

## Codington County Planning Commission Minutes

June 27, 2022

The Codington County Planning Commission met for their monthly meeting on June 27, 2022 via teleconference and at the Codington County Extension Complex. Members of the Planning Commission/Board of Adjustment present were Mel Ries, Mark O'Neill, Bob Fox, Myron Johnson, Rodney Klatt, Brenda Hanten, and Luke Muller (Planner at First District Association of Local Governments/Codington County Zoning Officer). Board member Alex Kahnke was absent.

Others present were Morrie Comes, Lynn Waege, and Becky Goens.

Chairman Fox brought the Planning Commission meeting to order at 10:04 am.

Motion by Johnson, second by Ries, to approve the May 16, 2022 meeting minutes. Motion passed unanimously.

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

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

Motion by Johnson, second by Ries, to approve a Conditional Use Permit request by Tim and Lacey Grabow Living Trust to create/maintain a 10.8 acre parcel at the site of an existing farmstead. Property is owned by Jeff and Lynae Grabow Living Trust and located in a portion of Government Lot 3 (3ess N1236' and Government Lot 4 and E1/2 SE1/4 less N1236' and Lot 1 Beskow Farm Addition in E1/2 and SE1/4, Section 17-T119N-R52W. Muller reviewed Staff Report (attached). If approved, applicant would be subject to platting the property. Chairman Fox read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

Motion by Klatt, second by O'Neill, to approve a Conditional Use Permit request for an existing farmstead exemption on property in W72 rods of S40 rods of SE1/4, Section 11-T116N-R55W. This property was transferred between the time of application and the meeting date. It is currently owned by Rob and Rock Arnold, Racotah Valley Ranch. No questions or objections regarding the Findings of Fact. Motion passed unanimously.

Motion by Hanten, second by Ries, to approve a 29' front yard setback variance request by Lynn and Lana Waege on their property in N1/2 NW1/4 less strip and E1/2, Section 35-T119N-R51W. Waege's are requesting to relocate an existing shed on their property to a different location in line with existing Ag structures. Muller read the Findings of Fact. There were no questions or objections. Motion passed unanimously.

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

Motion by O'Neill, second by Ries, to recommend approval to the Board of County Commissioners the Plat of Tim and Lacey Grabow Addition located in the SE1/4 of Section 17-T119N-R52W. Motion passed unanimously.

Motion by O'Neill, second by Ries, to recommend approval to the Board of County Commissioners the Plat of Comes Acres located in the E1/2 of NE1/4 and SE1/4 of Section 13-T118N-R53W. Motion passed unanimously.

Motion to adjourn made by Johnson, second by O'Neill. Motion passed unanimously. Meeting adjourned at 10:28 am.

Respectfully Submitted,

Becky Goens

**JUNE 2022  
CODINGTON COUNTY  
JOINT PLANNING COMMISSION/BOARD OF ADJUSTMENT STAFF REPORT**

**ITEM #1 CONDITIONAL USE PERMIT**

**Applicant: Tim and Lacey Grabow Living Trust**

**Owner: Jeff and Lynae Grabow Living Trust**

**Property Description:** a portion of Government Lot 3 less N1,236' and Government Lot 4, and E1/2 of the SE1/4, less the N1,236' and Lot 1 Beskow Farm Addition in the E1/2 and the SE1/4, Section 17-T119N-R52W of the 5<sup>th</sup> P.M, Codington County, South Dakota, to be known upon Platting as Tim and Lacey Grabow Addition (Germantown Township).

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

**Zoning Designation:** Agricultural

**Request:** The applicant seeks Existing Farmstead Exemption to create a lot with less than 35-acres on the same legal description as an existing farmstead.

**History/Issue(s):**

1. The Applicant seeks to establish building rights at the site of an existing farmstead.
2. The property has remained a base for farming operations since prior to 1976 was lived in until recently.
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**

**Owner/Applicant: Ada Hemstock by Elka Lamberson (Power of Attorney) / Transferred to Rock Arnold during application period.**

**Property Description:** West 72 Rods of the South 40 Rods of the Southeast Quarter, Section 11-T116N-R55W of the 5<sup>th</sup> P.M, Codington County, South Dakota (Henry Township).

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

**Zoning Designation:** Agricultural

**Request:** The applicant seeks Existing Farmstead Exemption to create a lot with less than 35-acres on the same legal description as an existing farmstead.

**History/Issue(s):**

1. The Applicant seeks to establish building rights on the previously created (prior to 2004) 18-acre lot.
2. The property has remained a base for farming operations since prior to 1976 was lived in until recently.
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.

**ITEM #1 VARIANCE**

**Owner/Applicant: Lynne and Lana Waege**

**Property Description** The North Half of the Northwest Quarter less strip, and the East Half of Section 35, Township 119 North, Range 51 West of the 5th P.M. (Leola Township), Codington County, South Dakota.

**Action Item – Variance – 29' Front Yard Setback (3.04.03.3)**

**Zoning Designation:** Agricultural District

**Request:** The Waege's seek to move a shed from one location to another on the same property but 36' from the 159<sup>th</sup> Street right-of-way.

**History/Issue(s):**

**Specifics of Property/Request:**

1. The Waege's operate a feedlot as a permitted use at the location of their residence.
2. They seek to move an existing shed from the southwest portion of the yard to the northeast part of the yard.
3. The shed currently conforms with the setbacks for the Ag District.
4. The proposal will move the shed to be located 36' from the 159<sup>th</sup> Street Right-of-way (69' from the center of the road).
5. It should be noted that a farmstead tree claim is located along the property line in this same yard to the west; an existing barn is located approximately 69' from the center of 159<sup>th</sup> Street, and a feed bunk is also located the same distance.
6. 159<sup>th</sup> Street is maintained by Leola Township who has not objected to the request.

**Ordinance/Variance History regarding this request:**

1. The zoning ordinance requires a 65' setback from the right of way.
2. No record exists of permits for the above referenced shed/barn and feed pad located 69' from the center of 159<sup>th</sup> Street. It's possible those buildings were built when the interpretation of the ordinance allowed ag buildings to be built without a building permit.
3. The Board has granted variance to allow Ag Structures to be built in line with other existing Ag Structures on a case-by-case basis.
4. There is room to place this shed farther south which would meet the required setback, however the existing farm buildings would still be nonconforming.
5. Staff has heard no correspondence from Leola Township regarding this matter.

Staff Summary:

This structure could obviously be placed somewhere on the 300+ acre lot in a manner conforming with the ordinance. The real question here is whether the Board would allow the reconstruction of structures existing on the farm in the same line as this structure. If the Board would be inclined to issue a permit to reconstruct those structures, they should grant the variance for this structure. If it is the inclination that the board would deny that variance, this should be denied too.

Staff Summary and Recommendation:

**Staff Recommendation – 29 foot Variance: Minimum required front yard setback (Section 3.04.03.3):** The Board may approve, deny, or postpone the request.

- The request could be approved based upon the following findings
  - a. The existence of a shed and shelterbelt in the same yard in-line to the right-of-way with the moved structure.
  - b. Lack of objection from Leola Township.
- The request could be denied on the basis that there is no hardship unique to this property that is not a result of actions of this or previous property owners.
  - a. It could be construed that approval of this variance is, in part, due to the presence of nonconforming structures on the lot.
  - b. The configuration and size of the lot is not so unique to necessitate any relaxation of the setback requirement.
  - c. Therefore the literal interpretation of this rule does not deprive the applicant of rights commonly enjoyed by other properties in this district.

**CODINGTON COUNTY PLANNING COMMISSION**

**ITEM #1 PLAT**

**Applicant/Owner: Jeff and Lynae Grabow**

**Property Description:** Plat of Tim and Lacey Grabow Addition in the SE1/4 of Section 17-T119N-R52W (Germantown Township).

**Action Items – Plat approval.**

**Zoning Designation:** Agricultural

**Request:** Plat a minimum 5 acre-lot in accordance with the order of the Board of Adjustment. Existing Farmstead Exemption was granted to the is property earlier in this meeting which allowed the creation of a minimum 5-acre lot.

**ITEM #2 PLAT**

**Applicant/Owner: Morrie Comes and Bob Endres**

**Property Description:** Plat of Comes Acres in the E1/2 of the NE1/4 of Section 13-T118N-R53W (Rauville Township).

**Action Items – Plat approval.**

**Zoning Designation:** Agricultural

**Request:** Plat a 33.11 acre parcel at the site of an existing farmstead which has already been granted a farmstead exemption (Rau Acres Addition).

**ISSUE #2 OPEN/ADMINISTRATIVE REPORT**

**ISSUE #3 EXECUTIVE SESSION (if Necessary)**