

MINUTES

BROWN COUNTY PLANNING COMMISSION/ ZONING BOARD of ADJUSTMENT

TUESDAY, AUGUST 21, 2018 - 7:00 P.M.
COMMUNITY ROOM, BROWN COUNTY COURTHOUSE

The Brown County Planning Commission/Zoning Board of Adjustment meeting was called to order by Brown County Planning Commission Chairman, Jerry Streckfuss. Members of the Brown County Planning Commission present at roll call were Vice Chairman Stan Beckler, Darwin Bettmann, David North, Dale Kurth, Patrick Keatts and B.C. Commissioner Rachel Kippley serving on Planning/Zoning Commission. Also present at the meeting was Scott Bader, Planning & Zoning Director and Nancy North, Zoning Secretary.

After discussion, Kippley moved and North seconded to approve the minutes of the July 17, 2018 meeting. All members voted aye, the motion carried.

Chairman Streckfuss then continued with business as follows:

Old Business: None

New Business:

St. H. Bader
David North
Darwin Bettmann
Dale Kurth
Stan T. Beckler
Rachel Kippley
Scott Bader

i. Variance to Shelterbelt Setbacks in an Agriculture Preservation District (AG-P) described as the South 785' of the East 673' in the SE1/4 of Section 30-T124N-R62W of the 5th P.M., Brown County, South Dakota (12897 395th Ave).

Submitted by Tanya Torguson. In attendance for this item was Tanya Torguson, Jeff Wolff, Dave Nilsson, James Snover and Logan Nilsson & Tony Wollman.

ii. Torguson made a comment that everyone is picking on them (Meaning her and Jeff Wolff). Several Board members responded by saying "there isn't anyone picking on anyone, the trees in question simply do not meet the minimum setbacks required by Ordinance no matter who was the final person to plant them. They would either require a variance to stay where they were

planted or be removed back to the minimum distance required”. Board members made comments that each case is looked at in an individual basis with things like Township comments, County Highway comments, what side of the road are the trees going to be, NW prevailing winds, how wide of a tree belt, any existing trees in the area, mail routes, school bus routes, no maintenance or low maintenance roads/signs, dead ends, what is the road currently like in the winter, public comments, Soil Conservation District issues, etc.

- b. Torguson also brought up the fact that she went into the Zoning Office and looked at the past Agenda’s and Minutes back to 2009 and there were 47 previous requests for variances with only one being denied. Streckfuss commented that if she wants to submit this list, the Zoning Administrator can go through the list one-by-one and follow up on these if she so chooses. She said she does have a list but did not want to offer the list at this time. Torguson commented that two of the three Township Supervisors are in agreement for this variance request as of 11:00 am this morning. Logan Nilsson commented that two are against this variance request as of 6:40 pm tonight and the third is not in agreement either way. Beckler asked Dave Nilsson since he is in the audience and a Township Supervisor for Cambria Township, what his thoughts were. Dave Nilsson said he would simply like to stay out of it because they always point fingers at him as a neighbor and a Township Official, however if he had to make a decision, it would be denial because this is a bus route and a mail route and the trees may cause more winter drifting from that side of the road. James Snover offered that he is at the meeting to let the Board know that Tim Reed could not make it to the meeting but lives just to the west on this road and has to plow open this road enough already for access and would like the Board to know he is not in favor of the variance request as a neighbor.
- c. Streckfuss asked if they had planted any of the trees and Torguson/Wolff responded saying “no, just the Soil Conservation District planted the trees”. Streckfuss

commented that the Soil Conservation District had a comment on their paperwork that the property owner purchased some hand planted trees. Where did those trees go asked Streckfuss? Torguson said “they replaced some trees the next year if they didn’t survive”.

Streckfuss then commented that “one of the comments shown said there were hand planted trees purchased 7 days after all of these trees were planted by the Soil Conservation District, where did those trees go?”

Torguson said “she didn’t plant any of those trees” and did not say anymore. North made a comment that anyone could make a mistake when planting trees and looking at the aerial image provided, it appears that tree fabric was installed all the way to the right-of-way and it is unlikely that the homeowners planted any trees based on that. If the owners planted trees, there would be dirt there and not fabric, was North’s final comment.

Following discussion, Bettmann made a motion for denial of both variance requests on the shelterbelt setbacks, Kippley seconded for the sake of discussion. After further discussion, voting aye for this motion was Bettmann. Voting nay was Beckler, North, Kurth, Keatts, Kippley, motion DENIED 5-1. Kippley then made a motion and Kurth seconded to deny a variance request on the east right-of-way along the highway (request was for 45’ rather than 100’ required) and allow 50’ setback along the south right-of-way line (request was for 35’ rather than 100’ required). Voting aye was Kurth, Keatts and Kippley. Voting nay was Bettmann, Beckler and North. Tie Breaker vote of nay was by Streckfuss. Second motion DENIED 4-3. Beckler then moved and North seconded to approve a variance of 75’ (requested to be 35’ rather than 100’ required) from the south right-of-way line and deny any variance from the east right-of-way line along Br Co Hwy #16 (request was for 45’ rather than 100’ required) for planting shelterbelt trees in AG-P District. Voting aye for this motion was Beckler, North, Kurth, Keatts, Kippley and voting nay was Bettmann, motion CARRIED 5-1. Note that trees were planted in 2016 and a variance was not approved prior to planting to be closer than 100’ to either right-of-way line. A letter was sent out by Zoning Department to remove or apply for variance.

- 2) Variance to Shelterbelt Setbacks in an Agriculture Preservation District (AG-P) described as Lot A “Wollman-Jones 1st Subdivision” in the SW1/4 of Section 29-T124N-R62W of the 5th P.M., Brown County, South Dakota (12874 395th Ave). Submitted by Tony Wollman. In attendance for this item was Tony Wollman. Following discussion, Beckler moved and Bettmann seconded to approve a variance to be 100’ setback from the west right-of-way line rather than 150’ required, voting aye was Bettmann, Beckler, North, Kurth & Keatts. Voting nay was Kippley, motion carried 5-1.
- 3) Variance to Lot Size in an Agriculture Preservation District (AG-P) for a proposed property described as “Strom Addition” in Government Lot 3, Section 4-T122N-R60W of the 5th P.M., Brown County, South Dakota (40839 & 40849 136th St). Submitted by Sandy Strom. Following discussion, Beckler moved and North seconded to approve the variance to lot size of 6.18+ acres for Lot 1 and 34.15+ acres for Lot 2 rather than 40.0 acres required in an AG-P District, all members voting aye, motion carried.
- 4) Variance for two residences on one parcel in an Agriculture Preservation District (AG-P) described as Lot 1 “Hansen’s 1st Subdivision” in the S1/2NE1/4 & N1/2SE1/4 of Sec. 17-T121N-R62W of the 5th P.M., Brown County, South Dakota (14447 396th Ave). Submitted by Harley Hansen. In attendance for this item was Harley Hansen and Sherri Hansen. Following discussion, Kippley moved and Kurth seconded to approve a variance for two residences on one AG-P District parcel. The owner plans to eventually plat separate lots and the current lot also meets the “Farm Unit” definition in the Ordinance, all members voting aye, motion carried.
- 5) Petition to Re-Zone from an Agriculture Preservation District (AG-P) to a Mini-Ag District (M-AG) for property described as Outlots 1&2 of “McIntire’s Outlots” in the NE1/4 of Section 23-T123N-R65W of the 5th P.M., Brown County, South Dakota (37895 133rd St & 13305 379th Ave). Submitted by Lowell McIntire. Following discussion, Beckler moved and Bettmann seconded to approve the rezone, all members voting aye, motion carried.
- 6) Preliminary and Final Plat for a property described as “Strom Addition” in Government Lot 3, Section 4-T122N-R60W of the 5th P.M., Brown County, South Dakota (40839 & 40849 136th St). Submitted by Sandy Strom. Following discussion, North moved and

Keatts seconded to approve the plat, all members voting aye, motion carried.

- 7) Preliminary and Final Plat for a property described as “Jackson and Karlen’s Second Subdivision” in the NW1/4 and N1/2SW1/4 Section 33-T125N-R62W of the 5th P.M., Brown County, South Dakota (12342 396th Ave & 39698 124th St). Submitted by Julie Lillis. Following discussion, Beckler moved and Kippley seconded to approve the plat, all members voting aye, motion carried.
- 8) Preliminary and Final Plat for a property described as “Carpenter Subdivision” in the NE1/4 & NW1/4 of Section 23-T122N-R64W of the 5th P.M., Brown County, South Dakota (13947 138th St). Submitted by Marv Siebrecht. In attendance for this item was Marv Siebrecht. Following discussion, Beckler moved and Keatts seconded to approve the plat, all members voting aye, motion carried.
- 9) Preliminary and Final Plat for a property described as “Gauer Addition” in the NW1/4 of Section 21-T124N-R65W of the 5th P.M., Brown County, South Dakota (37629 127th St). Submitted by Gentry Gauer. Following discussion, Beckler moved and Kippley seconded to approve the plat, all members voting aye, motion carried.
- 10) Variance to Lot Size in an Agriculture Preservation District (AG-P) for a proposed property described as “Karjalainen Addition” in the SE ¼ NE ¼, Section 9-T128N-R63W of the 5th P.M., Brown County, South Dakota (10149 391st Ave). Submitted by Adeline Karjalainen. Following discussion, Beckler moved and North seconded to approve the variance to lot size of 23.32 acres on Lot 1 rather than 40.0 acres required in an AG-P District, all members voting aye, motion carried.
- 11) Preliminary and Final Plat for a property described as “Karjalainen Addition” in the SE1/4 NE ¼ of Section 9-T128N-R66W of the 5th P.M., Brown County, South Dakota (10149 391st Ave). Submitted by Adeline Karjalainen. Following discussion, Keatts moved and Bettmann seconded to approve the plat, all members voting aye, motion carried.

Other Business: None

There being no further business before the Planning Commission/Zoning Board of Adjustment, Kippley moved and Keatts seconded to adjourn. All members voting aye, motion carried.

Submitted by: Scott Bader

