller reviewed Staff Report History/Issue (attached). Conditions to be placed upon approval include:

A. Effective Date

1. This permit is effective annually for "Rumble on the Ranch" or a similar event operated by the entities described in #2 below.
2. This permit is not transferable, and would require a new conditional use permit if the event is operated by an entity other than The Watertown Area Special Olympics or Prairie Lakes Wellness Center.

B. Temporary Obstacles:

1. This permit authorizes the construction of obstacles associated with this event.
2. On-site construction of obstacles shall be performed during daylight hours.

3. No building permits will be necessary for such obstacles provided they remain on site for less than 30 days.
 4. Any structure proposed to remain on site for greater than 30 days shall be required to obtain a building permit and adhere to all other requirements of the Codington County Zoning Ordinance.
 5. All obstacles, unless otherwise stated, shall be removed within thirty (30) days of placement upon the property.
- C. On-premise signage may be permitted subject to the following:
1. A maximum of 80 square feet of sign area will be allowed
 2. Sign(s) will be non-illuminated.
 3. Signs on trailers are prohibited.
- D. No additional lighting will be allowed in conjunction with this permit.
- E. EMT's are required on site for the provision of medical service to participants and spectators.
- F. Spectators shall only be allowed on property owned by Joy Ranch.
- G. No spectators will be allowed in the right-of-way.
- H. All parking shall be accomplished on private property. No on-street parking is permitted in conjunction with this event.
- I. No alcohol will be consumed or sold in conjunction with this event.
- J. No overnight camping is allowed in conjunction with this event.
- K. The applicant(s) are responsible for ensuring that all trash is placed in receptacles and properly disposed of.
- L. The applicants shall present a copy of a lease agreement for use of the land to the zoning officer prior to the event taking place.
- M. The applicants shall present proof of liability to the zoning officer prior to the event taking place.
- N. Violation of the terms of this Conditional Use permit will be determined by the Codington County Zoning Officer.
- O. The applicant further agrees that if any terms of this agreement are not complied with, the applicant shall forfeit his/her claim to a Conditional Use permit.

Chairman Fox read the Findings of Fact. There were no objections or questions. Motion passed unanimously. Motion by Hanten, second by O'Neill, to include the condition that the Conditional Use Permit remains upon the property provided all conditions are met, no registered complaints, and all required documentation has been submitted 30 days prior to the event. Motion on the amendment passed unanimously. Motion on the Conditional Use, with the

amendment, passed unanimously.

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

Motion by Klatt, second by Ries, to recommend approval to the Board of County Commissioners the Plat of Fransen Addition in the N1/2 of NE1/4, Section 27-T118N-R51 (35 acres). This plat will be used for an operation and maintenance building for the Crowned Ridge project. No one was present to speak on this action. Public hearing closed. Motion passed unanimously.

Motion by O'Neill, second by Klatt, to recommend approval to the Board of County Commissioners the Plat of Fransen Second Addition in S1/2 of SE1/4, Section 27-T118-R51 (35 acres). Crowned Ridge II substation is proposed in this location. No one was present to speak on this action. Public hearing closed. Motion passed unanimously.

Motion by Johnson, second by Ries, to recommend approval to the Board of county Commissioners the Plat of Zemlicka Addition in S1/2 of NW1/4, Section 11-T118N-R51W (35 acres). This plat will contain a substation and an operation maintenance building for the Crowned Ridge project. No one was present to speak on this action. Public hearing closed. Motion passed unanimously.

Motion to adjourn by Johnson, second by Ries. Motion passed unanimously. Meeting adjourned at 8:48 pm.

Respectfully Submitted,

Becky Goens, Secretary

MAY 2019
CODINGTON COUNTY
PLANNING COMMISSION/BOARD OF ADJUSTMENT
STAFF REPORT

CODINGTON COUNTY BOARD OF ADJUSTMENT

ITEM #1 (2) VARIANCES

Applicant/Owner: Deborah Waldner

Property Description: N1455' of W363' in NW1/4, Section 29-T116N-R55W, Codington County, South Dakota. (Henry 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. (Applications received 4/15/19)

History/Issue(s):

1. The Waldner's own and have lived at this legal description since 2000 (purchased from Biebighauser).
2. The applicant seeks to retain building rights at the site of the existing farmstead located on the above property.
3. The property was used as a base for farming operations prior to 1976 and is still lived in.
4. 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.
5. The parcel contains an existing farmstead as defined by the Codington County Zoning Ordinance.
6. 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 records and site-visit has determined that this parcel was used as an existing farmstead/residential site prior to October 26, 1976.

ITEM #2 (2) VARIANCES

Applicant/Owner: Joseph and Karla Moes

Property Description: S258' of N1385' of E268' of NE1/4, Section 29-T119N-R52W, Codington County, South Dakota. (Germantown Township)

Action Items – Variances – Minimum lot size/Existing farmstead exemption (3.04.03.7.b), minimum lot width (3.04.03.2); Front Yard Setback (3.04.03.3).

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, and to construct a garage addition 36' from Right of Way. (Applications received 4/30/19)

History/Issue(s):

1. The Moes constructed this home on this 1.5 acre lot at the site of an existing farmstead in 1996.
2. Due to the location of the old farmhouse at the time of construction in 1996, the current house and garage were constructed 81' feet from the center of 456th Avenue (where 98' is required.)
3. The building permit was issued by the zoning officer with no variances granted in 1996.
4. The property was used as a base for farming operations prior to 1976 and has remained lived in.
5. Codrington 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.
6. Based upon site visit and review of department of equalization records it appears this site meets the definition of an existing farmstead.
7. The applicant has submitted a letter from the President of the Germantown Township Board expressing support for the application to construct the garage addition 69' from the center of the road. (12 foot addition)
8. The Board has approved requests in the past where support for the request has been submitted by the road authority.
9. 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 records and site-visit has determined that this parcel was used as an existing farmstead/residential site prior to November 26, 1976. If approved it should be done so on the condition that the above legal description not be decreased in size from it's current lot area. It should also be clarified that the only reason a lot of less than 5 acres is allowed, is due to the action of the zoning officer in 1996 authorizing construction on this legal description as it is currently configured.

(Variance) – Front Yard Setback- Staff recommends approval of a variance to the front yard setback. The real question is how much of a variance should be granted. The board could approve only the existing structure:

- **Variance to allow existing structures to be situated no closer than eighty-one (81) feet from the center of 456th Avenue based upon:**
 - Action of the zoning officer to approve the building permit in 1996 vesting conferring special circumstances (building closer than allowed by ordinance).
 - The location of the farmstead house at the time of construction of the existing structures, coupled with the size of the lot limited the buildable location to the present site.
 - This motion approves the existing structure, but effectively denies the request to add anything closer 456th Avenue.
- **Variance to allow existing structures to be situated no closer than sixty-nine (69) feet from the center of 456th Avenue based upon:**

- Action of the zoning officer to approve the building permit in 1996 vesting conferring special circumstances (building closer than allowed by ordinance).
- The location of the farmstead house at the time of construction of the existing structures, coupled with the size of the lot limited the buildable location to the present site.
- The applicant submitted written documentation from the Township Board approving of the request to place the addition in this location.
- The configuration of the lot and structures as situated based upon the issuance of building permit in 1996 offer no other reasonable option for addition to the garage.
- The garage is entered parallel to 456th Avenue.

ITEM #3 CONDITIONAL USE

Applicant: Kraig Schleusner / Owner: Louis Schleusner

Property Description W1/2 of S1335' of SE1/4 of Section 18-T116N-R51 West of the 5th P.M., Codington County, South Dakota. (Kranzburg (S) Township)

Action Item – Conditional Use – House less than ½ mile from existing CAFO (3.04.02.41)

Zoning Designation: Agricultural District

Request: Applicant seeks to build a house less than ½ mile from existing CAFO. (Application received 5/3/19)

History/Issue(s):

1. The Schleusner's are purchasing this property with intentions to build a house.
2. The proposed house would be less than half mile from a Concentrated Animal Feeding Operation located on property owned by Vince Ries (operated by Dale Ries).
3. Staff is aware of the intent by the Ries' to increase the size of their operation.
4. The County requires a conditional use permit to construct a residence within one-half mile of an existing CAFO, but to only require an acknowledgment that the existing CAFO was on the neighbor's property.
5. As of the date of this report staff has received no objections regarding this request.

Staff recommendation:

Conditional Use Permit: Dwelling less than ½ mile from existing CAFO. The Board may table the request, deny the request or approve the request. If approved the applicant would be required to sign and record the "Acknowledgment of Existing Concentrated Animal Feeding Operation" prior to issuance of a building permit for the house.

ISSUE #4 CONDITIONAL USE

Applicant/Property Owner: Joy Ranch of Lutheran Outdoors and Darrel, Toni, Duane, and Deb Popham,

Property Description: Lots 1 & 2 Lutheran Outdoors addition; and S1/2 of NE1/4 7 SE1/4 of NW1/4 & SE1/4 less H-1 all in Section 36-T118N-R54W, Codington County, South Dakota. (Fuller Township)

Zoning Designation: A – Agricultural

Request: Conditional Use Permit for one time commercial public entertainment event (obstacle course.) (Application received 5/2/19)

History/Issue(s):

1. The applicants and the Watertown Rec Center are organizing an obstacle course event for paid participants on June 1, 2019.
2. Proceeds from the event will be split between the Watertown Area Special Olympics and the Rec Center.
3. Modeled after permits for outdoor music events in neighboring counties, the Zoning Ordinance allows for commercial public entertainment enterprises not normally accommodated in commercial areas in the Ag District.
4. The event consists of an approximate 6 mile course with 11 obstacles scattered throughout the course.
5. Most of the course is located on land owned by the Pophams.
6. All obstacles will be temporary in nature and moved on site or constructed prior to the event and are planned to be removed within the week following the event. (Some obstacles consist of materials which may be used by the landowners in their pasture such as bales and fencing materials. Those items may stay longer.)
7. The event allows for up to 50 participants to start every 20 minutes from 9:00 am till noon. (Up to 500 possible participants.)
8. Spectators for the event will be on site but only allowed on property owned by Joy Ranch.
9. Parking for the event will be on Joy Ranch property. No parking will occur on roads.
10. Joy Ranch has enough parking spaces for the projected number of participants and spectators.
11. The event will not require additional lighting.
12. Set-up the day of the event will start approximately 8:00am. The last group(s) should finish/leave at approximately 2:00pm.
13. EMT's will be on site to assist participants (and spectators) should medical attention be necessary.
14. Alcohol is neither to be served nor consumed on site in conjunction with this event.
15. No camping will be allowed in conjunction with this event.
16. The applicants' liability insurance covers this event.
17. A lease agreement is being updated from the last event.
18. The event was granted a permit three consecutive years. The zoning office received no complaints regarding the operation of the event in the past. This application is back before the Board because a conditional use permit expires if not used within one year. It has been more than one year since the last time this was used.
19. Staff recommends allowing this permit to be effective for one event annually without coming to the Board provided the Zoning office is notified of the intend to hold the event and applicable changes to the operation of the event.
20. Staff Recommendation – **Conditional Use Permit for a one time commercial public entertainment event (obstacle course):** The Board may table the request, deny the request, or approve the Conditional Use Permit(s). If the Board chooses to approve the Conditional Use Permit it should be based upon the staff report, testimony of the Zoning Officer, adopted findings, and based upon the following conditions to be placed upon the request:
 - A. Effective Date
 3. This permit is effective annually for "Rumble on the Ranch" or a similar event operated by the entities described in #2 below.

4. This permit is not transferable, and would require a new conditional use permit if the event is operated by an entity other than The Watertown Area Special Olympics or Prairie Lakes Wellness Center.
- B. Temporary Obstacles:
6. This permit authorizes the construction of obstacles associated with this event.
 7. On-site construction of obstacles shall be performed during daylight hours.
 8. No building permits will be necessary for such obstacles provided they remain on site for less than 30 days.
 9. Any structure proposed to remain on site for greater than 30 days shall be required to obtain a building permit and adhere to all other requirements of the Codington County Zoning Ordinance.
 10. All obstacles, unless otherwise stated, shall be removed within thirty (30) days of placement upon the property.
- C. On-premise signage may be permitted subject to the following:
4. A maximum of 80 square feet of sign area will be allowed
 5. Sign(s) will be non-illuminated.
 6. Signs on trailers are prohibited.
- D. No additional lighting will be allowed in conjunction with this permit.
- E. EMT's are required on site for the provision of medical service to participants and spectators.
- F. Spectators shall only be allowed on property owned by Joy Ranch.
- G. No spectators will be allowed in the right-of-way.
- H. All parking shall be accomplished on private property. No on-street parking is permitted in conjunction with this event.
- I. No alcohol will be consumed or sold in conjunction with this event.
- J. No overnight camping is allowed in conjunction with this event.
- K. The applicant(s) are responsible for ensuring that all trash is placed in receptacles and properly disposed of.
- L. The applicants shall present a copy of a lease agreement for use of the land to the zoning officer prior to the event taking place.
- M. The applicants shall present proof of liability to the zoning officer prior to the event taking place.
- N. Violation of the terms of this Conditional Use permit will be determined by the Codington County Zoning Officer.
- O. The applicant further agrees that if any terms of this agreement are not complied with, the applicant shall forfeit his/her claim to a Conditional Use permit.

Action Item – Conditional Use Permit for a one time commercial public entertainment event (obstacle course) (3.04.02.3).

CODINGTON COUNTY PLANNING COMMISSION

ISSUE #1 PLAT

Applicant/Property Owners: Mark Fransen, Rosalind Noeldner, Kenneth Fransen, Maureen Riley, Gregory Fransen, Bradley Fransen and Sharlene Deboer

Property Description: Plat of Fransen Addition in the North Half of the Northeast Quarter Section 27-T118N-R51W of the 5th P.M., Codington County, South Dakota (Waverly Township)

Zoning Designation: A-Agricultural District

Request: Plat a 35 acre lot to be used in conjunction with Crowned Ridge Construction and/or maintenance.

ISSUE #2 PLAT

Applicant/Property Owners: Mark Fransen, Rosalind Noeldner, Kenneth Fransen, Maureen Riley, Gregory Fransen, Bradley Fransen and Sharlene Deboer

Property Description: Plat of Fransen Second Addition in the South Half of the Southeast Quarter Section 27-T118N-R51W of the 5th P.M., Codington County, South Dakota (Waverly Township)

Zoning Designation: A-Agricultural District

Request: Plat a 35 acre lot to be used in conjunction with Crowned Ridge Construction and/or maintenance.

ISSUE #3 PLAT

Applicant/Property Owners: Dewey Zemlicka

Property Description: Plat of Zemlicka Addition in the South Half of the Northwest Quarter Section 11-T118N-R51W of the 5th P.M., Codington County, South Dakota (Waverly Township)

Zoning Designation: A-Agricultural District

Request: Plat a 35 acre lot to be used in conjunction with Crowned Ridge Construction and/or maintenance.

ISSUE #4 OPEN/ADMINISTRATIVE REPORT

ISSUE #5 EXECUTIVE SESSION