

Yankton County Planning Commission
July 11, 2017

The monthly meeting of the Yankton County Planning Commission was called to order by Chairperson Michael Welch at 6:00 p.m. on July 11, 2017.

Members present at call to order: Welch, Becker, Pietila Williams, Sylliaasen, Gudahl, Kretsinger, Kettering, Guthmiller and Klimisch.

Members absent: Bodenstedt

Action 71117A: Moved by Klimisch, second by Kretsinger to approve the June 13, 2017 with corrections.

By voice vote, all members present voted aye.

Motion carried.

Action 71117B: Moved by Gudahl, second by Kettering to approve the June 26, 2017 as written.

By voice vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with Kevin Kirschenman. Applicant is requesting a variance of Minimum Lot Requirement from twenty (20) acres to sixteen (16.071) acres in an Agriculture District (AG) in Yankton County. Said property is legally described as Tract 7, Reiser Addition, S12-T96N-R56W, hereinafter referred to as Jamesville Township, County of Yankton, State of South Dakota. The E911 address is 43911 292nd Street, Menno, SD.

Plat consideration:

Lot 1, Tract 7, Reiser Addition, NW1/4, S12-T96N-R56W, hereinafter referred to as Jamesville Township, County of Yankton, State of South Dakota. The E911 address is 43911 292nd Street, Menno, SD.

Mr. Kirschenman stated he is requesting the farmstead lot to separate production property from residential property. Mr. Kirschenman stated the lot includes all farm buildings and tree belts. The proposed property has existing ingress / egress and utilities.

The Planning Commission discussed the application with concerns stated regarding the impact of rural residents on current agriculture practices. The balance between rural social fabric and current agriculture practices are resulting in land use conflicts. A suggestion to provide agriculture use covenant which will be part of the property deed. The Planning Commission recommended the approval of the variance.

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

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Applicant: Kevin Kirschenman

Parcel Number: 12.012.350.700

Legal description: Tract 7, Reiser Addition, S12-T96N-R56W

Physical Address: 43911 292nd Street

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 farmstead property is created to separate production property from farmstead property.*
 - B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; *The hardship can be shared by other properties but is limited to properties separating production property from farmstead 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 can be recurring with special circumstances discussed in the findings.*
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 is demonstrating special conditions or circumstances with size and location and could be applicable to others structures or buildings when property is separated to provide mortgage financing.*
 - 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 a 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.

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Variance requests of this type (minimum lot requirement) have been recommended previously 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-half mile radius of the proposed variance on June 30, 2017 (supported by affidavit), a legal notice was published on July 1, 2017 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on July 3, 2017.
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 7:00 pm on July 11, 2017. Mr. Kirschenman stated he is requesting the farmstead lot to separate production property from residential property. Mr. Kirschenman stated the lot includes all farm buildings and tree belts. The proposed property has existing ingress / egress and utilities. The Planning Commission discussed the application with concerns stated regarding the impact of rural residents on current agriculture practices. The balance between rural social fabric and current agriculture practices are resulting in land use conflicts. A suggestion to provide agriculture use covenant which will be part of the property deed. The Planning Commission recommended the approval of the variance. 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 71117C: Moved by Sylliaasen, 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 July 11, 2017, of Minimum Lot Requirement from twenty (20) acres to sixteen (16.071) acres in an Agriculture District (AG) in Yankton County. Said property is legally described as Tract 7, Reiser Addition, S12-T96N-R56W, hereinafter referred to as Jamesville

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Township, County of Yankton, State of South Dakota. The E911 address is 43911 292nd Street, Menno. SD.

By roll call vote, all members present voted aye.
Motion carried.

Action 71117D: Moved by Kretsinger, second by Guthmiller to recommend approval of a plat. Said property is legally described as: Lot 1, Tract 7, Reiser Addition, NW1/4, S12-T96N-R56W, hereinafter referred to as Jamesville Township, County of Yankton, State of South Dakota. The E911 address is 43911 292nd Street, Menno, SD.

By roll call vote, all members present voted aye.
Motion carried.

This was the time and place for discussion with Kevin Kirschenman. Applicant is requesting a variance of Maximum Accessory Structure Size from 1,200 sq. ft. to 2,000 sq. ft. in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as E493.99', W982.26', S440.84', SW1/4, SE1/4, S2-T93N-R55W, hereinafter referred to as Mission Hill South Township, County of Yankton, State of South Dakota. The E911 address is 30909 Sandbar Drive, Yankton, SD.

Mr. Willman is requesting a variance to build a 2,000 sq. ft. accessory structure on a five (5) acre parcel. The minimum requirement in a Moderate Density Rural Residential District is one (1) acre. The structure also requires a sidewall variance from twelve (12) feet to fifteen (15) feet. The site plan shows compliant yard requirements. The accessory structure is for personal use. The Planning Commission discussed the application and determined all requirements are met to recommend approval of the requested variance. 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: David Willman

Parcel Number: 05.002.200.215

Legal description: E493.99', W982.26', S440.84', SW1/4, SE1/4, S2-T93N-R55W

Physical Address: 30909 Sandbar Drive, 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 property owners require larger storage areas and want to locate the structure on their property.
 - B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity; The hardship can be shared by other properties but is limited to larger lot properties and topography issues.
 - 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 can be recurring with special circumstances discussed in the findings.
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 is demonstrating special conditions or circumstances with size and location and could be applicable to others structures or buildings.
 - 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 maximum structure 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 a 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 (maximum structure requirement) have been recommended previously 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

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variance on June 29, 2017 (supported by affidavit), a legal notice was published on July 1, 2017 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on July 3, 2017.

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 July 11, 2017. Mr. Willman is requesting a variance to build a 2,000 sq. ft. accessory structure on a five (5) acre parcel. The minimum requirement in a Moderate Density Rural Residential District is one (1) acre. The structure also requires a sidewall variance from twelve (12) feet to fifteen (15) feet. The site plan shows compliant yard requirements. The accessory structure is for personal use.
The Planning Commission discussed the application and determined all requirements are met to recommend approval of the requested variance.
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 Maximum Structure Requirement is approved.

Action 71117E: Moved by Kretsinger, second by Williams to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated July 11, 2017, of variance of Maximum Accessory Structure Size from 1,200 sq. ft. to 2,000 sq. ft. and sidewalls from twelve (12) feet to fifteen (15) feet in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as E493.99', W982.26', S440.84', SW1/4, SE1/4, S2-T93N-R55W, hereinafter referred to as Mission Hill South Township, County of Yankton, State of South Dakota. The E911 address is 30909 Sandbar Drive, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with Karl Schenk. Applicant is requesting a Rezone from Agriculture District (AG) to Planned Unit Development (PUD) in Yankton County. Said property is legally described as NW1/4 and N1/2, SW1/4 & S1/2, SW1/4, exc Tract B-233, S16-

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T93N-R57W, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is TBA 430th Avenue, Tabor, SD.

The applicant contacted the Planning and Zoning office and requested to withdraw the application due to additional information for the application and ingress / egress issues to resolve.

No hearing or action taken.

This was the time and place for discussion with Karl Schenk. Applicant is requesting a Subdivision in a Planned Unit Development (PUD) in Yankton County. Said property is legally described as NW1/4 and N1/2, SW1/4 & S1/2, SW1/4, exc Tract B-233, S16-T93N-R57W, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is TBA 430th Avenue, Tabor, SD.

The applicant contacted the Planning and Zoning office and requested to withdraw the application due to additional information for the application and ingress / egress issues to resolve.

No hearing or action taken.

Action 71117F: Moved by Kretsinger, 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 6:00 P.M. Tuesday, August 8, 2017.

Respectfully submitted:
Patrick Garrity AICP
Zoning Administrator