

Yankton County Planning Commission  
August 8, 2017

The monthly meeting of the Yankton County Planning Commission was called to order by Chairperson Michael Welch at 6:00 p.m. on August 8, 2017.

Members present at call to order: Becker, Pietila, Sylliaasen, Gudahl, Kretsinger, Kettering, Guthmiller and Klimisch. Welch 7:55 P.M.

Members absent: Bodenstedt and Williams

Action 8817A: Moved by Kretsinger, second by Kettering to approve the July 11, 2017 as written. By voice vote, all members present voted aye. Motion carried.

Action 8817B: Moved by Klimisch, second by Kettering to approve the July 24, 2017 as written. By voice vote, all members present voted aye. Motion carried.

This was the time and place for discussion regarding zoning regulations, definitions and use standards.

#### Use Standards

Use standards identify the land uses and the restrictions or limitations specific to each permitted use for each zoning district.

- Permitted “by right” uses: Permitted as long as they comply with other applicable standards.
- Permitted conditional use or special uses: May be compatible with the district’s permitted uses, but are subject to discretionary review and supplemental standards intended to ensure that the particular proposed use is compatible with other uses permitted in the district.
- Permitted accessory uses: Incidental or subordinate to the district’s permitted “principal” uses.
- Prohibited uses: Specifically declared as not allowed the district, or not allowed there in specific circumstances. Zoning ordinances generally state that all uses not specifically listed as permitted are prohibited, but may list prohibited uses to clarify that certain uses are not included as part of some general listed permitted use.

#### Nonconformity Standards

- Nonconformity standards address how to treat a land use, structure, or other feature of development that was legal when established, but would not be allowed under current zoning regulations – while prohibiting or strictly limiting the expansion, renovation, or reconstruction of the nonconformity.
- Nonconformity standards may also “amortize” nonconformities by requiring them to either conform to current regulations or cease within a certain time period. This controversial method is often limited to nonconformities involving minimal capital investment (i.e. signs)

#### YC Zoning Ordinance Definitions

- **Nonconforming Lot**: A lot of record existing on the date of passage of this ordinance which does not have the minimum width or contain the minimum area for the zone on which it is located.

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- **Nonconforming Structure:** A lawful structure which exists on the date of passage of this ordinance that could not be built under this ordinance by reason of restrictions on area, lot coverage, height, yard setbacks, or other characteristics of the structure.
- **Nonconforming Use:** A land use or building or portion thereof lawfully existing at the effective date of this ordinance or at the time of any amendment thereto, which does not conform to the regulations of the zone in which it is located.
- **Conditional Use Permit:** A conditional use is a use that would not be appropriate, generally or without restrictions, throughout the zoning district, but which if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning district as conditional uses, if specific provisions for such conditional use is made in this ordinance.
- **Variance:** A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for area and size of structure or size of yards and open spaces; established or expansion of a use otherwise prohibited shall not be allowed by variance; nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining district or because of conditions created by the landowner.
- **Covenant:** An agreement, convention, or promise of two or more parties, by deed in writing, signed, and delivered, by which either parties pledges himself to the other that something is either done, or shall be done. The term is currently used primarily with respect to promise in conveyance or other instruments relating to real estate.
- **Waiver:** A residential agreement to allow listed activities in a district, which is attached to the property deed. This waiver would run with the land and be filed with the Yankton County Register of Deeds.

The Planning Commission discussed various applications and situations regarding these standards and definitions. The current zoning issues are involved with all these regulations and an understanding is essential.

This was the time and place for discussion with Dave Burns. Applicant is requesting a variance of Maximum Accessory Structure Requirement from 1,200 sq. ft. to 6,600 sq. ft. and sidewalls from twelve (12) foot to sixteen (16) foot in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as E131', Leona's Addition, S17-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 101 Marina Bluffs Court #7, Yankton, SD.

Mr. Burns, representing Marina Bluffs Homeowners Association, stated he is requesting the variance to build an accessory structure for the six homeowners in the condominium. The structure size of 6,600 sq.ft. is for six homeowners, allowing for 1,100 sq.ft. for each resident. The building facade will match the condominium building. The property is part of the homeowners' association

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holdings and will not be subleased. The lightning will be downcast for minimum impact. The drainage issue will be mitigated with no changes proposed at present time.

The following people spoke in favor of the proposed variance. Gerald Barth; topic discussed was drainage and future impact will be minor.

The following people spoke in opposition of the variance. Denny Breck, Curt Bisgard, Carol Golden, Dan Pospisil, Craig Johnson and Carol Breck. Topics of discussion were drainage issues, excessive size of the structure, size of structure in relation to the lot, impact on property values, view shed impacts and extreme sidewalls for the district.

The Planning Commission discussed the application with concerns regarding the impact on drainage in the area, the size of the accessory structure for the district with the area citizen concern regarding the impact on the view shed in the neighborhood. The Planning Commission recommended to deny 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

Applicant: Marina Bluffs Homeowners Association

Parcel Number: 09.017.400.119

Legal description: E131', Leona's Addition, S17-T93N-R56W

Physical Address: 101 Marina Bluffs Court #7

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 variance is for a multifamily residential dwelling in a Moderate Density Rural Residential District. The structure is for six homeowners.
  - 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 multifamily dwelling properties.
  - 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 this variance will 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 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 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 because of the multifamily dwelling.
- 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 accessory structure size 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 accessory structure size 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 variance on July 26, 2017 (supported by affidavit), a legal notice was published on July 29, 2017 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on July 31, 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 August 8, 2017. Mr. Burns, representing Marina Bluffs Homeowners Association, stated he is requesting the variance to build an accessory structure for the six homeowners in the condominium. The structure size of 6,600 sq.ft. is for six homeowners, allowing for 1,100 sq.ft. for each resident. The building facade will match the condominium building. The property is part of the homeowners' association holdings and will not be subleased. The lightning will be downcast for minimum impact. The drainage issue will be mitigated with no changes proposed at present time. The following people spoke in favor of the proposed variance. Gerald Barth; topic discussed was drainage and future impact will be minor.

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The following people spoke in opposition of the variance. Denny Breck, Curt Bisgard, Carol Golden, Dan Pospisil, Craig Johnson and Carol Breck. Topics of discussion were drainage issues, excessive size of the structure, size of structure in relation to the lot, impact on property values, view shed impacts and extreme sidewalls for the district.

The Planning Commission discussed the application with concerns regarding the impact on drainage in the area, the size of the accessory structure for the district with the area citizen concern regarding the impact on the view shed in the neighborhood. The Planning Commission recommended to deny 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 does not 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 deny 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 Accessory Structure Size Requirement is denied.

Action 8817C: Moved by Kretsinger, second by Gudahl to recommend denial of the variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated August 8, 2017, of Maximum Accessory Structure Requirement from 1,200 sq. ft. to 6,600 sq. ft. and sidewalls from twelve (12) foot to sixteen (16) foot in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as E131', Leona's Addition, S17-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 101 Marina Bluffs Court #7, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with John Coughran. Applicant is requesting a variance of Minimum Yard Requirement of front yard from thirty (30) feet to five (5) feet in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 15A, Block 10, Oak Hills #6, NE1/4, NE1/4, S23-T93N-R57W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA Crestview Drive, Yankton, SD.

John Coughran requests a variance to place a single family dwelling five (5) feet on a front yard because of the topography in the narrow lot. Mr. Coughran provided topographic site plan for the

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proposed dwelling. The property also has an easement along the south property line, which Mr. Coughran must honor, but no yard setbacks are required from an easement. The intent of the variance is to locate the house an appropriate distance between the roads.

The following people spoke in opposition to the variance: Craig Taylor, Jeff Koster, Abe Schott, Dave Fleck, Wayne Nielsen, Karen Shuler, Ken Young, Mike Sherman, Dan Ulmer and Richard Mann. Topics of discussion were true intent to build the house, vehicle view obstruction, snow removal, property values, property investment value, previous yard requirement variance was denied, drainage issues and topography is limiting the buildable area on this lot.

Mr. Coughran stated a house can be located on this lot without a variance but it will be close to the easement on the south property line.

The Planning Commission discussed application and reviewed the off-street parking issue, the minimum driveway access and neighborhood objection. The Planning Commission recommended to deny 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

Applicant: John Coughran

Parcel Number: 13.013.500.973

Legal description: Lot 15A, Blk 10, Oak Hills #6, NE1/4, NE1/4, S23-T93N-R57W

Physical Address: TBA Crestview Drive, 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 variance is for a single family residential dwelling in a Moderate Density Rural Residential District with topography issues.
  - 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 topography impacted properties.
  - 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 this variance will 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 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 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 because of the topography.
- 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 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 (minimum yard 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 variance on July 26, 2017 (supported by affidavit), a legal notice was published on July 29, 2017 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on July 31, 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 August 8, 2017. John Coughran requests a variance to place a single family dwelling five (5) feet on a front yard because of the topography in the narrow lot. Mr. Coughran provided topographic site plan for the proposed dwelling. The property also has an easement along the south property line, which Mr. Coughran must honor, but no yard setbacks are required from an easement. The intent of the variance is to locate the house an appropriate distance between the roads.  
The following people spoke in opposition to the variance: Craig Taylor, Jeff Koster, Abe Schott, Dave Fleck, Wayne Nielsen, Karen Shuler, Ken Young, Mike Sherman, Dan Ulmer and Richard Mann. Topics of discussion were true intent to build the house, vehicle view obstruction, snow removal, property values, property investment value, previous yard

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requirement variance was denied, drainage issues and topography is limiting the buildable area on this lot.

Mr. Coughran stated a house can be located on this lot without a variance but it will be close to the easement on the south property line.

The Planning Commission discussed application and reviewed the off-street parking issue, the minimum driveway access and neighborhood objection. The Planning Commission recommended to deny 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 does not 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 deny 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 denied.

Action 8817D: Moved by Becker, second by Kretsinger to recommend denial of the variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated August 8, 2017, of Minimum Yard Requirement of front yard from thirty (30) feet to five (5) feet in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as Lot 15A, Block 10, Oak Hills #6, NE1/4, NE1/4, S23-T93N-R57W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is TBA Crestview Drive, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with Ralph Marquardt. Applicant is requesting a Conditional Use Permit to operate an outdoor shooting range (local law enforcement) in an Agriculture District in Yankton County. Said property is legally described as SE1/4, exc Lot H1 & exc Lot 6, Sun Valley S/D, S2-T94N-R56W, hereinafter referred to as Utica North Township, County of Yankton, State of South Dakota. The E911 address is TBA 439<sup>th</sup> Avenue, Yankton, SD.

Mike Burgeson, representing the Yankton Police Department and leasing from Ralph Marquardt, stated the outdoor shooting range is for the Yankton Count Sheriff department, the Yankton Federal Prison System and Yankton City Police Department. The shooting range is under a lease



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with the City of Yankton, is built to National Rifle Association standards and will be secured with a chain link fence.

The following people were in favor of the Conditional Use Permit with some conditions: James Sparks and Guy Larson. Topics of discussion were proper berm protection for surrounding residences, hours of operation, lease with the city is required to maintain Conditional Use Permit, notification of neighbors before shooting activity, access responsibility, possible calendar of shooting events and point of contact person.

The Planning Commission discussed the application and determined the applicant needs to provide additional information to the commission. The requested items are calendar of shooting events, no Sunday shooting, off-duty officer shooting hours, notification system and completion of the facility fencing and access points. A continuance is requested until next Planning Commission meeting (September 12, 2017) to provide the requested information.

Action 8817E: Moved by Klimisch, second by Becker to recommend a continuance of the Conditional Use Permit to operate an outdoor shooting range (local law enforcement) in an Agriculture District in Yankton County. Said property is legally described as SE1/4, exc Lot H1 & exc Lot 6, Sun Valley S/D, S2-T94N-R56W, hereinafter referred to as Utica North Township, County of Yankton, State of South Dakota. The E911 address is TBA 439<sup>th</sup> Avenue, Yankton, SD. By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with Doug Overla. Applicant is requesting a variance of Minimum Lot Requirement from twenty (20) acres to two +/- acres (2.475 A) and from twenty (20) acres to six +/- acres (6.05 A) in an Agriculture District in Yankton County. Said property is legally described as S320', Clark's Addition, S30-T94N-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. The E911 address is 30782 446<sup>th</sup> Avenue, Mission Hill, SD.

Plat consideration:

Tract A, S320', Clark's Addition, Government Lot 2, SW1/4, S30-T94N-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. E911 address is 30782 446<sup>th</sup> Avenue, Mission Hill, SD.

Mr. Breck, representing Doug Overla, stated he is requesting the variance to provide a residential lot for mortgage financing requirements. The variance will allow two lots along the Mission Hill city limits. The lots will be residential only. The proposed property has existing ingress / egress and utilities.

Jay Cutts, stated the applicant should request annexation by Mission Hill. This will eliminate the need for variances and allow city utilities and infrastructure.

Carol Breck, representing Doug Overla, stated Mr. Overla is experiencing health issues and needs to move forward with this property transaction.

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. The proposal to annex to the Town of Mission Hill is encouraged and will resolve some utility concerns. The Planning Commission recommended the approval of the variance.

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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: Doug Overla

Parcel Number: 02.030.300.200

Legal description: S320', Clark's Addition, S30-T94N-R54W

Physical Address: 30782 446<sup>th</sup> Avenue, Mission Hill, 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 property is created to meet mortgage requirements.
  - 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 requiring mortgage arrangements.
  - 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

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- 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. 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 July 27, 2017 (supported by affidavit), a legal notice was published on July 29, 2017 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on July 31, 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 7:40 pm on August 8, 2017. Mr. Breck, representing Doug Overla, stated he is requesting the variance to provide a residential lot for mortgage financing requirements. The variance will allow two lots along the Mission Hill city limits. The lots will be residential only. The proposed property has existing ingress / egress and utilities. Jay Cutts, stated the applicant should request annexation by Mission Hill. This will eliminate the need for variances and allow city utilities and infrastructure. Carol Breck, representing Doug Overla, stated Mr. Overla is experiencing health issues and needs to move forward with this property transaction. 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. The proposal to annex to the Town of Mission Hill is encouraged and will resolve some utility concerns. 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.

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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 8817F: Moved by Sylliaasen, second by Klimisch to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated August 8, 2017, of Minimum Lot Requirement from twenty (20) acres to two +/- acres (2.475 A) and from twenty (20) acres to six +/- acres (6.05 A) in an Agriculture District in Yankton County. Said property is legally described as S320', Clark's Addition, S30-T94N-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. The E911 address is 30782 446<sup>th</sup> Avenue, Mission Hill, SD.

By roll call vote, seven members present voted aye, one member present voted nay, one member present abstain.

Motion carried.

Action 8817G: Moved by Kretsinger, second by Becker to recommend approval of a plat. Said property is legally described as: Tract A, S320', Clark's Addition, Government Lot 2, SW1/4, S30-T94N-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. E911 address is 30782 446<sup>th</sup> Avenue, Mission Hill, SD.

By roll call vote, seven members present voted aye, one member present voted nay, one member present abstain.

Motion carried.

Action 8817H: Moved by Kretsinger, seconded by Sylliaasen 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, September 12, 2017.**

Respectfully submitted:  
Patrick Garrity AICP  
Zoning Administrator