

Codington County Planning Commission/Board of Adjustment Minutes

June 21, 2021

The Codington County Planning Commission/Board of Adjustment met for their monthly meeting on June 21, 2021 via teleconference and 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, Bob Fox, Alex Kahnke, Rodney Klatt, and Luke Muller (Planner at First District Association of Local Governments/Codington County Zoning Officer).

Others present were Charles Raml, Lake VandeZande, Mackenzie Blais, and Becky Goens.

Bob Fox brought the Board of Adjustment and Planning Commission meeting to order at 7:59 pm.

Motion by Johnson second by Kahnke, to approve the May 17, 2021 meeting minutes. Motion passed unanimously.

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

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

Motion by Klatt, second by Johnson, to approve the Conditional Use Permit request by Mackenzie Blais. Blais would like to create a 29-acre parcel at the site of an existing farmstead on property owned by Carol Johnson in SW1/4, Section 10-T119N-R54W. Muller reviewed Staff Report (attached). If approved, the applicant would be required to plat the property. Adjacent landowner Larry Bergh does not have an objection to this request but had voiced concerns about neighborly behavior. Chairman Fox read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion by Hanten, second by Ries, to approve the Conditional Use Permit request by Lake VandeZande. VandeZande would like to create a 5.6-acre parcel at the site of an existing farmstead on property owned by Gordon Little located in NE1/4, Section 28-T116N-R52W; to be known upon platting as VandeZande Addition in NE1/4, Section 28-T116N-R52W. Muller reviewed Staff Report (attached). This is the only time the farmstead exemption can be used on this quarter. Chairman Fox read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion by Hanten, second by Klatt, to approve a 25' front yard setback for Charles Raml on his property in Lot 2 Raml Addition, Section 4-T116N-R51W. Raml would like to construct an addition onto an existing building. Muller reviewed Staff Report (attached). The highway actually moved further north but the right-of-way/setback remained the same. Chairman Fox read the Findings of Fact. There were no questions or objections. Motion passed 5-2.

Motion by Hanten, second by Ries, to approve a variance application by Chase Peterson for the date of a Type B Manufactured Home. Peterson would like to move in a 20-year old mobile home onto property owned by Wayne Peterson and located in SE1/4, Section 4-T118N-R55W. Muller reviewed Staff Report (attached). Chairman Fox read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion by Klatt, second by Ries, to approve the Conditional Use Permit request by Chase Peterson to place a 20-year old, Type B, manufactured home onto property owned by Wayne Peterson in SE1/4, Section 4-T118N-R55W. Chairman Fox read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion by Klatt, second by Ries, to approve a variance application by Travis Paulson for the date of a Type B Manufactured Home. Paulson would like to move a 2002 manufactured home onto property located in Paulson 3rd Addition in NW1/4, Section 14-T119N-R55W. Chairman Fox read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion by Ries, second by Hanten, to approve the Conditional Use Permit request by Travis Paulson to place a 2002, Type B, manufactured home onto his property in Paulson 3rd Addition in NW1/4, Section 14-T119N-R55W. Chairman Fox read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion by Johnson, second by Kahnke, to recess the Board of Adjustment and convene as the Planning Commission.

Motion by Klatt, second by Kahnke, to recommend approval to the Board of County Commissioners the Plat of Nick and Matt Kranz Addition in SW1/4, Section 4-T116N-R52W. Motion passed unanimously.

Motion by Ries, second by Kahnke, to recommend approval to the Board of County Commissioners the Plat of Blais Addition in SW1/4, Section 10-T119N-R54W. Motion passed unanimously.

Motion by Klatt, second by Kahnke, to recommend approval to the Board of County Commissioners the Plat of VandeZande Addition in NE1/4, Section 28-T116N-R52W. Motion passed unanimously.

Motion by Johnson, second by Ries, to reconvene jointly.

Muller briefly reviewed the joint meeting of the City of Watertown and County Commission meeting that was held at 5:30 pm on June 21.

Motion to adjourn made by Johnson, second by Ries. Motion passed unanimously. Meeting adjourned at 9:11 pm.

Respectfully Submitted, Becky Goens

**JUNE 2021
CODINGTON COUNTY
PLANNING COMMISSION/BOARD OF ADJUSTMENT STAFF REPORT**

ITEM #1 Conditional Use Permit

**Applicant: Mackenzie Blais
Owner: Carol Johnson**

Property Description: A portion of SW1/4, Section 10-T119N-R54 West of the 5th P.M., Codington County, South Dakota; to be known upon platting as Blais Addition in SW1/4, Section 10-T119N-R54W. (Dexter Township)

Action Items – Conditional Use Permit – Existing farmstead exemption “B” (3.04.02.44)

Zoning Designation: Agricultural

Request: The applicant seeks to retain building rights on a lot of less than 35 acres at the site of an existing farmstead.

History/Issue(s):

1. Mr. Blais seeks to purchase the farmsite from his grandmother.
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. The parcel contains an existing farmstead as defined by the Codington County Zoning Ordinance.
5. Staff recommendation **(Conditional Use Permit) –Existing Farmstead Exemption -** 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.

ITEM #2 Conditional Use Permit

**Applicant: Lake Vande Zande
Owner: Gordon Little**

Property Description: A portion of NE1/4, Section 28-T116N-R52 West of the 5th P.M., Codington County, South Dakota; to be known upon platting as VandeZande Addition in NE1/4, Section 28-T116N-R52W. (Sheridan Township)

Action Items – Conditional Use Permit – Existing farmstead exemption “B” (3.04.02.44)

Zoning Designation: Agricultural

Request: The applicant seeks to obtain building rights on a lot of less than 35 acres on the same property as an existing farmstead.

History/Issue(s):

1. Mr. VandeZande seeks to transfer the farmstead exemption from the established farm residence on the same quarter section as his proposed residence.
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. The parcel contains an existing farmstead as defined by the Codington County Zoning Ordinance.
5. Staff recommendation **(Conditional Use Permit) –Existing Farmstead Exemption “B”-** 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.

ITEM #3 VARIANCE

Owner/Applicant: Charlie Raml

Property Description Lot 2 Raml Addition, Section 4-T116N-R51W, Codington County, South Dakota. (Kranzburg (S) Township)

Action Item – Variance – 25' Front Yard Setback (3.04.03.3)

Zoning Designation: Agricultural District

Request: The Raml's seek to construct a shop addition 40' from the US 212 Right-of-way.

History/Issue(s):

Specifics of Property/Request:

1. The Raml's own the two lots, platted in 2014. (Previously 2 nonconforming lots of record with structure that pre-date the existence of zoning in the county)
2. They seek to construct a shop addition on a structure located 60' south of US HWY 212 right-of-way for the purpose of storing materials inside for an extended home occupation on site (permitted in 2012).
3. The addition would encroach 20' nearer to the US HWY 212 right-of-way, resulting in a setback of 40' where 65' is required. (The applicant is also building an addition on the south side of the existing structure as well.)
4. In this location the US HWY 212 right of way extends approximately 120' south of the centerline of the highway. (typically the right-of-way extends 45' to 50' from the center of the highway). The structure upon which the addition is proposed is currently located approximately 180' from center of highway.

5. As of the date of this report SDDOT neither supports nor objects to the request to construct an addition closer to the right-of-way than allowed by ordinance.

Ordinance/Variance History regarding this request:

1. The zoning ordinance requires a 65' setback from the right of way.
2. Because the applicant owns two lots at this location, the amount of area devoted to setback area does not significantly affect the amount of buildable space on the lot.
3. The Board has a history of denying front yard setback variances where the applicant requests to construct additions which would extend the building closer to the roadway/setback line than the existing structure.
4. The Board has granted variance to the front yard setback on US 212 west of Watertown on two occasions:
 - a. Deberg Farms: due to the highway shifting closer to the existing farm site and construction not being closer than building established prior to the highway moving closer to the buildings.
 - b. Gerald Vanwell: For a manufactured home placed on site for a relative of the farm operator and required to be removed should it no longer be occupied by a relative or employee of the farm operator.
5. If approved this structure would be 1 of 5 that are less than 180' from the center of US HWY 212 between Kranzburg and Watertown.
 - a. 2 are on this property;
 - b. 1 is a house that is still greater than 65' from the right-of-way;
 - c. 2 are accessory buildings constructed prior to the adoption of zoning (nonconforming structures.)

Staff Summary and Recommendation:

Staff Summary: Staff is unable to identify any physical hardships on the property that would deprive the applicant of rights enjoyed by other property owners in the area on (in the same zoning district); except the presence of 2 nonconforming structures on this property and 2 more on properties west of here. The ordinance however states that the presence of nonconforming structures cannot be used as a basis for granting variance.

Staff recommendation – **25' Front Yard Variance**- The Board could postpone, deny or approve the request. Staff recommends that if denied the Board could use the following findings:

- a. The configuration and size of the lot is not so unique to necessitate any relaxation of the setback requirement.
- b. This request is significantly different from the request approved for Deberg in that the variance allowed a structures to be built on a line of structures established before the highway moved **closer to the buildings**.
- c. This request is significantly different from the request approved for VanWell in that the house is to be removed at some specified point in the future.
- d. The presence of nonconforming structures cannot be the basis for issuing a variance.
- e. The literal interpretation of this rule does not deprive the applicant of rights commonly enjoyed by other properties in this district.
- f. Therefore the granting of this variance would confer upon the applicant a special benefit not enjoyed by other landowners in the zoning district.

If approved it would be done based upon the following findings:

- The right-of-way in this location is oversized in reference to other stretches of US HWY 212.
- Granting of the variance would result in the structure being placed approximately 160 from the center of US HWY 212.
- In many cases in this neighborhood the right-of-way plus setback area would be allow for this addition to be constructed if it were not for the right-of-way established for the highway, previously situated farther south in the right-of-way.
- The proposed addition is farther from the right-of-way than the long established trees surrounding the site.

ITEM #4 CONDITIONAL USE AND VARIANCE

Applicant: Chase Peterson

Owner: Wayne Peterson

Property Description: SE1/4, Section 4-T118N-R55 West of the 5th P.M., Codington County, South Dakota. (Phipps Township)

**Action Items – Conditional Use – Type B Manufactured Home (3.04.02.17)
Variance – Maximum Age of Type B Manufactured Home (5.11.1.b.iii)**

Zoning Designation: A - Agricultural

Request: Applicant seeks to place a Type B Manufactured Home, greater than 15-years old on the above property.

History:

Specifics of Request:

1. Wayne Peterson owns the entire quarter section, and lives and farms in the quarter section east of this property.
2. Chase Peterson (applicant) farms with his father and seeks to place a single-wide manufactured home on site to live in.
3. An unoccupied house is currently on the same legal description and is proposed to be removed prior to placing the manufactured home on site.
4. The manufactured home is 20 years old and will be placed in a manner that meets all required setbacks.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. "Type B Manufactured Homes..." are listed as a conditional use in the Agricultural District.
2. Historically the Board has allowed manufactured homes on lots meeting minimum lot requirements or as a second residence for a relative or employee of the farm owner.
3. Type B Manufactured Homes are required to be less than 15 years old at the time of placement on the property; unless a variance is issued by the Board.
4. In order to issue the variance, the applicant must obtain 100% of adjacent landowners' signatures and 66% of those landowners within 200' of the property.
 - a. Applicant has submitted signature/approval of 3 of the 4 adjoining landowners at the time of this report.

b. Adjoining landowners include:

- 1) James and Erin Brenden
- 2) Carl Gulbraa
- 3) Peterson Irrevocable Land Trust/Linda Peterson
- 4) Derek Hlavacek

Staff Summary and Recommendation

Variance – **Maximum Age of Type B Manufactured Home:** The application may be approved, postponed, or denied. Staff recommends approval of the variance on the condition that the applicant submit written approval of all adjoining landowners prior to issuance of a building permit for the Type B Manufactured Home

Conditional Use Permit – **Type B Manufactured Home:** The application may be approved, postponed, or denied. Staff recommends approval of the application on the grounds that the property meets the minimum requirements for a residential building site, and the home meets the minimum requirements for a Type B Manufactured home (if variance to age is approved.)

ITEM #5 CONDITIONAL USE AND VARIANCE

Applicant/Owner: Travis Paulson

Property Description: Paulson 3rd Addition in NW1/4, Section 14-T119N-R55 West of the 5th P.M., Codington County, South Dakota. (Eden Township)

**Action Items – Conditional Use – Type B Manufactured Home (3.04.02.17)
Variance – Maximum Age of Type B Manufactured Home (5.11.1.b.iii)**

Zoning Designation: A - Agricultural

Request: Applicant seeks to place a Type B Manufactured Home, greater than 15-years old on the above property.

History:

Specifics of Request:

1. Mr. Paulson owns the entire quarter section, and lives and farms in the quarter section south of this property.
2. Paulson 3rd Addition was platted as part of a farmstead exemption.
3. Mr. Paulson seeks to place a single-wide manufactured home on site for a relative to live in.
4. The manufactured home is 19 years old and will be placed in a manner that meets all required setbacks.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. "Type B Manufactured Homes..." are listed as a conditional use in the Agricultural District.
2. Historically the Board has allowed manufactured homes on lots meeting minimum lot requirements or as a second residence for a relative or employee of the farm owner.
3. Type B Manufactured Homes are required to be less than 15 years old at the time of placement on the property; unless a variance is issued by the Board.
4. In order to issue the variance, the applicant must obtain 100% of adjacent landowners' signatures and 66% of those landowners within 200' of the property.
 - a. Mr. Paulson owns all of the land adjacent to and within 200' of this legal description.

Staff Summary and Recommendation

Variance – **Maximum Age of Type B Manufactured Home:** The application may be approved, postponed, or denied. Staff recommends approval of the variance on the grounds that the condition for approving a variance to the maximum age of a manufactured home have been met by the applicant.

Conditional Use Permit – **Type B Manufactured Home:** The application may be approved, postponed, or denied. Staff recommends approval of the application on the grounds that the property meets the minimum requirements for a residential building site, and the home meets the minimum requirements for a Type B Manufactured home (if variance to age is approved.)

CODINGTON COUNTY PLANNING COMMISSION

ITEM #1 PLAT

Applicant: Richard Ohm

Owner: Nick and Matt Kranz

Property Description: Nick and Matt Kranz Addition in SW1/4 of Section 4-T116N-R52 West of the 5th P.M., Codington County (Sheridan Township)

Action Items – Plat approval.

Zoning Designation: Agricultural

Request: Plat a 15 acre-lot in accordance with the order of the Board of Adjustment. Existing Farmstead Exemption was granted to this property.

ITEM #2 PLAT

Applicant: Mackenzie Blais

Owner: Carol Johnson

Property Description: Blais Addition in SW1/4, Section 10-T119N-R54W. (Dexter Township)

Action Items – Plat approval.

Zoning Designation: Agricultural

Request: Plat a 30 acre-lot in accordance with the order of the Board of Adjustment. Existing Farmstead Exemption was granted to this property.

ITEM #3 PLAT

Applicant: Lake Vande Zande

Owner: Gordon Little

Property Description: VandeZande Addition in NE1/4, Section 28-T116N-R52W. (Sheridan Township)

Action Items – Plat approval.

Zoning Designation: Agricultural

Request: Plat a 5 acre-lot in accordance with the order of the Board of Adjustment. Existing Farmstead Exemption was granted to this property.

ISSUE #4 OPEN/ADMINISTRATIVE REPORT