

Yankton County Planning Commission
September 11, 2018

The monthly meeting of the Yankton County Planning Commission was called to order by Chairperson Michael Welsh at 7:00 p.m. on September 11, 2018.

Members present at call to order: Kettering, Becker, Bodenstedt, Gudahl, Guthmiller, and Welch.
Members absent: Koenigs, Williams and Kretsinger.

This was the time and place to review and approve the minutes from July 31, 2018.

Action 91118A: Moved by Gudahl, second by Bodenstedt to approve the July 31, 2018 minutes as written.

By voice vote, all members present voted aye.

Motion carried.

Action 91118B: Moved by Gudahl, second by Bodenstedt to approve the August 14, 2018 minutes as written.

By voice vote, all members present voted aye.

Motion carried.

Plat Considerations:

Jean Turner

Lots 1B, NE1/4, S24-T95N-R56W, hereinafter referred to as Central Township, County of Yankton, State of South Dakota. The E911 address is US Hwy 81, Utica, SD.

Action 91118C: Moved by Kettering, second by Guthmiller to recommend approval of the plat. Lots 1B, NE1/4, S24-T95N-R56W, hereinafter referred to as Central Township, County of Yankton, State of South Dakota. The E911 address is US Hwy 81, Utica, SD.

By roll call vote, all members present voted aye.

Motion carried.

Carmen Schramm

Lots 4B, NE1/4, S24-T95N-R56W, hereinafter referred to as Central Township, County of Yankton, State of South Dakota. The E911 address is US Hwy 81, Utica, SD.

Action 91118D: Moved by Bodenstedt, second by Guthmiller to recommend approval of the plat. Lots 4B, NE1/4, S24-T95N-R56W, hereinafter referred to as Central Township, County of Yankton, State of South Dakota. The E911 address is US Hwy 81, Utica, SD.

By roll call vote, all members present voted aye.

Motion carried.

Planning Commission chairman, Mike Welch, explained the public comment period implemented on July 1, 2018. The session will be provided at the meeting. Please sign the speaker sheet in the back of the room prior to speaking.

Zoning Administrator, Patrick Garrity, stated the notification signs on the applicant's property site location were not properly completed seven (7) days before the Planning Commission meeting.

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The applicants are provided two options: Option one is to continue the hearing at present time. The risk will be a possible appeal regarding improper notification sign by a citizen which will require a new notification process. Option two is to postpone the hearing date to September 26, 2018 at 7:00 pm. This will provide proper notice.

This was the time and place for discussion regarding application from Darrell Kortan. Applicant is requesting a variance of Minimum Yard Requirement in front yard from thirty (30) feet to twenty (20) feet in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 1, Block 7A, Kabeiseman's Addition, N1/2, NW1/4, S8-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA Ike's Way, Yankton, SD.

Darrell Kortan stated his property is a corner lot with two (2) front yards. The requirement is fifty (50) feet from the west lot line and thirty (30) feet from the north lot line. Mr. Kortan discussed the topography of the lot and a drainage area on the property which limits buildable property. The principal structure will meet the yard setbacks, but the accessory structure location is requested to be located twenty (20) feet from the north property line. The structure will be thirty (30) x forty (40) with ten (10) foot sidewalls, meeting regulations for the district. The site plan shows access plans and other requirements. The hardship is topography and site drainage ditch.

Mr. Welch requested any proponents of the variance to present their statements. No proponents were present.

Mr. Welch requested any opponents of the variance to present their statements. No opponents were present.

Mr. Welch ended public comment and requested commission discussion.

The Planning Commission discussed the application and confirmed sufficient hardship is present and other requirements are compliant. The site plan was well prepared and facilitated the commission understanding of the proposal.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Darrell Kortan

Parcel Number: 09.017.410.010

Legal description: Lot 1, Block 7A, Kabeiseman's Addition, N1/2, NW1/4, S8-T93N-R56W

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Physical Address: TBA Ike's Way, Yankton, SD

1. No such variance shall be recommended for approval by the Planning Commission unless it finds:
 - A. The strict application of the ordinance would produce undue hardship; The applicant is requesting the front yard variance to build an accessory structure in a Moderate Density Rural Residential District. The buildable property is limited from topography and drainage area.
 - B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; The hardship cannot be shared by other properties in the district with specific issues on this property.
 - C. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; The granting of a variance will not be of substantial detriment to adjacent property nor the character of the district.
 - D. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposed of convenience, profit, and caprice. No convenience, profit or caprice was shown.
2. No variance shall be recommended for approval unless the Planning Commission finds the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance. The requested variance is not recurring sufficiently to provide remedy with a zoning amendment.
3. A recommendation of approval concerning a variance from the terms of this ordinance shall not be founded by the Planning Commission unless and until:
 - A. A written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; The property has topography and drainage conditions.
 - B. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; Previous variances of minimum yard requirement have been granted in Yankton County.
 - C. The special conditions and circumstances do not result from the actions of the applicant; The special conditions and circumstances are not result of the applicant.
 - D. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district. Variance requests of this type (minimum yard requirement) have been approved by the Planning Commission.
4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance. No nonconforming uses of neighboring lands, structures, or buildings in this district, and no permitted or nonconforming use of lands, structures, or buildings in other districts were considered.

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5. Notice of public hearing shall be given, as in Section 1803 (3-5). The applicant mailed letters of notification to property owners within a one-quarter mile radius of the proposed variance on August 31, 2018 (supported by affidavit), a legal notice was published on September 1, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on September 6, 2018.
6. The public hearing shall be held. Any party may appear in person or by agent or by attorney. A public hearing was held at 7:10 pm on September 11, 2018. Darrell Kortan stated his property is a corner lot with two (2) front yards. The requirement is fifty (50) feet from the west lot line and thirty (30) feet from the north lot line. Mr. Kortan discussed the topography of the lot and a drainage area on the property which limits buildable property. The principal structure will meet the yard setbacks, but the accessory structure location is requested to be located twenty (20) feet from the north property line. The structure will be thirty (30) x forty (40) with ten (10) foot sidewalls, meeting regulations for the district. The site plan shows access plans and other requirements. The hardship is topography and site drainage ditch. Mr. Welch requested any proponents of the variance to present their statements. No proponents were present.
Mr. Welch requested any opponents of the variance to present their statements. No opponents were present.
Mr. Welch ended public comment and requested commission discussion.
The Planning Commission discussed the application and confirmed sufficient hardship is present and other requirements are compliant. The site plan was well prepared and facilitated the commission understanding of the proposal.
No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.
7. The Planning Commission shall make findings that the requirements of this Section have been met by the applicant for a variance; the Commission shall further make a finding that the reasons set forth in the application justify the recommendations of granting the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Planning Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
The Planning Commission further finds that the reasons set forth in the application and hearing satisfy all requirements for this variance request
8. In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. The Planning Commission approves this request.
9. Under no circumstances shall the Planning Commission recommend granting a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. The variance request of Minimum Yard Requirement is approved.

Action 91118E: Moved by Becker, second by Gudahl to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated September 11, 2018, of Variance of Minimum Yard Requirement in front yard from thirty (30) feet to twenty (20) feet in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 1, Block 7A, Kabeiseman's Addition,

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N1/2, NW1/4, S8-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA Ike's Way, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried

This was the time and place for discussion regarding application from Julliann Reiland. Applicant is requesting a variance of Minimum Yard Requirement in side yard from seventy-five (75) feet to thirteen (13) feet in an Agriculture District (AG) in Yankton County. Said property is legally described as Lot A, Parcel C, Weverstad's Addition, S1/2, S21-T93N-R54W, hereinafter referred to as Gayville Township, County of Yankton, State of South Dakota. The E911 address is 44873 River Rat Road, Gayville, SD.

Phillip Tau, representing Julliann Reiland, stated he built an accessory structure in 2016. The structure is thirteen feet from the property line in an Agriculture District. The yard requirements in an Agriculture District are seventy-five (75) feet. Mr. Tau stated the structure is 24 foot x 40 foot on a cement slab foundation. Mr. Tau stated he inquired at the City of Gayville about building permit requirement and was informed the property is out of their jurisdiction. He stated he no longer pursued the building permit requirement. The accessory structure was discovered with the "Change Finder" software Yankton County utilizes for aerial imagery.

A discussion regarding a second residence on the property and any Conditional Use Permit issued to occupy the second residence. A septic system was discussed and each house has a dedicated septic system. The Planning Commission will hear this variance request and schedule a hearing regarding the multi-residential use.

Mr. Welch requested any proponents of the variance to present their statements. LeAnn Johnson stated she is the neighbor to the north and has no issue with accessory structure.

Mr. Welch requested any opponents to present their statements. Craig Johnson stated the property is an Agriculture District and should be required to obtain an Agriculture covenant to allow agriculture activities in the area.

John Gunderson stated his concerns regarding the septic system near the Missouri River, the property notice six (6) days before the meeting therefore not meeting seven (7) day ordinance requirement and Mr. Tau attention to high standards regarding agriculture operations must also be applied to residential property too.

Mr. Welch asked for rebuttal. Mr. Tau stated he is unaware of the ordinance and more publicity should be provided. The houses have separate septic systems and are serviced by Harper Septic Service.

Mr. Welch ended public comment and requested commission discussion.

The Planning Commission discussed the application as presented. The accessory structure is already built.

Mr. Gudahl moved to deny the variance as requested by Juliann Reiland. No second. Motion dies. Planning Commission has no further discussion.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Julliann Reiland

Parcel Number: 01.021.200.210

Legal description: Lot A, Parcel C, Weverstad's Addition, S1/2, S21-T93N-R54W

Physical Address: 44873 River Rat Road, Gayville, SD.

1. No such variance shall be recommended for approval by the Planning Commission unless it finds:
 - A. The strict application of the ordinance would produce undue hardship; The applicant is requesting a side yard variance to for an accessory structure in an Agriculture District. The structure was previously built on the property in 2016.
 - B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; The hardship is shared by other properties in the district when building permits are not issued prior to construction.
 - C. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; The granting of a variance can be of substantial detriment to adjacent property or the character of the district. The issue is improper compliance with the Yankton County Zoning Ordinance #16.
 - D. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposed of convenience, profit, and caprice. No convenience, profit or caprice was shown.
2. No variance shall be recommended for approval unless the Planning Commission finds the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance. The requested variance is not recurring sufficiently to provide remedy with a zoning amendment. The zoning ordinance requirements are adequately presented in the language regarding building permits prior to construction.
3. A recommendation of approval concerning a variance from the terms of this ordinance shall not be founded by the Planning Commission unless and until:
 - A. A written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; The property has an accessory structure without a building permit not meeting the yard requirements.

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- B. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; Previous variances of minimum yard requirement have been granted in Yankton County. The variances are provided prior to issuance of a building permit.
- C. The special conditions and circumstances do not result from the actions of the applicant; The special conditions and circumstances are the result of the applicant.
- D. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district. Variance requests of this type (minimum yard requirement) have been approved by the Planning Commission. The zoning administrator reviews building permit requests with a site plan and proposed use. If the applicant requests a variance based on the ordinance regulations, the public hearing is provided to review the variance request before the structure is built.
4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance. No nonconforming uses of neighboring lands, structures, or buildings in this district, and no permitted or nonconforming use of lands, structures, or buildings in other districts were considered.
5. Notice of public hearing shall be given, as in Section 1803 (3-5). The applicant mailed letters of notification to property owners within a one-quarter mile radius of the proposed variance on August 30, 2018 (supported by affidavit), a legal notice was published on September 1, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on September 6, 2018.
6. The public hearing shall be held. Any party may appear in person or by agent or by attorney. A public hearing was held at 7:20 pm on September 11, 2018. Phillip Tau, representing Julliann Reiland, stated he built an accessory structure in 2016. The structure is thirteen feet from the property line in an Agriculture District. The yard requirements in an Agriculture District are seventy-five (75) feet. Mr. Tau stated the structure is 24 foot x 40 foot on a cement slab foundation. Mr. Tau stated he inquired at the City of Gayville about building permit requirement and was informed the property is out of their jurisdiction. He stated he no longer pursued the building permit requirement. The accessory structure was discovered with the "Change Finder" software Yankton County utilizes for aerial imagery.
A discussion regarding a second residence on the property and any Conditional Use Permit issued to occupy the second residence. A septic system was discussed and each house has a dedicated septic system. The Planning Commission will hear this variance request and schedule a hearing regarding the multi-residential use.
Mr. Welch requested any proponents of the variance to present their statements. LeAnn Johnson stated she is the neighbor to the north and has no issue with accessory structure.
Mr. Welch requested any opponents to present their statements. Craig Johnson stated the property is an Agriculture District and should be required to obtain an Agriculture covenant to allow agriculture activities in the area.
John Gunderson stated his concerns regarding the septic system near the Missouri River, the property notice six (6) days before the meeting therefore not meeting seven (7) day ordinance requirement and Mr. Tau attention to high standards regarding agriculture operations must also be applied to residential property too.

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Mr. Welch asked for rebuttal. Mr. Tau stated he is unaware of the ordinance and more publicity should be provided. The houses have separate septic systems and are serviced by Harper Septic Service.

Mr. Welch ended public comment and requested commission discussion.

The Planning Commission discussed the application as presented. The accessory structure is already built.

Mr. Gudahl moved to deny the variance as requested by Juliann Reiland. No second. Motion dies.

Planning Commission has no further discussion.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

7. The Planning Commission shall make findings that the requirements of this Section have been met by the applicant for a variance; the Commission shall further make a finding that the reasons set forth in the application justify the recommendations of granting the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Planning Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

The Planning Commission further finds that the reasons set forth in the application and hearing satisfy all requirements for this variance request. It is not the proper procedure to build any structures in Yankton County without a building permit. The Planning Commission finds the property neighbor stated no concern regarding the accessory structure. The Planning Commission does not approve non-compliance of the zoning ordinance.

8. In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. The Planning Commission approves this request.
9. Under no circumstances shall the Planning Commission recommend granting a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. The variance request of Minimum Yard Requirement is approved.

Action 91118F: Moved by Becker, second by Kettering to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated September 11, 2018, of Variance of Minimum Yard Requirement in side yard from seventy-five (75) feet to thirteen (13) feet in an Agriculture District (AG) in Yankton County. Said property is legally described as Lot A, Parcel C, Weverstad's Addition, S1/2, S21-T93N-R54W, hereinafter referred to as Gayville Township, County of Yankton, State of South Dakota. The E911 address is 44873 River Rat Road, Gayville, SD.

By roll call vote, four members present voted aye, two members present voted nay.

Motion carried

This was the time and place for discussion regarding application from Daniel Dolejsi. Applicant is requesting a Conditional Use Permit for a swimming pool in an Agriculture District in Yankton County. Said property is legally described as N700.5', S1608', W1/2, NW1/4, S26-T94N-R55W, hereinafter referred at as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is 30732 444th Avenue, Mission Hill, SD.

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Dan Dolejsi stated the swimming pool is an old structure which should not be required to apply for a Conditional Use Permit. Mr. Dolejsi stated the swimming pool be granted a non-conforming legal status (grandfathering). The pool structure was discovered with the “Change Finder” software Yankton County utilizes with aerial imagery. The Zoning Administrator provided photos showing the footprint on the property changed from 2013 imagery to 2017 imagery.

Mr. Welch requested any proponents of the variance to present their statements. No proponents were present.

Mr. Welch requested any opponents of the variance to present their statements. John Gunderson stated the footprint change as presented requires a Conditional Use Permit.

Craig Johnson stated when a bin is moved or a house is increased in size the zoning ordinance requires a building permit and/or Conditional Use Permit. The applicant should be required to get a Conditional Use Permit.

Mr. Welch ended public comment and requested commission discussion.

The Planning Commission discussed the application and stated the swimming pool is not a problem as it is a listed use in an Agriculture District. The Planning Commission confirmed requirement for a Conditional Use Permit for the swimming pool.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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CONDITIONAL USE
Article 18, Section 1805

FINDINGS OF FACT

Applicant: Dan Dolejsi

Parcel Number: 06.026.400.300

Legal description: N700.5', S1608', W1/2, NW1/4, S26-T94N-R55W

Physical Address 30732 444th Avenue, Mission Hill, SD

1. The applicant specifically cited the section of the zoning ordinance under which the conditional use is sought and has stated the grounds on which it is requested; Applicant is requesting a Conditional Use Permit for a Conditional Use Permit for a swimming pool in an Agriculture District in Yankton County. Said property is legally described as N700.5', S1608', W1/2, NW1/4, S26-T94N-R55W, hereinafter referred at as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is 30732 444th Avenue, Mission Hill, SD.
2. Notice of public hearing was given, as in Section 1803 (3-5); The applicant mailed letters of notification to property owners within a one-half mile radius of the proposed CUP on August 31, 2018 (supported by affidavit), a legal notice was published on September 1, 2018 in the

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Yankton Daily Press and Dakotan and a notification sign was placed on the property on September 6, 2018.

3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; A public meeting was held at 7:30 pm on September 11, 2018 in the Yankton County Government Center County Commission chambers. Dan Dolejsi stated the swimming pool is an old structure which should not be required to apply for a Conditional Use Permit. Mr. Dolejsi stated the swimming pool be granted a non-conforming legal status (grandfathering). The pool structure was discovered with the "Change Finder" software Yankton County utilizes with aerial imagery. The Zoning Administrator provided photos showing the footprint on the property changed from 2013 imagery to 2017 imagery.
Mr. Welch requested any proponents of the variance to present their statements. No proponents were present.
Mr. Welch requested any opponents of the variance to present their statements. John Gunderson stated the footprint change as presented requires a Conditional Use Permit. Craig Johnson stated when a bin is moved or a house is increased in size the zoning ordinance requires a building permit and/or Conditional Use Permit. The applicant should be required to get a Conditional Use Permit.
Mr. Welch ended public comment and requested commission discussion.
The Planning Commission discussed the application and stated the swimming pool is not a problem as it is a listed use in an Agriculture District. The Planning Commission confirmed requirement for a Conditional Use Permit for the swimming pool.
No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.
4. The Planning Commission shall make a finding and recommendation that it is empowered under the section of this Ordinance described in the application, to include:
 - A. Recommend granting of the conditional use;
 - B. Recommend granting with conditions; orThe commission recommends granting approval of the conditional use permit with listed conditions.
 - C. Recommend denial of the conditional use.
5. Before any conditional use is decided, the Planning Commission shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
 - A. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe; The applicant has shown sufficient access to property with established roadway (444th Avenue) and sufficient distance from the public road (300 feet) for safety consideration.
 - B. Off right-of-way parking and loading areas where required; with particular attention to the items in (A) above and economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district; All off right-of-way areas are currently compliant.

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- C. Refuse and service areas, with particular reference to the items in (A) and (B) above; Refuse and service areas is in compliance.
- D. Utilities, with reference to locations, availability, and compatibility; Utilities will be available and will be in operational condition, the security lights will be monitored for proper downcast illumination to provide sufficient security.
- E. Screening and buffering with reference to type, dimensions, and character; Screening and buffering are not required.
- F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district; All signage will conform to Article 14, Yankton County Zoning Ordinance
- G. Required yards and other open spaces; Yards and open spaces requirements are compliant with current regulations for proposed activity.
- H. General compatibility with adjacent properties and other property in the district and that the granting of the conditional use will not adversely affect the public interest. The use is compatible with adjacent properties in the district and the granting of a Conditional Use Permit will not adversely affect the public interest.

Action 91118G: Moved by Becker, second by Kettering to recommend to approve a Conditional Use Permit based on Finding of Facts dated September 11, 2018, pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, for a swimming pool in an Agriculture District in Yankton County. Said property is legally described as N700.5', S1608', W1/2, NW1/4, S26-T94N-R55W, hereinafter referred at as Mission Hill North Township, County of Yankton, State of South Dakota. The E911 address is 30732 444th Avenue, Mission Hill, SD.
By roll call vote, five (5) members voted aye, one member voted nay.
Motion carried.

This was the time and place for discussion regarding application from Chalkstone Bluffs Vacation Property, LLC. Applicant is requesting a Conditional Use Permit to operate an airbnb in a Moderate Density Rural Residential District (R-2). Said property is legally described as Lot 5, Law Overlook S/D, NE1/4, S18-T93N-R56W, hereinafter referred at as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA Okie Dokie Lane, Yankton, SD.

Nick Moser, representing Chalkstone Bluffs Vacation Property, LLC, provided a business plan and a site plan for the Planning Commission review. The business plan states a six bedroom house plan which will require a minimum of 1500 gallon septic system. The house will be rented as a "whole house" unit through the airbnb system. The site plan provides the requirements for the Conditional Use Permit compliance.

Mr. Welch requested any proponents of the variance to present their statements. No proponents were present.

Mr. Welch requested any opponents of the variance to present their statements. No opponents were present.

Mr. Welch ended public comment and requested commission discussion.

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The Planning Commission discussed the application with concern regarding the septic system compliance and review proper parking space and buffering plans. The Planning Commission determined the other zoning requirements were compliant. No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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CONDITIONAL USE
Article 18, Section 1805

FINDINGS OF FACT

Applicant: Chalkstone Bluffs Vacation Property, LLC

Parcel Number: 09.018.100.115

Legal description: Lot 5, Law Overlook S/D, NE1/4, S18-T93N-R56W

Physical Address TBA Okie Dokie Lane, Yankton, SD

1. The applicant specifically cited the section of the zoning ordinance under which the conditional use is sought and has stated the grounds on which it is requested; Applicant is requesting a Conditional Use Permit to operate an airbnb in a Moderate Density Rural Residential District (R-2). Said property is legally described as Lot 5, Law Overlook S/D, NE1/4, S18-T93N-R56W, hereinafter referred at as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA Okie Dokie Lane, Yankton, SD.
2. Notice of public hearing was given, as in Section 1803 (3-5); The applicant mailed letters of notification to property owners within a one-quarter mile radius of the proposed CUP on August 29, 2018 (supported by affidavit), a legal notice was published on September 1, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on September 6, 2018.
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; A public meeting was held at 7:40 pm on September 11, 2018 in the Yankton County Government Center County Commission chambers. Nick Moser, representing Chalkstone Bluffs Vacation Property, LLC, provided a business plan and a site plan for the Planning Commission review. The business plan states a six bedroom house plan which will require a minimum of 1500 gallon septic system. The house will be rented as a "whole house" unit through the airbnb system. The site plan provides the requirements for the Conditional Use Permit compliance.

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Mr. Welch requested any proponents of the variance to present their statements. No proponents were present.

Mr. Welch requested any opponents of the variance to present their statements. No opponents were present.

Mr. Welch ended public comment and requested commission discussion.

The Planning Commission discussed the application with concern regarding the septic system compliance and review proper parking space and buffering plans. The Planning Commission determined the other zoning requirements were compliant.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

4. The Planning Commission shall make a finding and recommendation that it is empowered under the section of this Ordinance described in the application, to include:
 - A. Recommend granting of the conditional use;
 - B. Recommend granting with conditions; or

The commission recommends granting approval of the conditional use permit with listed conditions.

- C. Recommend denial of the conditional use.
5. Before any conditional use is decided, the Planning Commission shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
 - A. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe; The applicant has shown sufficient access to property with established roadway (Okie Dokie Lane) and sufficient parking space provided for airbnb guests.
 - B. Off right-of-way parking and loading areas where required; with particular attention to the items in (A) above and economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district; All off right-of-way areas are currently compliant as provided in the site plan..
 - C. Refuse and service areas, with particular reference to the items in (A) and (B) above; Refuse and service areas will be in compliance with screening provided.
 - D. Utilities, with reference to locations, availability, and compatibility; Utilities will be available and will be in operational condition, the security lights will be monitored for proper downcast illumination to provide sufficient security.
 - E. Screening and buffering with reference to type, dimensions, and character; Screening and buffering are required for refuse areas.
 - F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district; All signage will conform to Article 14, Yankton County Zoning Ordinance
 - G. Required yards and other open spaces; Yards and open spaces requirements are compliant with current regulations for proposed activity.

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- H. General compatibility with adjacent properties and other property in the district and that the granting of the conditional use will not adversely affect the public interest. The use is compatible with adjacent properties in the district and the granting of a Conditional Use Permit will not adversely affect the public interest.

Action 91118H: Moved by Kettering, second by Gudahl to recommend to approve a Conditional Use Permit based on Finding of Facts dated September 11, 2018, pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, to operate an airbnb in a Moderate Density Rural Residential District (R-2). Said property is legally described as Lot 5, Law Overlook S/D, NE1/4, S18-T93N-R56W, hereinafter referred at as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA Okie Dokie Lane, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion regarding application from Chip Horton. Applicant is requesting a Conditional Use Permit for a swimming pool in an Agriculture District in Yankton County. Said property is legally described as W825', SW1/4, NW1/4, exc Lot R-64, SW1/4, NW1/4, S7-T94N-R54W, hereinafter referred at as Volin Township, County of Yankton, State of South Dakota. The E911 address is 30440 446th Avenue, Volin, SD.

Chip Horton stated the pool is a bladder type with a deck for access. The deck has a gate to prevent unauthorized entry. It is also 270 feet from the public access road (446th Avenue). The pool structure was discovered with the "Change Finder" software Yankton County utilizes with aerial imagery. The Zoning Administrator provided photos showing the footprint on the property changed from 2013 imagery to 2017 imagery.

Planning Commission chairman, Mike Welch, requested proponents for the variance request. Craig Johnson stated he is a neighbor and has no objection to the request as presented at the hearing.

Mr. Welch requested opponents for the variance request. No opponents were present.

Mr. Welch concluded the public comment period and the Planning Commission discussed the application and determined all the requirements are compliant for a recommendation of approval. No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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CONDITIONAL USE
Article 18, Section 1805

FINDINGS OF FACT

Applicant: Chip Horton

Parcel Number: 02.007.400.100

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Legal description: W825', SW1/4, NW1/4, exc Lot R-64, SW1/4, NW1/4, S7-T94N-R54W

Physical Address 30440 446th Avenue, Volin, SD

1. The applicant specifically cited the section of the zoning ordinance under which the conditional use is sought and has stated the grounds on which it is requested; Applicant is requesting a Conditional Use Permit for a swimming pool in an Agriculture District in Yankton County. Said property is legally described as W825', SW1/4, NW1/4, exc Lot R-64, SW1/4, NW1/4, S7-T94N-R54W, hereinafter referred at as Volin Township, County of Yankton, State of South Dakota. The E911 address is 30440 446th Avenue, Volin, SD.
2. Notice of public hearing was given, as in Section 1803 (3-5); The applicant mailed letters of notification to property owners within a one-half mile radius of the proposed CUP on August 31, 2018 (supported by affidavit), a legal notice was published on September 1, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on September 6, 2018.
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney; A public meeting was held at 7:50 pm on September 11, 2018 in the Yankton County Government Center County Commission chambers. Chip Horton stated the pool is a bladder type with a deck for access. The deck has a gate to prevent unauthorized entry. It is also 270 feet from the public access road (446th Avenue). The pool structure was discovered with the "Change Finder" software Yankton County utilizes with aerial imagery. The Zoning Administrator provided photos showing the footprint on the property changed from 2013 imagery to 2017 imagery. Planning Commission chairman, Mike Welch, requested proponents for the variance request. Craig Johnson stated he is a neighbor and has no objection to the request as presented at the hearing. Mr. Welch requested opponents for the variance request. No opponents were present. Mr. Welch concluded the public comment period and the Planning Commission discussed the application and determined all the requirements are compliant for a recommendation of approval. No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.
3. The Planning Commission shall make a finding and recommendation that it is empowered under the section of this Ordinance described in the application, to include:
 - A. Recommend granting of the conditional use;
 - B. Recommend granting with conditions; orThe commission recommends granting approval of the conditional use permit with listed conditions.
 - C. Recommend denial of the conditional use.
4. Before any conditional use is decided, the Planning Commission shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:

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- A. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe; The applicant has shown sufficient access to property with established roadway (446th Avenue) and sufficient distance from the public road (270 feet) for safety consideration.
- B. Off right-of-way parking and loading areas where required; with particular attention to the items in (A) above and economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district; All off right-of-way areas are currently compliant.
- C. Refuse and service areas, with particular reference to the items in (A) and (B) above; Refuse and service areas is in compliance.
- D. Utilities, with reference to locations, availability, and compatibility; Utilities will be available and will be in operational condition, the security lights will be monitored for proper downcast illumination to provide sufficient security.
- E. Screening and buffering with reference to type, dimensions, and character; Screening and buffering are not required.
- F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district; All signage will conform to Article 14, Yankton County Zoning Ordinance
- G. Required yards and other open spaces; Yards and open spaces requirements are compliant with current regulations for proposed activity.
- H. General compatibility with adjacent properties and other property in the district and that the granting of the conditional use will not adversely affect the public interest. The use is compatible with adjacent properties in the district and the granting of a Conditional Use Permit will not adversely affect the public interest.

Action 91118I: Moved by Guthmiller, second by Gudahl to recommend to approve a Conditional Use Permit based on Finding of Facts dated September 11, 2018, pursuant to Article 18, Section 1805 of the Yankton County Zoning Ordinance, swimming pool in an Agriculture District in Yankton County. Said property is legally described as W825', SW1/4, NW1/4, exc Lot R-64, SW1/4, NW1/4, S7-T94N-R54W, hereinafter referred at as Volin Township, County of Yankton, State of South Dakota. The E911 address is 30440 446th Avenue, Volin, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with Mary Neal. Applicant is requesting a variance of Minimum Lot Requirement from one (1) acre to .869 acre in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 6, NE1/4, S24-T95N-R56W, hereinafter referred at as Central Township, County of Yankton, State of South Dakota. The E911 address is 30027 US Hwy 81, Utica, SD.

Plat consideration:

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Lots 1B, 4B, 6B and 7B, NE1/4, S24-T95N-R56W, hereinafter referred to as Central Township, County of Yankton, State of South Dakota. The E911 address is US Hwy 81, Utica, SD.

Mary Neal stated the intent for the application is purchase adjacent rear property. The purchase increases the lot size but is under the one acre requirement for the district. The rear lot will include existing tree belt.

Planning Commission chairman, Mike Welch, requested proponents for the variance request. Mary Kay Cwach stated her approval for this request and glad to make this a reality.

Mr. Welch requested opponents for the variance request. No opponents were present.

Mr. Welch concluded the public comment period and the Planning Commission discussed the application and determined all the requirements are compliant for a recommendation of approval. No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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Meeting date: September 11, 2018

VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Mary Neal

Parcel Number: 11.024.100.032

Legal description: Lot 6, NE1/4, S24-T95N-R56W

Physical Address: 30027 US Hwy 81, Utica, SD

1. No such variance shall be recommended for approval by the Planning Commission unless it finds:
 - A. The strict application of the ordinance would produce undue hardship; The applicant is requesting the lot size variance to purchase the available property in the rear yard. The lot size will increase but is not meeting the minimum lot requirement on one (1) acre in a Moderate Density Rural Residential District.
 - B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; The hardship cannot be shared by other properties in the district.
 - C. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; The granting of a variance will not be of substantial detriment to adjacent property nor the character of the district.

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- D. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposed of convenience, profit, and caprice. No convenience, profit or caprice was shown.
2. No variance shall be recommended for approval unless the Planning Commission finds the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance. The requested variance is not recurring sufficiently to provide remedy with a zoning amendment.
3. A recommendation of approval concerning a variance from the terms of this ordinance shall not be founded by the Planning Commission unless and until:
- A. A written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; The property has opportunity to increase in size which is more compliant with the zoning ordinance.
- B. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; Previous variances of minimum lot requirement have been granted in Yankton County.
- C. The special conditions and circumstances do not result from the actions of the applicant; The special conditions and circumstances are not result of the applicant.
- D. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district. Variance requests of this type (minimum lot requirement) have been approved by the Planning Commission.
4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance. No nonconforming uses of neighboring lands, structures, or buildings in this district, and no permitted or nonconforming use of lands, structures, or buildings in other districts were considered.
5. Notice of public hearing shall be given, as in Section 1803 (3-5). The applicant mailed letters of notification to property owners within a one-quarter mile radius of the proposed variance on August 30, 2018 (supported by affidavit), a legal notice was published on September 1, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on September 6, 2018.
6. The public hearing shall be held. Any party may appear in person or by agent or by attorney. A public hearing was held at 8:00 pm on September 11, 2018. Mary Neal stated the intent for the application is purchase adjacent rear property. The purchase increases the lot size but is under the one acre requirement for the district. The rear lot will include existing tree belt. Planning Commission chairman, Mike Welch, requested proponents for the variance request. Mary Kay Cwach stated her approval for this request and glad to make this a reality. Mr. Welch requested opponents for the variance request. No opponents were present. Mr. Welch concluded the public comment period and the Planning Commission discussed the application and determined all the requirements are compliant for a recommendation of approval.

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No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

7. The Planning Commission shall make findings that the requirements of this Section have been met by the applicant for a variance; the Commission shall further make a finding that the reasons set forth in the application justify the recommendations of granting the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Planning Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. The Planning Commission further finds that the reasons set forth in the application and hearing satisfy all requirements for this variance request
8. In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. The Planning Commission approves this request.
9. Under no circumstances shall the Planning Commission recommend granting a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. The variance request of Minimum Lot Requirement is approved.

Action 91118J: Moved by Guthmiller, second by Becker to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated September 11, 2018, of Variance of Minimum Lot Requirement from one (1) acre to .869 acre in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 6, NE1/4, S24-T95N-R56W, hereinafter referred at as Central Township, County of Yankton, State of South Dakota. The E911 address is 30027 US Hwy 81, Utica, SD.

By roll call vote, all members present voted aye.

Motion carried

This was the time and place for plat consideration:

Lots 1B, 4B, 6B and 7B, NE1/4, S24-T95N-R56W, hereinafter referred to as Central Township, County of Yankton, State of South Dakota. The E911 address is US Hwy 81, Utica, SD.

Action 91118K: Moved by Bodenstedt, second by Becker to recommend approval of the plat. Said property is legally described as Lots 1B, 4B, 6B and 7B, NE1/4, S24-T95N-R56W, hereinafter referred to as Central Township, County of Yankton, State of South Dakota. The E911 address is US Hwy 81, Utica, SD.

By roll call vote, all members present voted aye.

Motion carried

This was the time and place for discussion with Richard Bentley. Applicant is requesting a variance of Minimum Lot Requirement from one (1) acre to .865 acre in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 7, NE1/4, S24-T95N-R56W, hereinafter referred at as Central Township, County of Yankton, State of South Dakota. The E911 address is 30029 US Hwy 81, Utica, SD.

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Plat consideration:

Lots 1B, 4B, 6B and 7B, NE1/4, S24-T95N-R56W, hereinafter referred to as Central Township, County of Yankton, State of South Dakota. The E911 address is US Hwy 81, Utica, SD.

Richard Bentley stated he is purchasing the property in the rear yard but the increase in size is compliant with one (1) acres minimum acre requirement for a Moderate Density Rural Residential District. The rear lot will include existing tree belt.

Planning Commission chairman, Mike Welch, requested proponents for the variance request. Jean Turner stated this is good for the development and supports the variance request. Mary Kay Cwach stated her approval for this request and glad to make this a reality.

Mr. Welch requested opponents for the variance request. No opponents were present.

Mr. Welch concluded the public comment period and the Planning Commission discussed the application and determined all the requirements are compliant for a recommendation of approval. No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

Yankton County Planning Commission

Meeting date: September 11, 2018

VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Richard Bentley

Parcel Number: 11.024.100.034

Legal description: Lot 7, NE1/4, S24-T95N-R56W

Physical Address: 30029 US Hwy 81, Utica, SD

1. No such variance shall be recommended for approval by the Planning Commission unless it finds:
 - A. The strict application of the ordinance would produce undue hardship; *The applicant is requesting the lot size variance to purchase the available property in the rear yard. The lot size will increase but is not meeting the minimum lot requirement on one (1) acre in a Moderate Density Rural Residential District.*
 - B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; *The hardship cannot be shared by other properties in the district.*
 - C. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; *The*

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granting of a variance will not be of substantial detriment to adjacent property nor the character of the district.

- D. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposed of convenience, profit, and caprice. No convenience, profit or caprice was shown.
2. No variance shall be recommended for approval unless the Planning Commission finds the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance. The requested variance is not recurring sufficiently to provide remedy with a zoning amendment.
3. A recommendation of approval concerning a variance from the terms of this ordinance shall not be founded by the Planning Commission unless and until:
- A. A written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; The property has opportunity to increase in size which is more compliant with the zoning ordinance.
- B. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; Previous variances of minimum lot requirement have been granted in Yankton County.
- C. The special conditions and circumstances do not result from the actions of the applicant; The special conditions and circumstances are not result of the applicant.
- D. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district. Variance requests of this type (minimum lot requirement) have been approved by the Planning Commission.
4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance. No nonconforming uses of neighboring lands, structures, or buildings in this district, and no permitted or nonconforming use of lands, structures, or buildings in other districts were considered.
5. Notice of public hearing shall be given, as in Section 1803 (3-5). The applicant mailed letters of notification to property owners within a one-quarter mile radius of the proposed variance on August 31, 2018 (supported by affidavit), a legal notice was published on September 1, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on September 6, 2018.
6. The public hearing shall be held. Any party may appear in person or by agent or by attorney. A public hearing was held at 8:10 pm on September 11, 2018. Richard Bentley stated he is purchasing the property in the rear yard but the increase in size is compliant with one (1) acres minimum acre requirement for a Moderate Density Rural Residential District. The rear lot will include existing tree belt. Planning Commission chairman, Mike Welch, requested proponents for the variance request. Jean Turner stated this is good for the development and supports the variance request. Mary Kay Cwach stated her approval for this request and glad to make this a reality.

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Mr. Welch requested opponents for the variance request. No opponents were present.

Mr. Welch concluded the public comment period and the Planning Commission discussed the application and determined all the requirements are compliant for a recommendation of approval.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

7. The Planning Commission shall make findings that the requirements of this Section have been met by the applicant for a variance; the Commission shall further make a finding that the reasons set forth in the application justify the recommendations of granting the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Planning Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
The Planning Commission further finds that the reasons set forth in the application and hearing satisfy all requirements for this variance request
8. In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. The Planning Commission approves this request.
9. Under no circumstances shall the Planning Commission recommend granting a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. The variance request of Minimum Lot Requirement is approved.

Action 91118L: Moved by Gudahl, second by Kettering to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated September 11, 2018, of Variance of Minimum Lot Requirement from one (1) acre to .865 acre in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 7, NE1/4, S24-T95N-R56W, hereinafter referred at as Central Township, County of Yankton, State of South Dakota. The E911 address is 30029 US Hwy 81, Utica, SD.

By roll call vote, all members present voted aye.

Motion carried

This was the time and place for plat consideration:

Lots 1B, 4B, 6B and 7B, NE1/4, S24-T95N-R56W, hereinafter referred to as Central Township, County of Yankton, State of South Dakota. The E911 address is US Hwy 81, Utica, SD.

Action 91118M: Moved by Bodenstedt, second by Becker to recommend approval of the plat. Said property is legally described as Lots 1B, 4B, 6B and 7B, NE1/4, S24-T95N-R56W, hereinafter referred to as Central Township, County of Yankton, State of South Dakota. The E911 address is US Hwy 81, Utica, SD.

By roll call vote, all members present voted aye.

Motion carried

This was the time and place for discussion with Keith Toczek. Applicant is requesting a variance of Minimum Lot Requirement from one (1) acre to .63 acre in a Moderate Density Rural

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Residential District (R-2) in Yankton County, to align the property boundaries with current use. Said property is legally described as Parcel 1A & Parcel 2A, Tract A, S1/2, SE1/4, NW1/4, S13-T93N-R57W, hereinafter referred at as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 197 Kniest Avenue, Yankton, SD.

Plat consideration:

Parcel 1A, Parcel 2A, Tract A, S1/2, SE1/4, NW1/4, S13-T93N-R57W, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 197 Kniest Avenue, Yankton, SD.

Keith Toczek stated he is realigning the property boundaries to reflect the actual usage of the property. The new boundaries are incorporating driveway and accessory structures in the appropriate lot. The Parcel 1A meets the size requirement for the district but Parcel 2A is less than the one (1) acre requirement for a Moderate Density Rural Residential District. The hardship is to reflect actual usage with correct property boundaries.

Planning Commission chairman, Mike Welch, requested proponents for the variance request. No proponents were present.

Mr. Welch requested opponents for the variance request. No opponents were present.

Mr. Welch concluded the public comment period and the Planning Commission discussed the application and determined all the requirements are compliant for a recommendation of approval. No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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Meeting date: September 11, 2018

VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Keith Toczek

Parcel Number: 13.013.400.151

Legal description: Parcel 1A & Parcel 2A, Tract A, S1/2, SE1/4, NW1/4, S13-T93N-R57W

Physical Address: 197 Kniest Avenue, Yankton, SD

1. No such variance shall be recommended for approval by the Planning Commission unless it finds:
 - A. The strict application of the ordinance would produce undue hardship; *The applicant is requesting the lot size variance to realign the property boundaries to the actual usage of the property and accessory structures. The lot size is not meeting the minimum lot requirement on one (1) acre in a Moderate Density Rural Residential District.*

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- B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; *The hardship cannot be shared by other properties in the district.*
- C. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; *The granting of a variance will not be of substantial detriment to adjacent property nor the character of the district.*
- D. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, and caprice. *No convenience, profit or caprice was shown.*
2. No variance shall be recommended for approval unless the Planning Commission finds the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance. *The requested variance is not recurring sufficiently to provide remedy with a zoning amendment.*
3. A recommendation of approval concerning a variance from the terms of this ordinance shall not be founded by the Planning Commission unless and until:
 - A. A written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; *The property has opportunity to align property boundaries to actual property usage.*
 - B. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; *Previous variances of minimum lot requirement have been granted in Yankton County.*
 - C. The special conditions and circumstances do not result from the actions of the applicant; *The special conditions and circumstances are not result of the applicant.*
 - D. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district. *Variance requests of this type (minimum lot requirement) have been approved by the Planning Commission.*
4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance. *No nonconforming uses of neighboring lands, structures, or buildings in this district, and no permitted or nonconforming use of lands, structures, or buildings in other districts were considered.*
5. Notice of public hearing shall be given, as in Section 1803 (3-5). *The applicant mailed letters of notification to property owners within a one-quarter mile radius of the proposed variance on August 31, 2018 (supported by affidavit), a legal notice was published on September 1, 2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on September 6, 2018.*
6. The public hearing shall be held. Any party may appear in person or by agent or by attorney. *A public hearing was held at 8:20 pm on September 11, 2018. Keith Toczek stated he is realigning the property boundaries to reflect the actual usage of the property. The new boundaries are incorporating driveway and accessory structures in the appropriate lot. The Parcel 1A meets the size requirement for the district but Parcel 2A is less than the one (1) acre*

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requirement for a Moderate Density Rural Residential District. The hardship is to reflect actual usage with correct property boundaries.

Planning Commission chairman, Mike Welch, requested proponents for the variance request. No proponents were present.

Mr. Welch requested opponents for the variance request. No opponents were present.

Mr. Welch concluded the public comment period and the Planning Commission discussed the application and determined all the requirements are compliant for a recommendation of approval.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

7. The Planning Commission shall make findings that the requirements of this Section have been met by the applicant for a variance; the Commission shall further make a finding that the reasons set forth in the application justify the recommendations of granting the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Planning Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
The Planning Commission further finds that the reasons set forth in the application and hearing satisfy all requirements for this variance request
8. In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. The Planning Commission approves this request.
9. Under no circumstances shall the Planning Commission recommend granting a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. The variance request of Minimum Lot Requirement is approved.

Action 91118N: Moved by Gudahl, second by Guthmiller to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated September 11, 2018, of Variance of Minimum Lot Requirement from one (1) acre to .63 acre in a Moderate Density Rural Residential District (R-2) in Yankton County, to align the property boundaries with current use. Said property is legally described as Parcel 1A & Parcel 2A, Tract A, S1/2, SE1/4, NW1/4, S13-T93N-R57W, hereinafter referred at as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 197 Kniest Avenue, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried

This was the time and place for plat consideration:

Parcel 1A, Parcel 2A, Tract A, S1/2, SE1/4, NW1/4, S13-T93N-R57W, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 197 Kniest Avenue, Yankton, SD.

Action 91118O: Moved by Becker, second by Gudahl to recommend approval of the plat. Said property is legally described as Parcel 1A, Parcel 2A, Tract A, S1/2, SE1/4, NW1/4, S13-T93N-

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R57W, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 197 Kniest Avenue, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried

This was the time and place for discussion with Paul Hejna. Applicant is requesting a variance of Minimum Lot Requirement from five (5) acres to one +/- (1.27) acres and from five (5) acres to three +/- (3.59) acres in a Low Density Rural Residential District (R-1) in Yankton County. Said property is legally described as Lots 1 thru 8, Block 1, Sherwood Acres, S14-T93N-R57W, hereinafter referred at as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 146 Nottingham Lane, Yankton, SD.

Plat consideration:

Tract A and Tract B, Block 1, Sherwood Acres, S1/2, SW1/4, S11-T93N-R57W, N1/2, NW1/4, S14-T93N-R57W hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 146 Nottingham Lane, Yankton, SD.

Paul Hejna stated the property currently has eight (8) parcels and his request is to combine the lots into two (2) lots. The lots do not meet the Low Density Rural Residential District (R-1) requirement of five (5) acres, but the proposal is increasing the compliance to the ordinance.

Planning Commission chairman, Mike Welch, requested proponents for the variance request. No proponents were present.

Mr. Welch requested opponents for the variance request. No opponents were present. A letter was presented from a neighbor, Greg & Connie Husman, stating their opposition to the proposal.

Mr. Welch concluded the public comment period and the Planning Commission discussed the application and determined all the requirements are compliant for a recommendation of approval. No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Paul Hejna

Parcel Number: 13.014.600.010

Legal description: Lots 1 thru 8, Block 1, Sherwood Acres, S14-T93N-R57W

Physical Address: 146 Nottingham Lane, Yankton, SD

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1. No such variance shall be recommended for approval by the Planning Commission unless it finds:
 - A. The strict application of the ordinance would produce undue hardship; The applicant is requesting the lot size variance to combine eight (8) lots into two (2) lots. The lot sizes will increase but is not meeting the minimum lot requirement on five (5) acre in a Low Density Rural Residential District.
 - B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; The hardship cannot be shared by other properties in the district.
 - C. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; The granting of a variance will not be of substantial detriment to adjacent property nor the character of the district.
 - D. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposed of convenience, profit, and caprice. No convenience, profit or caprice was shown.
2. No variance shall be recommended for approval unless the Planning Commission finds the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance. The requested variance is not recurring sufficiently to provide remedy with a zoning amendment.
3. A recommendation of approval concerning a variance from the terms of this ordinance shall not be founded by the Planning Commission unless and until:
 - A. A written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; The property has opportunity to increase in size which is more compliant with the zoning ordinance.
 - B. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; Previous variances of minimum lot requirement have been granted in Yankton County.
 - C. The special conditions and circumstances do not result from the actions of the applicant; The special conditions and circumstances are not result of the applicant.
 - D. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district. Variance requests of this type (minimum lot requirement) have been approved by the Planning Commission.
4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance. No nonconforming uses of neighboring lands, structures, or buildings in this district, and no permitted or nonconforming use of lands, structures, or buildings in other districts were considered.
5. Notice of public hearing shall be given, as in Section 1803 (3-5). The applicant mailed letters of notification to property owners within a one-quarter mile radius of the proposed variance on September 1, 2018 (supported by affidavit), a legal notice was published on September 1,

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2018 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on September 6, 2018.

6. The public hearing shall be held. Any party may appear in person or by agent or by attorney. A public hearing was held at 8:00 pm on September 11, 2018. Paul Hejna stated the property currently has eight (8) parcels and his request is to combine the lots into two (2) lots. The lots do not meet the Low Density Rural Residential District (R-1) requirement of five (5) acres, but the proposal is increasing the compliance to the ordinance. Planning Commission chairman, Mike Welch, requested proponents for the variance request. No proponents were present. Mr. Welch requested opponents for the variance request. No opponents were present. A letter was presented from a neighbor, Greg & Connie Husman, stating their opposition to the proposal. Mr. Welch concluded the public comment period and the Planning Commission discussed the application and determined all the requirements are compliant for a recommendation of approval. No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.
7. The Planning Commission shall make findings that the requirements of this Section have been met by the applicant for a variance; the Commission shall further make a finding that the reasons set forth in the application justify the recommendations of granting the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Planning Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. The Planning Commission further finds that the reasons set forth in the application and hearing satisfy all requirements for this variance request
8. In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. The Planning Commission approves this request.
9. Under no circumstances shall the Planning Commission recommend granting a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district. The variance request of Minimum Lot Requirement is approved.

Action 91118Q: Moved by Guthmiller, second by Becker to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated September 11, 2018, of Variance of Minimum Lot Requirement from five (5) acres to one +/- (1.27) acres and from five (5) acres to three +/- (3.59) acres in a Low Density Rural Residential District (R-1) in Yankton County. Said property is legally described as Lots 1 thru 8, Block 1, Sherwood Acres, S14-T93N-R57W, hereinafter referred at as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 146 Nottingham Lane, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried

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This was the time and place for plat consideration:

Tract A and Tract B, Block 1, Sherwood Acres, S1/2, SW1/4, S11-T93N-R57W, N1/2, NW1/4, S14-T93N-R57W hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 146 Nottingham Lane, Yankton, SD.

Action 91118R: Moved by Bodenstedt, second by Becker to recommend approval of the plat. Said property is legally described as Tract A and Tract B, Block 1, Sherwood Acres, S1/2, SW1/4, S11-T93N-R57W, N1/2, NW1/4, S14-T93N-R57W hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 146 Nottingham Lane, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried

This was the time and place for discussion with Jay Cutts. Applicant is requesting a Conditional Use Permit to build a Class E 2400 head (960 AU Animal Units) pork (finisher swine over 55 pounds) production barn in an Agriculture District (AG) in Yankton County. The applicant is requesting a variance of Minimum ROW Setback requirement from 330 feet to 150 feet and Minimum Property Line Setback requirement from 660 feet to 75 feet in an Agriculture District (AG) in Yankton County. Said property is legally described as SE1/4, SE1/4, S19-T94N-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. The E911 address is TBA 307th Street, Mission Hill, SD.

Jay Cutts stated he would like to postpone his hearing to September 26, 2018 at 7:00 pm. The Planning & Zoning Office will publish legal notice and send notification letters.

The next agenda item is a review of the language change for amendment to Article 17, Section 1715, Board of Adjustment Voting Requirements. The proposal is the amendment to change the voting requirements for Conditional Use Permits to a simple majority of the full membership of the Board of Adjustment. The Planning Commission discussed the proposed language and no changes were recommended.

Planning Commission chairman, Mike Welch, requested proponents for the variance request. No proponents were present.

Mr. Welch requested opponents for the variance request. Kristi Schultz stated she is opposed to this amendment change. She states the ordinance does not need this change and it is a “power grab” by the County Commission. Phil Tau stated the simple majority will result in different review process in the court system. The court system imposes greater scrutiny on Conditional Use Permit with simple majority decisions.

Mr. Welch concluded the public comment period and the Planning Commission discussed the proposed ordinance amendment language change and schedule first reading on September 26, 2018.

No other comments, positive or negative, were received by the Zoning Administrator or presented at the public hearing.

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The next agenda item is Accessory Structures in Yankton County. The Zoning Administrator, Pat Garrity, briefly discussed some thoughts and concepts regarding amendment changes for accessory structures in Rural Residential Districts. The discussion will continue at the October 9, 2018 meeting.

Public comment period. No public comment.

Action 91118S: Moved by Becker, seconded by Gudahl for adjournment.

By voice vote, all members present voted aye.

Motion carried.

The next meeting of the Yankton County Planning Commission will be held at 7:00 P.M. Tuesday, October 9, 2018.

Respectfully submitted:
Patrick Garrity AICP
Zoning Administrator