

Codington County Planning Commission/Board of Adjustment Minutes

April 19, 2021

The Codington County Planning Commission/Board of Adjustment met for their monthly meeting on April 19, 2021 via teleconference. Members of the Planning Commission/Board of Adjustment present were: Myron Johnson, Brenda Hanten, Mel Ries, Mark O'Neill, Bob Fox, Alex Kahnke, Rodney Klatt, and Luke Muller (Planner at First District Association of Local Governments/Codington County Zoning Officer).

Others present were Jeff DeVille, Matt Jungers, Shawn Hlavacek, Blake Dahle, Liam Culhane, and Becky Goens.

Bob Fox brought the Board of Adjustment and Planning Commission meeting to order at 8:00 pm.

Motion by Hanten, second by Ries, to approve the March 15, 2021 meeting minutes. Motion passed unanimously.

Motion by Johnson, second by Klatt, to approve the April 6, 2021 minutes. Motion passed unanimously.

Motion by Hanten, second by Ries, to move the Jungers request ahead of the Hlavacek request. Motion passed unanimously.

Motion by Hanten, second by Kahnke, to recess the Planning Commission and convene only as the Board of Adjustment. Motion passed unanimously.

Motion by Hanten, second by Ries, to approve the Matt Jungers' request for an Amendment to Conditions of a Conditional Use Permit granted on June 15, 2020 for an Extended Home Occupation. Property is owned by Teresa Jungers and located in SW1/4, Section 25-T116N-R52W. Muller reviewed Staff Report (attached). Per Jungers, his current licensing does allow animals from other farms to be brought in for custom processing. The change looking for now is a state inspected license so that butchering and retail sales can be done. Retail sales will not occur on site. There have been no complaints from neighbors. Jungers is planning to butcher no more than five days a week. An inspector is required to be on site on kill-date if the meat is to be used for retail sales. Jungers has purchased a retired Schwann's truck and any retail selling would be pop-ups around Watertown, not at this site. Motion passed unanimously.

Motion by Ries, second by Johnson, to approve two variances for Shawn Hlavacek on property owned by Dwayne Hlavacek Irrevocable Trust in Lot 3 and 4, former Sisseton-Wahpeton Indian Reservation, Section 18-T119N-R52W, to be known upon platting as Hlavacek Addition locate din Government Lots 3 and 4 in the SW1/4, Section 18-T119N-R52W, in the former Sisseton-Wahpeton Indian Reservation, Codington County. Hlavacek is seeking

Existing Farmstead Exemption and Minimum Lot Width variances for purposes of retaining building rights at the site of the farm. Muller reviewed Staff Report (attached). Chairman Fox read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion by Ries, second by Kahnke, to recess the Board of Adjustment and convene only at the Planning Commission. Motion passed unanimously.

Motion by Klatt, second by Ries, to recommend approval to the board of County Commissioners the Plat of Hlavacek Addition located in Government Lots 3 and 4 in the SW1/4 of Section 18-T119N-R52W, in the former Sisseton-Wahpeton Indian Reservation, Codington County, SD. Motion passed unanimously.

Motion by Ries, second by Kahnke, to reconvene jointly. Motion passed unanimously.

Muller led discussion regarding Commercial Storage in Commercial Districts. (See Attached Staff Report). Board members were not in favor of pursuing this change at this time.

Motion to adjourn made by Ries, second by Hanten. Motion passed unanimously. Meeting adjourned at 8:58 pm.

Respectfully Submitted,

Becky Goens

APRIL 2021
CODINGTON COUNTY
PLANNING COMMISSION/BOARD OF ADJUSTMENT STAFF REPORT

CODINGTON COUNTY BOARD OF ADJUSTMENT

ITEM #1 (2) VARIANCES

Owner/Applicant: Dwayne A Hlavacek Irrevocable Trust by Shawn Hlavacek (la va' check)

Property Description: Lot 3 & 4, Section 18-T119N-R52 West of the 5th P.M., Codington County, South Dakota, former Sisseton-Wahpeton Indian Reservation; to be known upon platting as Hlavacek Addition located in Government Lots 3 and 4 in the SW1/4 of Section 18-T119N-R52W, in the Sisseton and Wahpeton Indian Reservation, Codington County, SD (Dexter Township)

Action Items – Variances – Existing farmstead exemption/minimum lot area (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 transfer existing farmstead building rights to a specified site.

History/Issue(s):

1. The Hlavacek's will be splitting the home from the farmland and seek to retain building rights at the farm.
2. The property was granted an existing farmstead exemption to allow a second residence on the lot (manufactured home occupied by farm family member) in 2014.
 - a. That manufactured home has been removed.
3. The property was used as a base for farming operations prior to 1976 and has remained 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 anecdotal information, records and site-visit has determined that this parcel is under contiguous ownership of an existing farmstead/residential site prior to October 26, 1976. If approved it should be done so on the following conditions:
 - a. that the applicant shall plat a lot of at least five (5) acres in accordance with the Codington County Subdivision Ordinance.
 - b. That the applicant agree that no other house may be constructed on Gov't Lot 4 unless owned in common with a total of 35 contiguous acres..

ITEM #2 CONDITIONAL USE

Applicant: Matt Jungers / Owner: Teresa Jungers

Property Description: SW1/4 of Section 25-T116N-R52W, Codington County, South Dakota.
(Sheridan Township)

Action Items – Amendment to Conditions of Conditional Use Permit – Extended Home Occupation (Butcher Shop) (3.04.02.16) Granted on June 15, 2020.

Zoning Designation: Agricultural

Request: Amend Conditional Use Permit granted on June 15, 2020 to allow the applicant to butcher animals raised off-site.

History/Issue(s):

Specifics of Request:

1. Mr. Jungers was granted a Conditional Use Permit on September 27, 2017 to operate an 880 animal unit CAFO (swine)
2. Mr. Jungers was granted a Conditional Use Permit on June 15, 2020 to operate a butcher shop at the same property as the CAFO and his residence.
 - a. The CAFO is on a separate but adjoining legal description as the residence but the property is under common ownership.
3. The Board added the following Condition to the Conditional Use Permit:
 - a. Only animals owned or raised by the operator may be slaughtered/butchered at this site.
4. Mr. Jungers seeks to eliminate the above condition which would allow him to slaughter animals for other individuals/growers.
 - a. He would have a maximum of three (3) additional (live) cattle on-site at any time.
 - b. He would need to add a small (tall) addition onto his building used for butchering.
 - c. If he chooses to sell meat (grown off site and butchered) retail to consumers, he would be required to do so at an alternative site.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. The Board attached the specific condition in accordance with its ability to add conditions to a conditional use permit.
 - a. It is the recollection of staff that the intent was to become aware of and be able to consider whether this site is appropriate for hauling in off-site livestock to slaughter IF the applicant decided he would like to apply for an applicable license with the Animal Industry Board.
2. For the operation to bring in off-site raised animals, he would need a state inspector on-site on "kill day," and otherwise comply with a different state license than was originally issued.
3. It is not expected that adding the ability to slaughter animals raised from off-site would significantly increase traffic to the site.
4. Conditions added to the permit relating to permitting and licensure with the State of South Dakota still apply, and are not required to be amended by the County despite different licensing requirements by the state.
5. Neither the merits of the previously issued permit, nor any conditions other than the expiration date are germane to this request.

Staff Summary

Regardless of the decision to extend the permit today, Jungers still has a valid conditional use permit to operate his CAFO and to slaughter his own animals subject to the conditions agreed upon by the Board and applicant. The only question before the Board is to remove the condition limiting the slaughter of animals to animals raised on site. If that is the case, the Board may want to place a cap on the number of animals raised off-site which may be confined in conjunction with this permit.

Staff Recommendation

Amendment of Condition of Approval of Conditional Use Permit – **Extended Home Occupation – Butcher Shop (June 15, 2020)**: The Board may postpone the request, deny the request or approve the request. Staff recommends that if approved, the Board establish a maximum number of off-site raised animals (ten (10)) which may be confined.

CODINGTON COUNTY PLANNING COMMISSION

ITEM #1 PLAT

Applicant/Owner: Dwayne A Hlavacek Irrevocable Trust by Shawn Hlavacek

Property Description: Hlavacek Addition located in Government Lots 3 and 4 in the SW1/4 of Section 18-T119N-R52W, in the Sisseton and Wahpeton Indian Reservation, Codington County, SD (Dexter Township)

Action Items – Plat approval.

Zoning Designation: Agricultural

Request: Plat a 9 acre-lot in accordance with the order of the Board of Adjustment. Existing Farmstead Exemption was granted to this property. The irregular shape and boundary is due to the reservation line bordering the west edge of the property.

ISSUE #2 Discussion Commercial Storage in Commercial Districts

Staff has received requests for commercial storage in commercial districts (in the joint jurisdiction area:

- It is not a listed use in the Commercial District so the Board is not empowered to issue a permit.
- The Board has issued permits for “Wholesale Warehouse...” to individuals storing their own personal equipment and business equipment in Commercial Districts (Huss and Alama.)

Past permitting:

- The Board has allowed Commercial Storage:
- Town Districts (conditional use – “other uses...”)
- Commercial and Industrial Districts (the original permit was granted prior to 2006 ordinance (conditional or permitted use – “other uses...”)
- Extended Home Occupations
- It is allowed but no permits have been issued in the Lake Park District

Does the Board wish to initiate an amendment to allow Commercial Storage Businesses in the Commercial District of the Joint Jurisdiction Area?

- Pro:
 - Provides opportunity for use of existing commercially zoned properties and commercial growth potential.
 - With site limitations/criteria it could be limited to certain geographic areas.
- Con:
 - The use is allowed within City Limits.
 - The land use plan discourages commercial uses outside city limits unless directly supportive of agricultural uses.
 - May result in additional requests to rezone property to commercial around the City of Watertown and other lakes.
 - Development of individual sites will create commercial exclaves which may need to be avoided in future community development.
 - Not all storage buildings are operated without outdoor storage or nuisances.

ISSUE #4 OPEN/ADMINISTRATIVE REPORT