

Codington County/City of Watertown
Joint Planning Commission/Joint Board of Adjustment Minutes
February 20, 2024

The Codington County/City of Watertown Joint Planning Commission/Board of Adjustment met on February 20, 2024, at the Codington County Extension Complex. Members of the Joint Planning Commission/Board of Adjustment participating were: Brenda Hanten, Liam Culhane, Blake Dahle, Myron Johnson, and Luke Muller (Planner at First District Association of Local Governments/Codington County Zoning Officer). Mark O'Neill was absent. Codington County Planning Board member Rodney Klatt resided in O'Neill's absence.

Others present: Lindsey Jungers, Matt Jungers, Roy Brownlee, Randy Schweer, Andrew Zemlicka, Alex Kahnke, Mel Ries, and Becky Goens.

Chair Hanten brought the meeting of the Joint Board of Adjustment to order at 12:32 pm.

Motion by Culhane, second by Dahle, to approve the minutes of the July 11, 2023 meeting. Motion passed unanimously.

Motion by Culhane, second by Dahle, to approve the agenda as stated by Staff. Motion passed unanimously.

Mark O'Neill made a recommendation to Staff to re-elect Brenda Hanten as chairperson and Liam Culhane as Vice-Chair.

Motion by Johnson, second by Dahle, to cease nominations. Motion passed unanimously.

Motion by Dahle, second by Culhane, to approve the Variance application made by Aric Martens to allow a variance to the minimum lot size for purposes of constructing a small Ag/animal structure. Property is in S307.4' of N1327.4' of E601.4' of W1150' of NE1/4, Section 28-T117N-R52W. Muller reviewed Staff Report (attached). No one was present to speak. Public hearing closed. Muller read the Findings of Fact. There were no questions or objections. Motion failed unanimously.

Muller reviewed setbacks from the lake in the Lake Park District. Ultimately, lakeside setbacks are measured from the ordinary high-water mark.

Motion to adjourn made by Johnson, second by Culhane. Motion passed unanimously. Meeting adjourned at 12:59 pm.

Respectfully Submitted,

Becky Goens

**FEBRUARY 2024
CODINGTON COUNTY/CITY OF WATERTOWN
JOINT BOARD OF ADJUSTMENT STAFF REPORT**

ITEM #1 VARIANCE

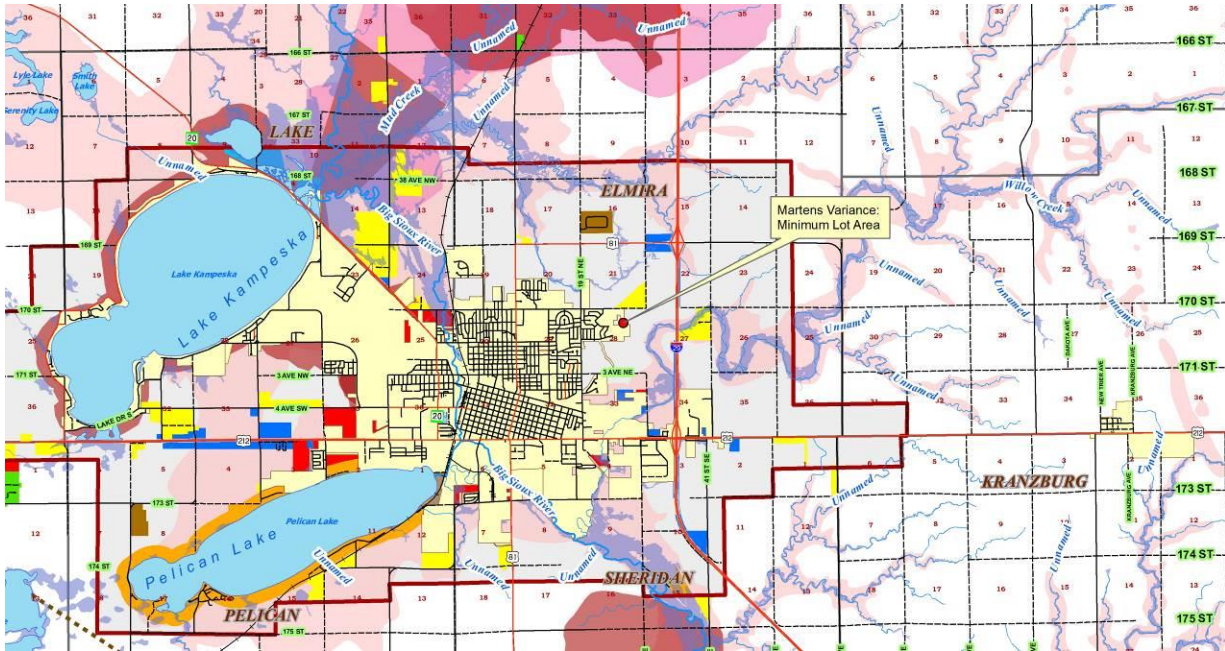
Applicant/Owner: Aric Martens

Property Description the South 307.4 Feet of the North 1,327.4 Feet of the East 601.4 Feet of the West 1,150 Feet of the Northeast Quarter, Section 28-T117N-R52W, Codington County, South Dakota.

Lat/Long (Directly south of house – no approach): 44.916313°; - 97.073499°

Action Items – Variance – Minimum Lot Area [Permitted Uses in Ag District]

Zoning Designation: A - Agricultural



Request: The applicant requests to establish building rights on a lot of less than 35 acres.

Specifics of Property/Request:

1. This lot was held in common with a nonconforming lot or record (Isler's Addition), which effectively combined it as a single lot (see the red lot and red hatched lot below (left)).
2. The house was platted on a single lot and annexed into the City of Watertown in 2013, however retained ownership of the original legal description.
3. The annexation of the house rendered the remainder of Isler's addition and the area in the red hatch (the subject property in this request) illegal/unbuildable lot.
4. Mr. Martens' purchased the above described 4-acre property in 2022.
 - a. He seeks to construct a stable for up to two horses
5. Mr. Martens lives (owns) the adjoining parcel **in city limits** Lot 14, Block 2, Prairie View Addition. (See the aqua lots below (right). City limits in yellow.)
6. The lot (as of now) has access through Mr. Martens' yard. (The Board would need to formally "approve" access for this lot through Mr. Martens' yard to this building, if the variance is approved.)



Comprehensive Land Use Plans regarding this request:

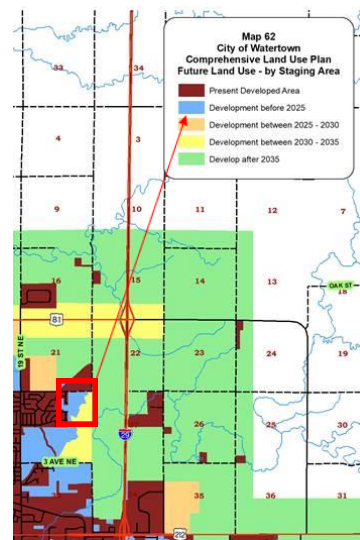
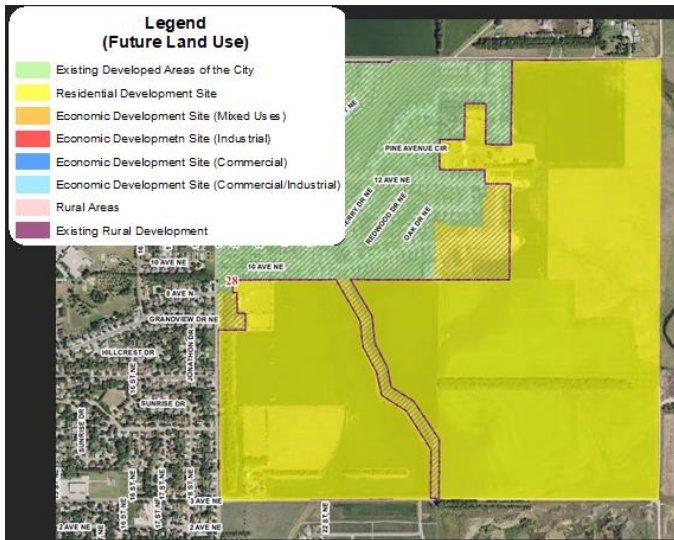
County Land Use Plan

1. The property is in the area of Development Transition. This area is “near incorporated communities... [that] have been experiences requests for development... and could be potential conflict zones in terms of availability of public infrastructure, incompatible uses, and municipal/county interests.” Some applicable policies that conflict:

- Leapfrog development (creating service gaps) is discouraged.
 - The leapfrog was created when Monarch and other surrounding subdivisions were platted without including this property (prior to the current owner.)
- Annexation of land adjacent to city limits is encouraged prior to development.
 - A. This is usually implied to mean “development requiring ‘special permits’ (not “by-right” uses) such as variances, plats, rezonings.”
 - B. In cases of variance, the Board has considered what precludes the applicant from being annexed and whether such development question is conforming in city limits.
- Promote optimum land use relationships and minimize land use conflicts
 - A. Applicant contends neighbors do not object to a stable being constructed.
 - B. (Approval) promotes the perpetuation of open space/Ag use to be surrounded by continued residential development.
- Rural land will be converted to urban development in accordance with the Comprehensive Plan and in such a way as to promote economic and orderly extension of the urban services.

City Comprehensive Land Use Plan

The city’s Comprehensive Land Use Plan is very detailed for development inside and on the fringe of town. It identifies the type of development expected for this property (Residential Development); and when it is prepared/expecting annexation (Prior to 2025.)



Zoning Ordinance/Variance History regarding this request:

1. The minimum lot area in the agricultural district is 35 acres unless:
 - a. A lot was used as a base of farming operations prior to 1976 and lived in in the last 50 years.
 - b. Past determination of the Board of Adjustment or zoning administrator was that the property met the requirements for a farmstead exemption (“Bud-ism”)
 - c. The full legal description existed in contiguous ownership, which has not decreased in area since prior to 1976.
2. Past denials of similar variances:
 - a. Codington County Board of Adjustment: The Board has a history of denying variances to the minimum 35 acre lot requirement where a tract of 35 acres is proposed to be split or has already been split for the purposes of obtaining a residential building permit if the split occurred after 1976 regardless of previous permits or approval by the zoning officer in some cases.
 - Since 2004: Spiegel ‘04, Manzey ‘04, Stadheim ‘06, Smith’ 06, Krause ‘06, Brandreit ‘06, Wittnebel (‘06 and ‘09), Lueck ‘07, Steen ‘09, Laqua ‘11, Peters/Schreiner ‘13, Schaefer ‘13, Schaefer ‘14, Brandreit ‘15, Kuhnert ‘18.)
 - b. Joint Board of Adjustment: The Joint Board has upheld the minimum lot requirement (35 acres) in the only request to create a lot with less than 35 acres for residential use
 - Schwanke ‘16
3. It should be noted that the applicant does not request residential building rights, and that the legal description could be used for any of the conditional uses listed in the Ag District provided the Board of Adjustment agrees that access and lot area are sufficient.
4. Past approvals of similar variances in Ag Zoning in joint area:
 - a. Codington County Board of Adjustment: The Board granted one variance to the minimum lot area for agricultural structures: Cordell ‘07
 - Cordell was required to remove the proposed structure upon transfer of property (1/2 mile north of intersection of 19th Street NE and 14th Ave NE.) No other buildings allowed.
 - b. Codington County Board of Adjustment: The Board granted one variance to allow accessory structures (garages) for lots adjacent (not separated by a street) to and under common ownership with residential lots in City Limits: Danforth ‘06; Schmeling ‘15
 - Danforth was required waiver of right to protest annexation.
 - Schmeling was required to petition annexation within one year of obtaining building permit or the structure would be required to be removed. He chose not to build.
5. No requests for variance to minimum lot area (in the Ag District) adjacent to city limits have been made since the Joint Jurisdiction Ordinance has been requested.

- a. One applicant (Borkhuis '21) requested annexation of a lot (identical situation to Danforth and Schmeling) because the proposed use was an allowable use, and so it was expected he would be denied or his request postponed until consideration of annexation was made by the City of Watertown.
6. Brief summary of City of Watertown Zoning Ordinance Relating to this request:
 - a. Property would require annexation.
 - b. Standard zoning of annexed land is Agricultural unless otherwise requested/required
 - c. Agricultural activities and farm related buildings are "permitted uses"
 - d. "Stables" are conditional uses. (This use would likely require a conditional use in City limits.)
 - e. There is no minimum lot area in the Agricultural District in the City of Watertown. (Only a maximum density of residential structures.)

Staff Summary:

The Joint Board and County Board of Adjustment have been very firm on the minimum lot area in the Ag District for permitted uses. Outside the development area of the City of Watertown the County has issued some variances to Ag and accessory uses in the past but have required annexation. Each variance has resulted in innumerable complaints of inequality from those in favor of relaxing the conditions and those upset the variance was issued. The Board of direction and county staff have been very consistent since 2004, that properties requiring rezoning or variance should request annexation before the Board of Adjustment approves a request or as conditional of approval. It is my duty as zoning officer to recommend denial of this variance or postponing action until a petition of annexation is considered by the City of Watertown.

Recommendation:

- **30 acre minimum lot area variance:** The Board has the option to approve, deny, or postpone the request to replace an existing shed with a larger shed, one foot closer to the side property line. Staff recommends postponing the request until a petition of annexation is considered by the City of Watertown or denial of the variance based upon:
 1. The property is seeking special permit (variance) adjacent to city limits in an area eligible to, and planned (Watertown Comp Plan) to be annexed at this time.
 2. The hardship is based upon actions of (previous) owners of the lot to subdivide and annex a portion of the property rendering this legal description illegal by the subdivision and zoning ordinance.

Until a recommendation by the City of Watertown Planning Commission and/or City Council is provided, staff is unaware of findings to support this request. If approved, the Joint Board will have to draft its own findings prior to completion of the meeting.