

**SEPTEMBER 2022  
CODINGTON COUNTY/CITY OF WATERTOWN  
JOINT BOARD OF ADJUSTMENT  
CODINGTON COUNTY  
PLANNING COMMISSION/BOARD OF ADJUSTMENT  
STAFF REPORT**

**MONDAY – SEPTEMBER 19, 2022 – 7:30 p.m.**

**CODINGTON COUNTY/CITY OF WATERTOWN JOINT BOARD OF ADJUSTMENT**

**ITEM #1 VARIANCES**

**Applicant/Owner: Vince Tekrony and Karen Boor**

**Property Description:** Lot 5 less the West 127.5 Feet of the South 235.8 Feet & the West 127.5 Feet of Lot 5 less North 262.2 Feet & Lot 6 less North 262.2 feet in Kahnke Subdivision, Section 23, Township 117 North, Range 53 West of the 5th P.M., Codington County, South Dakota (Lake Township)

**Latitude/Longitude: 44.928460° / -97.150454°**

**Action Items – Variances – Accessory Structure without a primary structure (temporary) (5.14.1).**

**Zoning Designation:** Rural Residential

**Request:** The applicant seeks variance to construct and complete an accessory structure before a primary structure can be completed.

**History/Issue(s):**

1. The Tekrony's seek to construct a shed and home on the above property.
2. The intent is to construct a shed to store materials associated with building the house, then construct the house.
  - a. A redi-built home is intended to be moved onto the site late this fall or early next Spring.
  - b. The intent is to start construction of the shed/shop before construction occurs (on site) of the new home.
  - c. The Joint Ordinance allows building permits to be effective for 6 months and automatically renewable for an additional 6 months. After a year, a new permit would be required for the house (if not completed.)
3. The Joint Zoning Ordinance requires that all accessory structures (sheds) be on a lot with a primary structure (house.)
4. The Zoning Officer cannot issue a building permit to knowingly permit the applicant to violate the zoning ordinance (even if temporarily).
5. Zoning Officer interpretation: The Zoning Officer is authorized to issue the building permits for both the shed and house at the same time if both can be completed within 6 months. If additional time is needed for the house, but the shed will be up in the six months; a variance/special permission from the Joint Board is required to authorize the issuance of the building permit(s) knowing at least one extension will be needed for the house.

6. The applicant is aware of the prohibition on dwelling units in accessory buildings, and has no intention of creating such a unit.
7. The County Board of Adjustment has a history of granting similar variances where the structure will not be used as a dwelling unit and the residence will be completed within one (1) year of completion of the accessory building.
8. Staff recommendation:

***Variance to temporarily allow an accessory structure without a primary structure on the same lot-*** Staff recommends approval of the variance to temporarily allow an accessory structure without a primary structure on the condition the applicant applies for a building permit for a house at the same time as the accessory structure, but expects to need one 6-month extension.

## **ITEM #2 VARIANCE**

**Applicant: William and Brenda Ortmeier**

**Owner: Matt Kranz**

**Property Description** SW1/4 of Section 4-T116N-R52W, lying South & West of the Easterly right-of-way line of the former DM&E Railroad; all less the following parcels: Lots 1 & 2 of Watertown Mobile Estates Second Addition to the City of Watertown; Nick Kranz Addition to the Municipality of Watertown; N450' of S1050' of SW1/4, less the E420' & less Nick Kranz Addition, all located in SW1/4 of 4-T116N-R52W; Endres Investment Third Addition to the Municipality of Watertown; Watertown Mobile Estates Addition, also described as N244' lying W of the former RR right-of-way of SW1/4, 4-T116N-R52W; Lots H1 and H2; all in Codington County, South Dakota (Sheridan Township).

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

**Zoning Designation:** Agricultural District

**Request:** The Ortmeier's propose to construct an addition to and in-line with the existing house, 40' from the 20<sup>th</sup> Avenue SE right-of-way.

**History/Issue(s):**

**Specifics of Property/Request:**

1. The Ortmeier's live at the above address on the Kranz property.
2. The house was constructed in 1998 by a Mr. Ortmeier (Permit #1532).
3. The house is located approximately 40' from the center of 20<sup>th</sup> Avenue SE right-of-way.
4. Additional right-of-way for 20<sup>th</sup> Avenue SE has been purchased for 20<sup>th</sup> Avenue since the home was constructed.
5. The proposed addition would be located adjacent to and in-line with the existing house/garage. No portion of the addition would be located closer to the right-of-way than the existing house.

Ordinance/Variance History regarding this request:

1. The zoning ordinance requires a 65' setback from the right of way.
2. The proposed 40' setback would meet setback requirements for all zoning districts (except Ag) in the City of Watertown.
3. The Board has granted variance to allow in-line additions to existing structures when the road authority does not object to the request.
4. Staff has heard no correspondence from any adjacent landowners regarding this request.

Staff Summary:

It is unlikely that the proposed addition will cause additional cost in maintenance of 20<sup>th</sup> Ave SE. Information available today indicates that both the home was permitted less than 65' from the right-of-way and the right-of-way has expanded to bring the road closer to the home.

Staff Summary and Recommendation:

**Staff Recommendation – 33 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 addition will be in-line with the existing house which was constructed in 1998 40' from the current right-of-way.
  - b. The approval of the permit implies consent to the landowner to be able to make in-line additions with the existing structure, despite the lack of formal approval by the Board of Adjustment at the time.
  - c. Expansion of 20<sup>th</sup> Avenue SE has exacerbated the need for variance in this case.
- 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. Denial of the variance would not deny the applicant of the ability to use the property for a residence and agricultural use; nor prohibit the applicant from obtaining building permits to construct a conforming addition.
  - b. Therefore the literal interpretation of this rule does not deprive the applicant of rights commonly enjoyed by other properties in this district.

## CODINGTON COUNTY BOARD OF ADJUSTMENT

### ITEM #1 CONDITIONAL USE PERMIT

**Owner/Applicant: William and Carol Comes**

**Property Description:** a 5-acre portion of W1/2 of NW1/4, Section 26-T116N-R51W less N225' of S474' of W223' thereof & except that portion conveyed for highway purposes in page 586 Book 189 to be known upon platting as Comes Addition, Codington County, South Dakota (Kranzburg (S) 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 Comes' seek to create a 5-acre lot at the site of an existing farmstead.
2. The property was a base for farming operations since prior to 1976 and is still 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 (**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.

### ITEM #2 CONDITIONAL USE PERMIT

**Applicant: Preston Fleming**

**Owner: Todd Fleming**

**Property Description** SW1/4 of Section 17-T118N-R53W less S582.4' of SW1/4, Section 17-T118N-R53W, Codington County, South Dakota (Fuller Township).

**Action Items – Conditional Use Permit – Type “B” Manufactured Home (3.04.02.17)**

**Zoning Designation:** Agricultural

**Request:** The applicant seeks to replace the existing home with a type B manufactured home at the Existing Farmstead Exemption.

**History/Issue(s):**

1. Mr. Fleming has purchased a new, singlewide manufactured home to replace the existing residence on the property which is greater than 100 years old.
2. Mr. Fleming works on the family farm, and a CAFO is operated at this site.
3. The existing home will be removed before the new manufactured home is installed.
4. The proposed new home will meet all applicable setbacks.

Ordinance/Variance History regarding this request:

1. The zoning ordinance requires a conditional use permit for Type B Manufactured Homes.
2. Specific requirements regarding size, first time occupancy, siding and roofing materials, and the need for skirting is listed in the ordinance. Mr. Fleming's proposal meets all specific requirements of Type B Manufactured Homes.
3. Since the manufactured home is "new" there is no need for adjacent landowner signatures.
4. The comprehensive land use plan encourages the use of manufactured homes occupied by employees or relatives of the farm owner/operator provided that any new home requires an Ag Easement to be signed by the applicant at the time of building permit.

Staff Recommendation:

- **(Conditional Use) –Type B Manufactured Home-** The Board may approve, deny or postpone the request. Staff recommends approval based upon compliance with the applicable requirements of the Zoning Ordinance with reference to lot area, and minimum requirements for Type B Manufactured Homes.

**CODINGTON COUNTY PLANNING COMMISSION**

**ITEM #1 PLAT**

**Applicant/Owner: William and Carol Comes**

**Property Description:** Plat of Comes Addition in the W1/2 of NW1/4, Section 26-T116N-R51W of the 5th P.M, Codington County, South Dakota (Kranzburg (S) 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: James R and Ardis J Henning Living Trust**

**Property Description:** Plat of Henning Addition in the Northeast Quarter of Section 24, Township 117 North, Range 55 West of the 5th P.M, Codington County, South Dakota (Graceland Township).

**Action Items – Plat approval.**

**Zoning Designation:** Agricultural

**Request:** Plat an irregularly shaped, 53-acre lot with over 2,000 feet of frontage on the Medicine Lake Road (442<sup>nd</sup> Avenue).

**ISSUE #4 EXECUTIVE SESSION (if Necessary)**

Public Copy - Do Not Take