

Yankton County Planning Commission
November 9, 2016

The monthly meeting of the Yankton County Planning Commission was called to order by Chairperson Carll Kretsinger at 6:00 p.m. on November 9, 2016.

Members present at call to order: Kotalik, Guthmiller, Becker, Bodenstedt, Sylliaasen, Gudahl, Kettering, Pietila, Kretsinger, and Schultz.

Members absent: Svatos, Klimisch and Welch.

Action 11916A: Moved by Gudahl, second by Schultz to approve the October 11, 2016 Planning Commission minutes as written.

By voice vote, all members present voted aye.

Motion carried.

Brian McGinnis facilitated a Comprehensive Plan discussion on Chapter II, Background Information and Chapter III, Community Facilities. The Planning Commission discussed the policy recommendations regarding development of community facilities and provide language to be positive for future development in Yankton County. Brian McGinnis is recording the proposed recommendations and will present drafts at each meeting. The Planning Commission started discussion on Chapter IV – Demographic Information.

This was the time and place for discussion with Terry Tennant. Applicant is requesting a variance of Maximum Accessory Structure Size Requirement from two thousand (2,000) sq. ft. to three thousand seven hundred and eighty (3,780) sq. ft. in a Low Density Rural Residential District (R-1) in Yankton County. Said property is legally described as Lot B, S1/2, NE1/4 & Parcel 1, Lot B, S1/2, NE1/4, exc Tract A, S12-T93N-R57W, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 43381 Whitetail Drive, Yankton, SD.

Mr. Tennant stated the property received a Conditional Use Permit June 7, 2011 to have a hobby farm in this property. The proposal was also intended to have a horse barn (accessory structure) placed on the property in the future. The application did not clearly state the accessory structure. The zoning administrator determined the proposed accessory structure should request a Variance of Maximum Accessory Structure Size Requirement to meet the zoning regulation. Mr. Tennant provided a site plan and proposed building diagrams. The property is twenty-nine (29) acres and no view shed issues are present.

The Planning Commission discussed the application and determined the property size, no view shed issues and the hobby farm Conditional Use Permit meets the requirements for a 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: Terry Tennant

Parcel Number: 13.012.100.200

Legal description: Lot B, S1/2, NE1/4 & Parcel 1, Lot B, S1/2, NE1/4, exc Tract A, S12-T93N-R57W

Physical Address: 43381 Whitetail 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 residential property has a Conditional Use Permit for hobby farm and is a large acreage (twenty-nine acres) parcel, allowing sufficient space for the proposed accessory structure.*
 - 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 with large acreage and hobby farm designation.*
 - 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 maximum accessory structure size requirement have been granted in Yankton County.*

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- 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) 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 October 28, 2016 (supported by affidavit), a legal notice was published on October 29, 2016 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on November 1, 2016.
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 7:30 pm on November 9, 2016. Mr. Tennant stated the property received a Conditional Use Permit June 7, 2011 to have a hobby farm in this property. The proposal was also intended to have a horse barn (accessory structure) placed on the property in the future. The application did not clearly state the accessory structure. The zoning administrator determined the proposed accessory structure should request a Variance of Maximum Accessory Structure Size Requirement to meet the zoning regulation. Mr. Tennant provided a site plan and proposed building diagrams. The property is twenty-nine (29) acres and no view shed issues are present. The Planning Commission discussed the application and determined the property size, no view shed issues, all outdoor lighting be downcast style and the hobby farm Conditional Use Permit meets the requirements for a 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

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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 approved.

Action 11916B: Moved by Kettering, second by Bodenstedt to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated November 9, 2016, of Maximum Accessory Structure Size Requirement from two thousand (2,000) sq. ft. to three thousand seven hundred and eighty (3,780) sq. ft. in a Low Density Rural Residential District (R-1) in Yankton County. Said property is legally described as Lot B, S1/2, NE1/4 & Parcel 1, Lot B, S1/2, NE1/4, exc Tract A, S12-T93N-R57W, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is 43381 Whitetail Drive, Yankton, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with Roger Hanson. Applicant is requesting a variance of Minimum Lot Requirement from twenty (20) acres to four +/- (4.70) acres in an Agriculture District (AG) in Yankton County. Said property is legally described as W1/2, NW1/4, S30-T94N-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. The E911 address is 30728 446th Avenue, Mission Hill, SD.

Plat consideration:

R.L.M. Addition, Government Lot 2, NW1/4, S30-T94-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. The E911 address is 30728 446th Avenue, Mission Hill, SD.

Mr. Hanson stated the family wants to sell the farmstead and continue the production property ownership. The farmstead plat will meet financing requirements for prospective buyers. The plat includes all buildings, house and tree shelterbelts.

The Planning Commission discussed the application and determined the plat meets all farmstead plat requirements.

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: Roger Hanson

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Parcel Number: 02.030.400.200

Legal description: W1/2, NW1/4, S30-T94N-R54W

Physical Address: 30728 446th 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 residential property is separated from the production property to allow mortgage financing.
 - 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 financing.
 - 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 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. 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

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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 October 26, 2016 (supported by affidavit), a legal notice was published on October 29, 2016 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on November 1, 2016.
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 October 11, 2016. Mr. Hanson stated the family wants to sell the farmstead and continue the production property ownership. The farmstead plat will meet financing requirements for prospective buyers. The plat includes all buildings, house and tree shelterbelts. The Planning Commission discussed the application and determined the plat meets all farmstead plat requirements. 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 101116C: Moved by Becker, 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 November 9, 2016, of Minimum Lot Requirement from twenty (20) acres to four +/- (4.70) acres in an Agriculture District (AG) in Yankton County. Said property is legally described as W1/2, NW1/4, S30-T94N-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. The E911 address is 30728 446th Avenue, Mission Hill, SD.

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

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Action 11916D: Moved by Schultz, second by Kotalik to recommend approval of a plat. Said property is legally described as: R.L.M. Addition, Government Lot 2, NW1/4, S30-T94-R54W, hereinafter referred to as Volin Township, County of Yankton, State of South Dakota. The E911 address is 30728 446th Avenue, Mission Hill, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place for discussion with Don Cuka. Applicant is requesting a variance of Minimum Lot Requirement from twenty (20) acres to fourteen +/- (14.73) acres in an Agriculture District (AG) in Yankton County. Said property is legally described as SE1/4, exc Lot R-16, S13-T94N-R57W, hereinafter referred to as Ziskov North Township, County of Yankton, State of South Dakota. The E911 address is 43356 306th Street, Yankton, SD.

Plat consideration:

Cuka's First Addition, SE1/4, S13-T94N-R57W, hereinafter referred to as Ziskov North Township, County of Yankton, State of South Dakota. The E911 address is 43356 306th Street, Yankton, SD.

Mr. Cuka stated the family wants to build a single family house on the farmstead. The farmstead plat will meet requirements for mortgage financing. The plat includes all buildings, existing house and tree shelterbelts.

The Planning Commission discussed the application and determined the plat meets all farmstead plat requirements.

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

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Meeting date: November 9, 2016

VARIANCE

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Don Cuka

Parcel Number: 14.013.200.100

Legal description: SE1/4, exc Lot R-16, S13-T94N-R57W

Physical Address: 43356 306th Street, Yankton, SD

1. No such variance shall be recommended for approval by the Planning Commission unless it finds:

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- A. The strict application of the ordinance would produce undue hardship; The residential property is separated from the production property to allow mortgage financing.
 - 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 financing.
 - 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. 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 October 28, 2016 (supported by affidavit), a legal notice was published on October 29, 2016 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on November 1, 2016.

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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 7:50 pm on November 9, 2016. Mr. Cuka stated the family wants to build a single family house on the farmstead. The farmstead plat will meet requirements for mortgage financing. The plat includes all buildings, existing house and tree shelterbelts.
The Planning Commission discussed the application and determined the plat meets all farmstead plat requirements.
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 11916E: Moved by Pietila, second by Bodenstedt to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated November 9, 2016, of Minimum Lot Requirement from twenty (20) acres to fourteen +/- (14.73) acres in an Agriculture District (AG) in Yankton County. Said property is legally described as SE1/4, exc Lot R-16, S13-T94N-R57W, hereinafter referred to as Ziskov North Township, County of Yankton, State of South Dakota. The E911 address is 43356 306th Street, Yankton, SD.

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

Action 11916F: Moved by Schultz, second by Sylliaasen to recommend approval of a plat. Said property is legally described as: Cuka's First Addition, SE1/4, S13-T94N-R57W, hereinafter referred to as Ziskov North Township, County of Yankton, State of South Dakota. The E911 address is 43356 306th Street, Yankton, SD.

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

This was the time and place for discussion with South Dakota Network, LLC. Applicant is requesting a Conditional Use Permit to locate a thirty-two (32) foot monopole telecommunications

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tower in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as SD Hwy 52 Right of Way (ROW) & Kingsley Lane Right of Way (ROW), S18-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is not applicable.

Applicant is requesting a Conditional Use Permit to locate a thirty-two (32) foot monopole telecommunications tower in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as SD Hwy 52 Right of Way (ROW) & Kniest Avenue Right of Way (ROW), S13-T93N-R57W, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is not applicable.

Applicant is requesting a Conditional Use Permit to locate a thirty-two (32) foot monopole telecommunications tower in a Moderate Density Rural Residential District (R-2) in Yankton County. Said property is legally described as SD Hwy 52 Right of Way (ROW) & Oak Hills / Russell Road Right of Way (ROW), S13-T93N-R57W, hereinafter referred to as Ziskov South Township, County of Yankton, State of South Dakota. The E911 address is not applicable.

SDN, LLC representatives presented a proposal to locate three thirty-two (32) foot monopoles in Yankton County ROW. The poles are located near existing electrical utilities and will have fiber optics communication cable directly connected to an antenna on the monopole. The telecommunications industry is locating hard-to-serve topographical, geography and high impact areas which overload the macro-towers in the coverage territory. The small cell technology directly downloads the telecommunication signal and backhauls information through the cable to the telephone switching base. The intent is improved service by reducing the peak time requirements. The Planning Commission discussion was about signal range at 1,500 feet radius, view shed issues with towers in open areas around residential areas and ability to implement stealth tower techniques.

Randy Kussman stated the proposal does not include AT&T service, the usage will be limited with only 1,500 feet diameter coverage and is the state park a better location.

Rocky Schultz stated concern will the improvement prevent dropped calls and improve service in the area.

The Planning Commission ceased discussion on the application until the next applicants are completed.

This was the time and place for discussion with Roger Adam. Applicant is requesting a variance of Minimum Yard Requirement for front yard from thirty (30) feet to twenty-one (21) feet and side yard from ten (10) feet to eight (8) feet to build an attached garage / house addition in a High Density Rural Residential District (R-3) in Yankton County. Said property is legally described as Lot 19, Block 2, Flaxfield Estates, S21-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 103 Curlie Street, Yankton, SD.

Mr. Adam is proposing a house addition in the front yard and a garage addition in the side yard. The front addition will not exceed the neighbor house setback. The garage addition will allow sufficient room for emergency vehicles to reach the back yard.

The Planning Commission discussed the application and determined the proposed yard setbacks meet requirements.

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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: Roger Adam

Parcel Number: 09.021.100.219

Legal description: Lot 19, Block 2, Flaxfield Estates, S21-T93N-R56W

Physical Address: 103 Curlie Street, 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 lots where created before Yankton County zoning ordinance and are long and narrow. This makes it difficult to match the yard requirements because the space is in the back yard. The current ordinance requires increased lot width and facilitates implementing the current yard requirements. The Riverside development has many narrow and deep lots which are difficult to remodel houses in the area, while meeting the yard 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 in the Riverside area.*
 - 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

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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 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 October 28, 2016 (supported by affidavit), a legal notice was published on October 29, 2016 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on November 1, 2016.
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 8:30 pm on November 9, 2016. Mr. Adam is proposing a house addition in the front yard and a garage addition in the side yard. The front addition will not exceed the neighbor house setback. The garage addition will allow sufficient room for emergency vehicles to reach the back yard. The Planning Commission discussed the application and determined the proposed yard setbacks meet requirements. 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 Yard Requirement is approved.

Action 11916G: Moved by Schultz, 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 November 9, 2016, of Minimum Yard Requirement for front yard from thirty (30) feet to twenty-one (21) feet and side yard from ten (10) feet to eight (8) feet to build an attached garage / house addition in a High Density Rural Residential District (R-3) in Yankton County. Said property is legally described as Lot 19, Block 2, Flaxfield Estates, S21-T93N-R56W, hereinafter referred to as Utica South Township, County of Yankton, State of South Dakota. The E911 address is 103 Curlie Street, Yankton, SD.

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

This was the time and place for discussion with Ron Kulish. Applicant is requesting a variance of Minimum Lot Requirement from twenty (20) acres to four +/- (4.642) acres in an Agriculture District (AG) in Yankton County. Said property is legally described as W1/2, SE1/4, exc Lot S1, S14-T95N-R57W, hereinafter referred to as Lesterville Township, County of Yankton, State of South Dakota. The E911 address is 43254 300th Street, Lesterville, SD.

Plat consideration:

Kulish First Addition, W1/2, SE1/4, S14-95N-R57W, hereinafter referred to as Lesterville Township, County of Yankton, State of South Dakota. The E911 address is 43254 300th Street, Lesterville, SD.

Mr. Kulish stated the request is to create a farmstead plat to build a single family house. The plat is necessary for financing requirements for his daughter to purchase the property. The plat includes all the buildings, shelterbelt trees and ingress / egress from 300th Street.

The Planning Commission discussed the application and determined the requirements for a farmstead plat are met.

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

Yankton County Planning Commission

Meeting date: November 9, 2016

VARIANCE

Yankton County Planning Commission
November 9, 2016

Article 18, Section 1807

FINDINGS OF FACT

Applicant: Ron Kulish

Parcel Number: 15.014.200.300

Legal description: W1/2, SE1/4, exc Lot S1, S14-T95N-R57W

Physical Address: 43254 300th Street, Lesterville, 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 farmstead plat is required 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 financing.*
 - 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.*

Yankton County Planning Commission
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- 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 October 28, 2016 (supported by affidavit), a legal notice was published on October 29, 2016 in the Yankton Daily Press and Dakotan and a notification sign was placed on the property on November 1, 2016.
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 8:40 pm on November 9, 2016. Mr. Kulish stated the request is to create a farmstead plat to build a single family house. The plat is necessary for financing requirements for his daughter to purchase the property. The plat includes all the buildings, shelterbelt trees and ingress / egress from 300th Street. The Planning Commission discussed the application and determined the requirements for a farmstead plat are met. 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 11916H: Moved by Schultz, second by Kotalik to recommend approval of the Variance, pursuant to Article 18, Section 1807 of the Yankton County Zoning Ordinance, based on Finding of Facts dated November 9, 2016, of Minimum Lot Requirement from twenty (20) acres to four +/- (4.642) acres in an Agriculture District (AG) in Yankton County. Said property is legally

Yankton County Planning Commission
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described as W1/2, SE1/4, exc Lot S1, S14-T95N-R57W, hereinafter referred to as Lesterville Township, County of Yankton, State of South Dakota. The E911 address is 43254 300th Street, Lesterville, SD.

By roll call vote, all members present voted aye.

Motion carried.

Action 11916I: Moved by Kettering, second by Becker to recommend approval of a plat. Said property is legally described as: Kulish First Addition, W1/2, SE1/4, S14-95N-R57W, hereinafter referred to as Lesterville Township, County of Yankton, State of South Dakota. The E911 address is 43254 300th Street, Lesterville, SD.

By roll call vote, all members present voted aye.

Motion carried.

This was the time and place to continue discussion with South Dakota Network, LLC. Mr. Kent Folkers stated he is concerned with view shed issues and proposed capacity benefits. Mr. Folkers supports stealth poles and would locate in state park property. Mr. Merle Kaiser is also concerned with view shed issues.

The Planning Commission discussed the proposal and agree the area requires strong E911 service. The view shed concern is discussed and suggestions to provide green or brown poles would be beneficial. A suggestion to locate the poles in more protected areas near trees or other screened sites. SDN, LLC states this will interfere with the intent of locating the poles near the electrical source in the Right of Way.

The Planning Commission decided to continue the application request to next month.

Action 11916J: Moved by Kettering, second by Becker to recommend a continuance on the application from South Dakota Network, LLC until December 13, 2016.

By roll call vote, all members present voted aye.

Motion carried.

Action 11916K: Moved by Pietila, 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, December 13, 2016.

Respectfully submitted:
Patrick Garrity AICP
Zoning Administrator