

**BOARD OF ADJUSTMENT**  
**January 9, 2018**

**CALL TO ORDER**

Chairman Bode called the meeting of the Davison County Board of Adjustment to order at 9:15 a.m. All members of the Board were present. Also present was Planning & Zoning Administrator Bathke, Deputy Jenniges and Auditor Kiepke.

**APPROVE MINUTES**

Motion by Weitala, second by Kiner, to approve the minutes of the November 14, 2017 meeting. All members voted aye. Motion carried.

**CONDITIONAL USE**

The Planning Commission recommended granting 6-0-1.

Motion by Claggett, second by Kiner, after consideration of Section 1206 A Conditional Uses, to approve a Conditional Use Permit for manufacturing in the Rural Commercial District, as requested by Grant Johnson. This request is pursuant to Section 904 (4) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as Lot 1 of Lemke Addition, a Subdivision of the W 372' (ft) of the SW ¼, Ex Lot H-1; and the W 372' (ft) of Lot W, all in the SW ¼ of Section 27, T 103 N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received December 13, 2017  
Daily Republic December 30, 2017  
Posted December 19, 2017  
Notified Applicant December 19, 2017  
Notified Abutting Property Owners December 19, 2017  
Consideration of 1206 A. Conditional Uses


Roll call vote:

Reider - aye, Weitala - aye, Kiner - aye, Claggett - aye, Bode - aye. Motion carried.

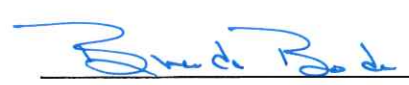
**ADJOURN**

At 9:21 a.m., motion by Reider, second by Weitala to adjourn Board of Adjustment. All members voted aye. Motion carried.

**ATTEST**

  
Susan Kiepke, Auditor



  
Brenda Bode, Chairman

**BOARD OF ADJUSTMENT**  
**February 13, 2018**

**CALL TO ORDER**

Chairman Bode called the meeting of the Davison County Board of Adjustment to order at 9:15 a.m. All members of the Board were present. Also present was Planning & Zoning Administrator Bathke, Deputy Jenniges and Auditor Kiepke.

**APPROVE MINUTES**

Motion by Claggett, second by Weitala, to approve the minutes of the January 9, 2018 meeting. All members voted aye. Motion carried.

**VARIANCE**

The Planning Commission recommended granting 5-0-2.

Motion by Claggett, second by Weitala, after consideration of Section 1206 B Variances, to grant a variance for a side yard setback of +/- 40' (ft) resulting in a setback of +/- 10' (ft) from the property line, where the side yard setback requirement is 50' (ft) in the AG District, as requested by Derek Mueller. This request is pursuant to Section 308 of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as Lot A of Tilbergs 1<sup>st</sup> Addn. in the NE ¼ of Section 8, T 101 N, R 60 W, of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received December 21, 2017  
Daily Republic February 1, 2018  
Posted January 26, 2018  
Notified Applicant January 23, 2018  
Notified Abutting Property Owners January 23, 2018  
Consideration of 1206 B. Variances

Roll call vote:

Reider – aye, Weitala – aye, Kiner – aye, Claggett – aye, Bode - aye. Motion carried.

**CONDITIONAL USES**

The Planning Commission recommended granting 3-1-1 and 2 abstaining, with the following conditions:

1. Comply with all state and federal regulations.
2. Comply with all sections of the Davison County Zoning Ordinance.
3. Have a nutrient management plan in place.
4. Have a written plan for the site to address cleanup and disposal of the structures when the economic life of the building has expired. The life of the building shall be considered expired if no animals occupy the building in a 12-month period.
5. All manure shall be injected.



William Neugebauer, an adjacent land owner stated that flooding is a concern for him. He stated that Nick Varuska has pictures of flooding the same field in the Spring of 2016.

Chad Neugebauer said he lives NE of the field and the NE corner floods.

Chris DeRocher stated the facility will be raised 4' (ft) and everything is sloped away. He said the contract with Sunterra is for 12 years. They will do chores, keep pigs healthy and insure cleanliness.

Austin Luebke owns the land the barn will be built on. He said the purpose of the project is to get better costs, better nutrient values and better economic values.

Paul Kostboth stated they provide services for producers and landowners. They do odor monitoring/modeling. This facility has been deemed 98% nuisance free, while the standard is 91%. He further stated the building is not going to add water to fields or ditches. He also said the nutrient management plan is being reviewed by DNER.

Chris DeRocher said anything he can do to help drainage he will as it is just as important to him so that he can get into his barn.

Motion by Claggett, second by Reider, after consideration of Section 1206 A Conditional Uses, to approve a Conditional Use Permit for a concentrated animal feeding operation in the Ag District with conditions stated by the Planning and Zoning Board, as requested by Chris DeRocher. This request is pursuant to Section 304 (10) and Section 309 of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property will be legally described as a Survey Plat of DeRocher Tract 1 in the SE ¼ of the NE ¼ of Section 33, T 101 N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received January 2, 2018  
Daily Republic February 1, 2018  
Posted January 26, 2018  
Notified Applicant January 23, 2018  
Notified Abutting Property Owners January 23, 2018  
Consideration of 1206 A. Conditional Uses

Roll call vote:  
Reider - aye, Weitala - aye, Kiner - aye, Claggett - aye, Bode - aye. Motion carried.

The Planning Commission recommended granting 5-0-2.

Motion by Claggett, second by Kiner, after consideration of Section 1206 A Conditional Uses, to approve a Conditional Use Permit for an asphalt paving business in the Ag District, as requested by Dan Mohr (d.b.a. Proseal Inc.). This request is pursuant to Section 405 of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as Tract 2 of Witzel Tract in the SW ¼ of Section 10, T 104 N, R 60 W of the 5<sup>th</sup> P.M., Davison County, South Dakota and Witzel Tract 1 of prev platted Lot 3B in the SW ¼ of the SW ¼ of Section 10, T 104 N, R 60 W of the 5<sup>th</sup> P.M. Davison County, South Dakota.

Application received January 12, 2018

Daily Republic February 1, 2018  
Posted January 26, 2018  
Notified Applicant January 23, 2018  
Notified Abutting Property Owners January 23, 2018  
Consideration of 1206 A. Conditional Uses

Roll call vote:

Weitala - aye, Reider - aye, Kiner - aye, Claggett - aye, Bode - aye. Motion carried.

The Planning Commission recommended granting 5-0-2.

Motion by Weitala, second by Claggett, after consideration of Section 1206 A Conditional Uses, to approve a Conditional Use Permit for a commercial trucking terminal in the Ag Residential District with the condition that only the following businesses can operate there: Petrik Sanitation, Frito Lay and American Ice, as requested by Petrik Sanitation. This request is pursuant to Section 404 (9) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as Lot K of W & L Addn in the NW ¼ of Section 25, T 103 N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received January 17, 2018  
Daily Republic February 1, 2018  
Posted January 26, 2018  
Notified Applicant January 23, 2018  
Notified Abutting Property Owners January 23, 2018  
Consideration of 1206 A. Conditional Uses

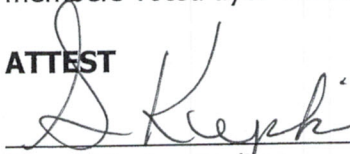
Roll call vote:

Kiner - aye, Weitala - aye, Reider - aye, Claggett - aye, Bode - aye. Motion carried.

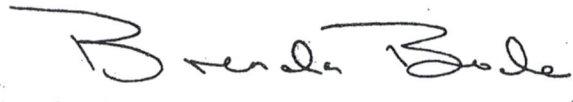
## ADJOURN

At 10:36 a.m., motion by Kiner, second by Claggett to adjourn Board of Adjustment. All members voted aye. Motion carried.

**ATTEST**

  
Susan Kiepke, Auditor



  
Brenda Bode, Chairman



**BOARD OF ADJUSTMENT**  
**March 13, 2018**

**CALL TO ORDER**

Vice-Chairperson Weitala called the meeting of the Davison County Board of Adjustment to order at 9:15 a.m., as requested by Chairperson Bode as she was not feeling well. All members of the Board were present. Also present was Planning & Zoning Administrator Bathke, Deputy Jenniges and Auditor Kiepke.

**APPROVE MINUTES**

Motion by Kiner, second by Claggett, to approve the minutes of the February 13, 2018 meeting. All members voted aye. Motion carried.

**VARIANCES**

The Planning Commission recommended granting 6-0-1 with the following conditions:

1. Leave cattails or other vegetation in the flood plain in the Northeast corner.
2. Only non-resident structures may be built in the buffer zone (east 150') of Lot 11, Block 1 and Lot 11, Block 2.
3. Homeowners Association Agreement must be filed with the Davison County Register of Deeds.

Motion by Reider, second by Bode, after consideration of Section 1206 B Variances, to grant a variance in minimum lot size, to create a development of lots of various sizes ranging from 1 to 1.51 acres, where the minimum lot size requirement is 25 acres in the AG Residential District, with condition recommended by Planning Commission as well as mandating a Homeowners Association, as requested by Lonnie Bollock. This request is pursuant to Section 407 and 409 (5) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property will be legally described as Lots 1 through 11, Block 1 and Lots 1 through 11, Block 2 of Powderhorn Subdivision in the SW ¼ of Section 24, T 103 N, R 61 W, of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received February 16, 2018

Daily Republic March 3, 2018

Posted February 23, 2018

Notified Applicant February 22, 2018

Notified Abutting Property Owners February 22, 2018

Consideration of 1206 B. Variances

Roll call vote:

Reider – aye, Weitala – aye, Kiner – aye, Claggett – aye, Bode - aye. Motion carried.

The Planning Commission recommended granting 6-0-1 with the following conditions:

Motion by Kiner, second by Claggett, after consideration of Section 1206 B Variances, to grant a variance for front yard setback of +/- 25' (ft), resulting in a setback of +/- 50' (ft) from the

right of way, where the front yard setback requirement is 75' (ft) in the AG District, as requested by Thomas & Tina Suhr. This request is pursuant to Section 308 of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the SE ¼ of Section 33, T 101 N, R 60 W, of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received February 15, 2018  
Daily Republic March 3, 2018  
Posted February 23, 2018  
Notified Applicant February 22, 2018  
Notified Abutting Property Owners February 22, 2018  
Consideration of 1206 B. Variances

Roll call vote:

Weitala – aye, Reider – aye, Kiner – aye, Claggett – aye, Bode - aye. Motion carried.

### **CONDITIONAL USE**

The Planning Commission recommended granting 6-0-1 with the following conditions:

1. Comply with all state and federal regulations.
2. Comply with all sections of the Davison County Zoning Ordinance.
3. Have a nutrient management plan in place.
4. Have a written plan for the site to address cleanup and disposal of the structures when the economic life of the building has expired. The life of the building shall be considered expired if no animals occupy the building in a 12-month period.
5. All manure shall be injected.
6. Road maintenance agreement with the township.

Motion by Bode, second by Kiner, after consideration of Section 1206 A Conditional Uses, to grant a Conditional Use Permit for a concentrated animal feeding operation in the Ag District with conditions stated by the Planning and Zoning Board, as requested by Tim Neugebauer. This request is pursuant to Section 304 (10) and Section 309 of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property will be legally described as the NW ¼ of Section 36, T 101 N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received February 9, 2018  
Daily Republic March 3, 2018  
Posted February 23, 2018  
Notified Applicant February 22, 2018  
Notified Abutting Property Owners February 22, 2018  
Consideration of 1206 A. Conditional Uses

Roll call vote:

Kiner - aye, Weitala – aye, Reider – aye, Claggett – aye, Bode – aye. Motion carried.

### **VARIANCE**



The Planning Commission recommended granting 6-0-1.

Motion by Claggett, second by Kiner, after consideration of Section 1206 B Variances, to grant a variance for front yard setback of +/- 150' (ft) for a concentrated animal feeding operation resulting in a front yard setback of +/- 150' (ft) from the right of way for a concentrated animal feeding operation where the required setback is 300' (ft) in the AG District, as requested by Tim Neugebauer. This request is pursuant to Section 309 (3f) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NW ¼ of Section 36, T 101 N, R 61 W, of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received February 9, 2018  
Daily Republic March 3, 2018  
Posted February 23, 2018  
Notified Applicant February 22, 2018  
Notified Abutting Property Owners February 22, 2018  
Consideration of 1206 B. Variances

Roll call vote:

Weitala – aye, Kiner – aye, Claggett – aye, Reider – aye, Bode - aye. Motion carried.

### **CONDITIONAL USE**

The Planning Commission recommended granting 5-0-1 with 1 abstaining, with the following conditions:

1. Comply with all state and federal regulations.
2. Comply with all sections of the Davison County Zoning Ordinance.
3. Have a nutrient management plan in place.
4. Have a written plan for the site to address cleanup and disposal of the structures when the economic life of the building has expired. The life of the building shall be considered expired if no animals occupy the building in a 12-month period.
5. All manure shall be injected.
6. Road maintenance agreement with the township.

Motion by Bode, second by Claggett, after consideration of Section 1206 A Conditional Uses, to grant a Conditional Use Permit for a concentrated animal feeding operation in the Ag District with conditions stated by the Planning and Zoning Board, as requested by Tim Neugebauer and Chris DeRocher. This request is pursuant to Section 304 (10) and Section 309 of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the E ½ of the NE ¼ and the NW ¼ of the NE ¼ all in Section 36, T 102 N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received February 15, 2018  
Daily Republic March 3, 2018  
Posted February 23, 2018  
Notified Applicant February 22, 2018  
Notified Abutting Property Owners February 22, 2018  
Consideration of 1206 A. Conditional Uses

Roll call vote:

Claggett - aye, Weitala - aye, Kiner - aye, Reider - aye, Bode - aye. Motion carried.

## **VARIANCE**

The Planning Commission recommended granting 5-0-1 with 1 abstaining.

Motion by Claggett, second by Kiner, after consideration of Section 1206 B Variances, to grant a variance for front yard setback of +/- 150' (ft) for a concentrated animal feeding operation resulting in a front yard setback of +/- 150' (ft) from the right of way for a concentrated animal feeding operation where the required setback is 300' (ft) in the AG District, as requested by Tim Neugebauer and Chris DeRocher. This request is pursuant to Section 309 (3f) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the, E ½ of the NE ¼ and the NW ¼ of the NE ¼ all in Section 36, T 102 N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received February 15, 2018

Daily Republic March 3, 2018

Posted February 23, 2018

Notified Applicant February 22, 2018

Notified Abutting Property Owners February 22, 2018

Consideration of 1206 B. Variances

Roll call vote:

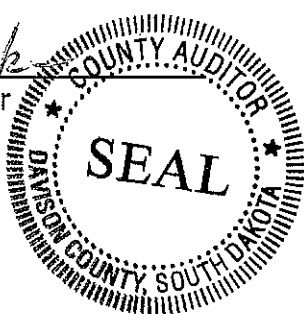
Kiner - aye, Claggett - aye, Weitala - aye, Reider - aye, Bode - aye. Motion carried.

## **ADJOURN**

At 9:47 a.m., motion by Reider, second by Bode to adjourn Board of Adjustment. All members voted aye. Motion carried.

### **ATTEST**

  
Susan Kiepke, Auditor



  
Kim Weitala, Vice-Chairperson



**BOARD OF ADJUSTMENT**  
**April 10, 2018**

**CALL TO ORDER**

Chairperson Bode called the meeting of the Davison County Board of Adjustment to order at 9:15 a.m. All members of the Board were present. Also present was Planning & Zoning Administrator Bathke, Deputy Jenniges and Auditor Kiepke.

**APPROVE MINUTES**

Motion by Kiner, second by Claggett, to approve the amended minutes of the March 13, 2018 meeting. All members voted aye. Motion carried.

**VARIANCES**

The Planning Commission recommended granting 7-0.

Motion by Kiner, second by Reider, after consideration of Section 1206 B Variances, to grant a variance in minimum lot size of +/- 17.439 acres, to create a lot size of +/- 7.561 acres, where the minimum lot size requirement is 25 acres in the AG District, side yard setback on the east side of +/- 10' (ft) to create a side yard setback of +/- 40' (ft) from the existing shed and side yard setback on the east side of +/- 20' (ft) creating a setback of +/- 30' (ft) from the existing sheds on the parent parcel, where the minimum side yard setback is 50' (ft) in the AG District, as requested by Todd Thompson. This request is pursuant to Section 307 (3) and 308 of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property will be legally described as a Plat of Lot A-1, a Subdivision of Lot A of Maeschen's Addition in the NW ¼ of Section 33, T 101 N, R 61 W, of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received February 20, 2018

Daily Republic March 30, 2018

Posted March 22, 2018

Notified Applicant March 21, 2018

Notified Abutting Property Owners March 21, 2018

Consideration of 1206 B. Variances

Roll call vote:

Reider – aye, Weitla – aye, Kiner – aye, Claggett – aye, Bode - aye. Motion carried.

The Planning Commission recommended granting 7-0.

Motion by Reider, second by Kiner, after consideration of Section 1206 B Variances, to grant a variance for lot size of +/- 21.93 acres to create a lot of +/- 3.07 acres, where minimum lot size requirement is 25 acres in the AG Residential District, as requested by Terrence & Jennifer Raymond. This request is pursuant to Section 407 (4) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property will be legally described as

a Survey Plat of Schmig Tract 1 in the S ½ of the S ½ of the SE ¼ of Section 11, T 103 N, R 60 W, of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received February 27, 2018  
Daily Republic March 30, 2018  
Posted March 22, 2018  
Notified Applicant March 21, 2018  
Notified Abutting Property Owners March 21, 2018  
Consideration of 1206 B. Variances

Roll call vote:

Weitala – aye, Kiner – aye, Claggett – aye, Reider – aye, Bode - aye. Motion carried.

The Planning Commission recommended granting 5-2.

Motion by Claggett, second by Reider, after consideration of Section 1206 B Variances, to grant a variance for lot size of +/- 22 acres to create a lot of +/- 3 acres, where minimum lot size requirement is 25 acres in the AG District, as requested by David Gukeisen. This request is pursuant to Section 307 (4) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property's parent parcel is currently described as the NE ¼ of Section 33, T 102 N, R 60 W, of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received March 13, 2018  
Daily Republic March 30, 2018  
Posted March 22, 2018  
Notified Applicant March 21, 2018  
Notified Abutting Property Owners March 21, 2018  
Consideration of 1206 B. Variances

Roll call vote:

Kiner – aye, Claggett – aye, Weitala – aye, Reider – aye, Bode - aye. Motion carried.

## **CONDITIONAL USES**

The following is a briefing of testimony heard, both pro and con, on the Conditional Use applications requested by CED Davison County Wind, LLC. The hearing was recorded, in its entirety, as stated by Chairperson Bode.

Deputy Jenniges reported he received letters and emails both for and against the project. He also received an acoustic report and showed how tax dollars would be split.

Chairperson Bode asked for cooperation of the audience of about 55 people. She asked that remarks be limited to three minutes so that everybody that wished to speak would have a chance. She further requested that questions be directed to the table. She stated after all questions are presented, someone would answer them.

Cory Juhl introduced himself as working for ConEdison Development out of the Sioux Falls office. He said he has done a lot of work and development since he was last in front of the



Board. He understood he was to come back to the table with a more palatable plan. He feels he has that plan. He has decreased the footprint from 11 towers to 9 towers. He said the plan also meets all County and State setbacks. He further stated not one home is within DBA range. Homes will get 0.001 flicker. There were no fatal flaws found in the wildlife and environmental study done by a third party. He reported a study found no decreased property value because of wind towers.

He said he wanted to clarify that the Sanborn County project was not defeated. It didn't meet height requirements for the Mitchell Regional Airport.

Juhl went on to say that the project will provide taxes for the County. The company will make a one-time donation to the Mitchell Fire District of \$50,000.

In closing, he asked that the commissioners consider the facts, not the passions expressed.

Both Commissioner Claggett and Commissioner Kiner expressed concerns about property values and decommissioning of towers. Commissioner Kiner stated that property value is hard to pin down as one person may not mind wind towers, while others find them offensive.

Ted Christianson commended Planning & Zoning Chair Bruce Haines for his leadership.

He feels there will be a negative environmental impact if this project goes through. He understands the MTI students are in favor of the project. However, he believes the majority of people effected by the project, such as farmers, ranchers and rural land owners, are against the project. He believes home values will plummet.

He said he was inspired by a quote from a Letcher Township homeowner who was asked if she would sell an easement on her property for a wind tower. She replied that she has more respect for her neighbors than that.

He said Commissioner Bode asked Juhl the best question, how many full-time jobs would this project create. He replied it would create possibly 4-6 maintenance jobs.

Lance Koth stated that he is not a resident of Beulah Township, nor does he or his family own land in a rural area. His concern is our future. He said he became involved in wind farms when he was still in banking. A gentleman was working on a decommissioning project. He ended up pulling out because he had no idea where the money would come from to pay for it.

Koth cited several resources regarding wind farms sitting idle.

Koth further stated he believes it will be like oil. Oil has been subsidized since the late 70's or early 80's. It was pushed to expansion further than it could sustain.

Koth said he wanted to make four points. One – wind turbines have limited life and only one purpose and are costly to decommission. Two – we don't know the financial strength of Davison County Wind, nor do we know what the future holds for them. Three – we shouldn't rely on the promise Davison County Wind has made to Davison County. Four – he would

encourage the commissioners to deny the permit to protect the future of Davison County, as well as draft a wind ordinance for Davison County.

Steve Wagman, SD Renewable Energy Assoc, stated he drafted most of the South Dakota legislation regarding wind energy. He handed out a pamphlet with facts on wind energy. He further stated he has done a lot of work with Planning and Zoning boards. He said many counties that have two mile setbacks for wind turbines are lessening those. He cautioned that when you pay for your electricity, you are paying taxes to another state. In addition, he said the salvage for a turbine is \$10,000. These machines are often times donated to MTI for instructional purposes.

Jerry Wadleigh stated he was a former teacher and half way farmer. He is a neighbor of the project. He said he had a great deal of respect for the Greenways, but feels the project will only benefit them and be detrimental to others. He doesn't feel Mt. Vernon School will benefit enough to offset a wind energy system.

Ken Stack lives two miles over the County line in Sanborn County. He reported that he is a member of Davison County Citizens for Responsible Development. He named several resources from which the group had gathered data. He said there needs to be at least a one mile setback. He also said school benefits have been exaggerated. The group does not believe the project is viable without subsidies. They also don't believe the validity of the financials. He said size doesn't mean financial stability. He asked the Board to deny the project.

Fourteen students from the MTI Wind Energy class spoke in favor of the project. Some of the comments made were that the students would like to stay in South Dakota but they feel they are being forced to leave because South Dakota isn't progressive. One stated they are young people that are going to grow up, pay taxes and raise families. Another comment was that young people don't have the same visceral reaction to the look of the wind towers as some older people do.

A couple of the students expressed they were in school on a Build Dakota Scholarship. In order to retain the scholarship, the student must live and work in South Dakota for three years upon graduation. The possibility of the denial of this permit worries these students, as well as other students, regarding their futures.

The students believe people need to be more accepting of change. They believe we need more resources for energy. They thanked the Greenways for allowing them to come to Davison County and work.

Ralph Kiner stated that he was born and raised in Davison County. He said he is a realtor and his first reaction to the project was visceral. One of his biggest concerns is that new construction will take place east, in another county, rather than the western part of Davison County. He doesn't like the fact that the project is pitting neighbors against neighbors. He said personally, he'll be fine. However, he asked the Board to deny the project and get a wind policy in place.

Karla Hoffinke, Executive Director of SD Farmers Union, formally supports wind development. She believes South Dakota needs to be pro-active. She believes school districts and counties



will benefit. She also believes wind development will keep MTI students in South Dakota. She stated that renewable energy will continue to grow.

Gene Stehly stated that he is a Davison County resident and has a history of companies that have saddled taxpayers. He said the history of wind energy is that they change hands many times. He wants to know what guarantees there are of financial stability. He believes the County should be absolved of any liability and is skeptical of LLC's. He asked the Board that they deny the permit.

Doug Hansen said there are so many facts and emotions regarding wind towers. They affect homes and agriculture. He says he was aware of an incident where alternate equipment had to be used for crops because planes wouldn't fly over fields due to wind towers. He believes revenue for one family verses the effect on others isn't a fair balance.

Frank Luczak, who resides in Perry Township, stated he is not opposed to wind power. However, he thinks location should be a factor. He asked if anybody concerned had listened to the decibels generated by these machines. He said that he lives 3 miles from POET, which has a great economic benefit. He believes as rural residents they already sacrifice. He addressed the students by saying, you go where the jobs are. When you go to school, you can't necessarily expect to stay in the same location as the school. He feels this is being rushed and believes an ordinance needs to be in place.

Denise Stehly asked the Board to review Page 42, Article 3, Section 301 of the Planning and Zoning Ordinance. She does not believe the request is compatible with the ordinance.

Jerry Grabenstein, who is a resident of Mitchell, has concerns about decreased property values and people wanting new construction going east out of Davison County, rather than west.

Jerry Scott believes to grant the permit would be to go against the Planning and Zoning Ordinance regarding land use. He says noise levels will be 3 to 4 times higher than anything they have currently.

Holly Hansen resides in Davison County, but not in Beulah Township. She stated that her first instinct was to ask herself if this project fit in Davison County. Her major determining factor is dependent upon population density. She reported that Jerauld County has 36 wind towers located in 8 square miles with one non-participating land owner. Aurora County has basically the same thing with 89 towers located in 25 square miles with 2 non-participating land owners. Davison County would have 9 towers in 4 square miles affecting 11 non-participating land owners.

Glen Lowrie also resides in Beulah Township. He feels property rights and values are important. He doesn't believe the proposed setbacks take into account those rights and values. He stated he is very protective of agriculture.

David Shelton, representing Roland Johnson, stated that Mr. Johnson owns many properties in Davison County and opposes waste. He said the blades are made of carbide, which is considered a global threat. He believes our future is in trouble with this and other products that aren't recyclable. He also worries about the bat kill from the blades.

Lila Stach stated she has a daughter with autism. She needs wide open spaces and no flicker to maintain a healthy lifestyle.

Murry VanLaecken lives in Sanborn County. He stated that we, as citizens, are concerned with the unknown. He would like to see an ordinance in place so that we can tell "them" what to do, not the other way around. He said "Let's protect our citizens."

Darlene Wadleigh said that her land is surrounded by the Greenways and wants to know how aerial spraying will be affected since she has to keep her weeds down. She is opposed to the project.

Peggy Greenway said they are one of four families participating in this project. She had no idea the project would cause such animosity. She said there is so much misinformation circulating, and it is very frustrating. She said there are land owners for the project. However, like anything controversial, they won't come to speak. Mrs. Greenway stated their primary goal is to have something progressive to bring economic growth to the County. She believes renewable energy is the future.

Brad Greenway said this does get emotional. He said he has attended a number of hearings. The Commissioners instructed Mr. Juhl to come back with a plan that works. He feels Mr. Juhl has done just that. He feels they have gone over and above the requirements. He stated that if the commissioners approve an ordinance with a mile set back, it's time to quit wasting my time and yours and taxpayer money. He would like to see Davison County progress.

Greg Olivier said his issue is property value associated with wind energy systems and agrees with what Ralph Kiner stated earlier. He said towers are ugly and won't pay for themselves.

Planning and Zoning and Administrator Bathke said conditions don't have to be in ordinance format, there can be stipulations placed on the permit.

Mr. Juhl was asked to answer any questions posed by the group. The only real question was regarding LLCs. He stated that most if not all independent power producers form LLCs.

Chairperson Bode closed the meeting to public comment at 11:45 a.m. and asked the other commissioners if any of them had questions, comments or concerns.

Commissioner Claggett stated that he wishes the State would come up with a universal plan for all counties.

Commissioner Kiner feels there needs to be a definitive ordinance and has great respect for both sides.

Commissioner Reider thanked the audience for being so respectful of one and other. He said there are benefits and hazards to the very complex issues discussed today.

Commissioner Weitla thanked everybody for their input. She said her question to herself is, is there compelling evidence to approve the permit?

Chairperson Bode explained that the Board is a quasi-judicial board so they act as a judge on applications received. She further stated they must look at facts and findings. She said she acknowledges the emotions filling the room. However, emotions are not facts.

She addressed the MTI students saying today was good preparation for their future no matter how the vote turns out.

Bode said they, as a board, need to look at numbers, output, value added, employment, direct effect, indirect effect and deduced effect.

Bode asked Juhl when the LLC for Davison County Wind was developed. CED Davison County LLC was renamed to Davison County Wind, LLC. It was stated that all developments are speculative. Davison County Wind was denied a permit in 2015.

Juhl explained that when the hearing began in Pierre on July 11, it was a request from Juhl as Juhl and NW Energy hadn't reached a rate agreement. Juhl was asked by Chairperson Bode why Davison County was part of the discussion when there had not been a permit issued in Davison County. Juhl explained that it was a rate hearing and there doesn't have to be a permit in place. Bode also noted that the rate started at \$60, but when everything was said and done, the rate ended up being \$26. Juhl stated that he and NW Energy disagreed on the avoided costs. Various analysts had differing opinions.

Bode further inquired whether the Davison County Wind project would be sustainable or make a profit. Bode is not convinced of either. She asked whether making money was the goal or was the goal simply to be the developer.

Juhl stated that ConEd is a long-term holder of developments. He said there are several 20 mega watt developments within a couple of hours of here. He said buying power was attractive and the plan is to operate safely, to sell power to the grid and to be a member of the community.

Juhl further stated they would be more than happy to have a decommissioning bond in place before moving forward.

Juhl said the biggest take away from all of this is the emotional impact and fear of the unknown. Wind turbines are new to the township and to Davison County. He said this layout, in the majority of counties, would be approved. He says there are too many generalities, such as loss of property values. He said he's heard so many negatives, but you can't dispute facts.

A member of the Planning Commission made a motion to grant, however the motion failed with a vote of 3-4.

Motion by Claggett, second by Weitala, after consideration of Section 1206 A Conditional Uses, to deny a Conditional Use Permit for construction and installation of a wind energy system, commercial (total structure height of 453' (ft) in AGL) and associated facilities (turbine 1) in the Ag District, as requested by CED Davison County Wind, LLC. This request is pursuant to Section 304 (42) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently

amended. The property is legally described as the NE ¼ Ex Tract A of Greenway Addition of Section 6, T 103 N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received March 19, 2018  
Daily Republic March 30, 2018  
Posted March 22, 2018  
Notified Applicant March 22, 2018  
Notified Abutting Property Owners March 22, 2018  
Consideration of 1206 A. Conditional Uses

Roll call vote:

Claggett - aye, Kiner – aye, Reider – aye, Weitala – aye, Bode – aye. Motion carried.

A member of the Planning Commission made a motion to grant, however the motion failed with a vote of 3-4.

Motion by Weitala, second by Kiner, after consideration of Section 1206 A Conditional Uses, to deny a Conditional Use Permit for construction and installation of a wind energy system, commercial (total structure height of 453' (ft) in AGL) and associated facilities (turbine 2) in the Ag District, as requested by CED Davison County Wind, LLC. This request is pursuant to Section 304 (42) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NE ¼ Ex Tract A of Greenway Addition of Section 6, T 103-N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received March 19, 2018  
Daily Republic March 30, 2018  
Posted March 22, 2018  
Notified Applicant March 22, 2018  
Notified Abutting Property Owners March 22, 2018  
Consideration of 1206 A. Conditional Uses

Roll call vote:

Claggett - aye, Reider – aye, Weitala – aye, Kiner – aye, Bode – aye. Motion carried.

A member of the Planning Commission made a motion to grant, however the motion failed with a vote of 3-4.

Motion by Kiner, second by Claggett, after consideration of Section 1206 A Conditional Uses, to deny a Conditional Use Permit for construction and installation of a wind energy system, commercial (total structure height of 453' (ft) in AGL) and associated facilities (turbine 3) in the Ag District, as requested by CED Davison County Wind, LLC. This request is pursuant to Section 304 (42) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NE ¼ of Section 7, T 103 N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received March 19, 2018  
Daily Republic March 30, 2018  
Posted March 22, 2018  
Notified Applicant March 22, 2018

Notified Abutting Property Owners March 22, 2018  
Consideration of 1206 A. Conditional Uses

Roll call vote:

Reider - aye, Weitalla - aye, Kiner - aye, Claggett - aye, Bode - aye. Motion carried.

A member of the Planning Commission made a motion to grant, however the motion failed with a vote of 3-4.

Motion by Claggett, second by Kiner, after consideration of Section 1206 A Conditional Uses, to deny a Conditional Use Permit for construction and installation of a wind energy system, commercial (total structure height of 453' (ft) in AGL) and associated facilities (turbine 4) in the Ag District, as requested by CED Davison County Wind, LLC. This request is pursuant to Section 304 (42) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NE ¼ of Section 7, T 103 N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received March 19, 2018  
Daily Republic March 30, 2018  
Posted March 22, 2018  
Notified Applicant March 22, 2018  
Notified Abutting Property Owners March 22, 2018  
Consideration of 1206 A. Conditional Uses

Roll call vote:

Weitalla - aye, Kiner - aye, Claggett - aye, Reider - aye, Bode - aye. Motion carried.

A member of the Planning Commission made a motion to grant, however the motion failed with a vote of 3-4.

Motion by Kiner, second by Weitalla, after consideration of Section 1206 A Conditional Uses, to deny a Conditional Use Permit for construction and installation of a wind energy system, commercial (total structure height of 453' (ft) in AGL) and associated facilities (turbine 5) in the Ag District, as requested by CED Davison County Wind, LLC. This request is pursuant to Section 304 (42) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NW ¼ Ex N 813' of W 806' of Section 8, T 103 N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received March 19, 2018  
Daily Republic March 30, 2018  
Posted March 22, 2018  
Notified Applicant March 22, 2018  
Notified Abutting Property Owners March 22, 2018  
Consideration of 1206 A. Conditional Uses

Roll call vote:

Kiner - aye, Claggett - aye, Weitalla - aye, Reider - aye, Bode - aye. Motion carried.



A member of the Planning Commission made a motion to grant, however the motion failed with a vote of 3-4.

Motion by Weitalla, second by Claggett, after consideration of Section 1206 A Conditional Uses, to deny a Conditional Use Permit for construction and installation of a wind energy system, commercial (total structure height of 453' (ft) in AGL) and associated facilities (turbine 6) in the Ag District, as requested by CED Davison County Wind, LLC. This request is pursuant to Section 304 (42) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the N ½ of the NE ¼ of Section 8, T 103 N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received March 19, 2018  
Daily Republic March 30, 2018  
Posted March 22, 2018  
Notified Applicant March 22, 2018  
Notified Abutting Property Owners March 22, 2018  
Consideration of 1206 A. Conditional Uses

Roll call vote:

Claggett - aye, Kiner - aye, Reider - aye, Weitalla - aye, Bode - aye. Motion carried.

A member of the Planning Commission made a motion to grant, however the motion failed with a vote of 3-4.

Motion by Reider, second by Kiner, after consideration of Section 1206 A Conditional Uses, to deny a Conditional Use Permit for construction and installation of a wind energy system, commercial (total structure height of 453' (ft) in AGL) and associated facilities (turbine 7) in the Ag District, as requested by CED Davison County Wind, LLC. This request is pursuant to Section 304 (42) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the N ½ of the NE ¼ of Section 8, T 103 N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received March 19, 2018  
Daily Republic March 30, 2018  
Posted March 22, 2018  
Notified Applicant March 22, 2018  
Notified Abutting Property Owners March 22, 2018  
Consideration of 1206 A. Conditional Uses

Roll call vote:

Claggett - aye, Reider - aye, Weitalla - aye, Kiner - aye, Bode - aye. Motion carried.

A member of the Planning Commission made a motion to grant, however the motion failed with a vote of 3-4.

Motion by Claggett, second by Kiner, after consideration of Section 1206 A Conditional Uses, to deny a Conditional Use Permit for construction and installation of a wind energy system, commercial (total structure height of 453' (ft) in AGL) and associated facilities (turbine 8) in the Ag District, as requested by CED Davison County Wind, LLC. This request is pursuant to Section

304 (42) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NW ¼ of Section 9, T 103 N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received March 19, 2018  
Daily Republic March 30, 2018  
Posted March 22, 2018  
Notified Applicant March 22, 2018  
Notified Abutting Property Owners March 22, 2018  
Consideration of 1206 A. Conditional Uses

Roll call vote:

Reider - aye, Weitala - aye, Kiner - aye, Claggett - aye, Bode - aye. Motion carried.

A member of the Planning Commission made a motion to grant, however the motion failed with a vote of 3-4.

Motion by Reider, second by Claggett, after consideration of Section 1206 A Conditional Uses, to deny a Conditional Use Permit for construction and installation of a wind energy system, commercial (total structure height of 453' (ft) in AGL) and associated facilities (turbine 9) in the Ag District, as requested by CED Davison County Wind, LLC. This request is pursuant to Section 304 (42) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the SE ¼ of Section 7, T 103 N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received March 19, 2018  
Daily Republic March 30, 2018  
Posted March 22, 2018  
Notified Applicant March 22, 2018  
Notified Abutting Property Owners March 22, 2018  
Consideration of 1206 A. Conditional Uses

Roll call vote:

Weitala - aye, Kiner - aye, Claggett - aye, Reider - aye, Bode - aye. Motion carried.

## **ADJOURN**

At 12:51 p.m., motion by Reider, second by Claggett to adjourn Board of Adjustment. All members voted aye. Motion carried.

**ATTEST**

  
Susan Kiepke, Auditor



  
Brenda Bode, Chairperson

**BOARD OF ADJUSTMENT**  
**May 8, 2018**

**CALL TO ORDER**

Chairperson Bode called the meeting of the Davison County Board of Adjustment to order at 9:15 a.m. All members of the Board were present. Also present was Planning & Zoning Administrator Bathke, Deputy Jenniges and Auditor Kiepke.

**APPROVE MINUTES**

Motion by Claggett, second by Reider, to approve the minutes of the April 10, 2018 meeting. All members voted aye. Motion carried.

**VARIANCE**

The Planning Commission recommended granting 7-0

Motion by Claggett, second by Kiner, after consideration of Section 1206 B Variances, to grant a variance for minimum lot size of +/- 23.88 acres to create a lot size of +/- 1.12 acres where the minimum lot size requirement is 25 acres in the AG Residential District, as requested by Alicia Odland. This request is pursuant to Section 407 (4) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as E 860' (ft) of the S 646' (ft) of S 996' (ft) of the SE ¼ of Section 18, T 103 N, R 60 W, of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received March 28, 2018  
Daily Republic April 28, 2018  
Posted April 19, 2018  
Notified Applicant April 18, 2018  
Notified Abutting Property Owners April 18, 2018  
Consideration of 1206 B. Variances

Roll call vote:

Reider – aye, Weitala – aye, Kiner – aye, Claggett – aye, Bode - aye. Motion carried.

**CONDITIONAL USE**

The following is a brief summary of the conversation that took place prior to conditional use permit being approved.

Dale Smith stated they don't own any of the hogs and he was concerned that 95% of the revenue would go to Iowa. He said that we get what's left, torn up roads and the smell of manure. He cautioned that things you do today will have a big impact on the future.

Mr. Smith also questioned why you had to have 25 acres to build a house, but only 5 acres to build a hog barn.



Jerry Smith asked how many of these things can we build until value starts to decrease.

Anne Smith asked how much money Lisbon Township and Davison County would receive from this project. She also wondered if the project was being built by somebody local or somebody from out of town.

Arden Lemke stated that his wife is from German. She believes we have tourism that is going to be ruined by these hog farms. He said for the few dollars being made, it's not worth risking tourism.

Delmar Mueller said that Mike and Pam Puetz have their land for sale. He stated the new owner will have to live with the decision made today.

Dale Smith wondered how much water will be used and what the impact will have on the township.

Chris DeRocher stated that 4,000 gallons of water a day will be used.

Dale Smith next asked if there are any plans for more of these units in the next five years.

Mr. DeRocher said there were none at this time.

Delmar Mueller said that the manager at Ethan CoOp Lumber told him there were 30 to 40 units on the drawing board.

This information was deemed to be impertinent as these could cover counties other than Davison.

In answer to the questions posed, Planning & Zoning Director Bathke and Deputy Jenniges offered the following.

25 acres for a homestead was enacted in May 1996 and has only ever pertained to residences. When it was enacted it took the minimum requirement from 40 acres to 25 acres which started a trend for smaller parcels.

Sunterra or an investor owns pigs and Chris DeRocher owns the building. The landowner has the option to buy the building.

Bathke reported that the assessor's office told him the township would receive approximately \$3,000 to \$3,500 per year from the project.

Jenniges stated that we have three great aquifers that will not run dry.

Mr. DeRocher stated the facility is shower in/shower out and is locked at all times. It also has a deep pit which contains pit fans.

Mr. DeRocher's contract with Sunterra is for twelve years. Once the twelve years expires, the landowner has the option to buy the pigs.

The Planning Commission recommended granting 7-0 with the following conditions:

1. Comply with all state and federal regulations.
2. Comply with all sections of the Davison County Zoning Ordinance.
3. Have a nutrient management plan in place.
4. Have a written plan for the site to address cleanup and disposal of the structures when the economic life of the building has expired. The life of the building shall be considered expired if no animals occupy the building in a 12-month period.
5. All manure shall be injected.
6. Road maintenance agreement with the township.

Motion by Claggett, second by Weitala, after consideration of Section 1206 A Conditional Uses, to grant a Conditional Use Permit for a concentrated animal feeding operation in the Ag District with conditions stated by the Planning and Zoning Board, as requested by Jeff Miiller and Chris DeRocher. This request is pursuant to Section 304 (10) and Section 309 of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the SW ¼ of Section 20, T 102 N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received April 13, 2018  
Daily Republic April 28, 2018  
Posted April 19, 2018  
Notified Applicant April 18, 2018  
Notified Abutting Property Owners April 18, 2018  
Consideration of 1206 A. Conditional Uses

Roll call vote:

Weitala - aye, Kiner - aye, Claggett - aye, Reider - aye, Bode - aye. Motion carried.

## **VARIANCE**

The Planning Commission recommended granting 7-0

Motion by Claggett, second by Weitala, after consideration of Section 1206 B Variances, to grant a variance for front yard setback of +/- 150' (ft) for a concentrated animal feeding operation resulting in a front yard setback of +/- 150' (ft) from the right-of-way where the required setback is 300' (ft) in the AG District, as requested by Jeff Miiller and Chris DeRocher. This request is pursuant to Section 309 (3f) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the SW ¼ of Section 20, T 102 N, R 61 W, of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received April 13, 2018  
Daily Republic April 28, 2018  
Posted April 19, 2018  
Notified Applicant April 18, 2018  
Notified Abutting Property Owners April 18, 2018  
Consideration of 1206 B. Variances

Roll call vote:



Kiner – aye, Claggett – aye, Weitala – aye, Reider – aye, Bode - aye. Motion carried.

## **CONDITIONAL USE**

The Planning Commission recommended granting 7-0 with the following conditions:

1. Comply with all state and federal regulations.
2. Comply with all sections of the Davison County Zoning Ordinance.
3. Have a nutrient management plan in place.
4. Have a written plan for the site to address cleanup and disposal of the structures when the economic life of the building has expired. The life of the building shall be considered expired if no animals occupy the building in a 12-month period.
5. All manure shall be injected.
6. Road maintenance agreement with Baker Township for 263<sup>rd</sup> St. between 399<sup>th</sup> Ave. and 400<sup>th</sup> Ave.
7. Road maintenance agreement with Tobin Township for 400<sup>th</sup> Ave. between 263<sup>rd</sup> St. and 262<sup>nd</sup> St.
8. Building permit cannot be issued until after rehab project is complete on 263<sup>rd</sup> St. between 399<sup>th</sup> Ave. and 400<sup>th</sup> Ave.

Motion by Kiner, second by Claggett, after consideration of Section 1206 A Conditional Uses, to grant a Conditional Use Permit for a concentrated animal feeding operation in the Ag District with conditions stated by the Planning and Zoning Board and amended (see 6 & 7) by this board, as requested by Jeff Müller and Chris DeRocher. This request is pursuant to Section 304 (10) and Section 309 of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the SE ¼ of Section 1, T 101 N, R 62 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received April 13, 2018

Daily Republic April 28, 2018

Posted April 19, 2018

Notified Applicant April 18, 2018

Notified Abutting Property Owners April 18, 2018

Consideration of 1206 A. Conditional Uses

Roll call vote:

Claggett - aye, Kiner – aye, Reider – aye, Weitala – aye, Bode – aye. Motion carried.

## **VARIANCE**

The Planning Commission recommended granting 7-0

Motion by Claggett, second by Weitala, after consideration of Section 1206 B Variances, to grant a variance for side yard setback of +/- 225' (ft) for a concentrated animal feeding operation resulting in a side yard setback of +/- 75' (ft) from the right-of-way where the required setback is 300' (ft) in the AG District, as requested by Jeff Müller and Chris DeRocher. This request is pursuant to Section 309 (3f) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the SE ¼ of Section 1, T 101 N, R 62 W, of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received April 13, 2018  
Daily Republic April 28, 2018  
Posted April 19, 2018  
Notified Applicant April 18, 2018  
Notified Abutting Property Owners April 18, 2018  
Consideration of 1206 B. Variances

Roll call vote:

Claggett – aye, Reider – aye, Weitla – aye, Kiner – aye, Bode – aye. Motion carried.

## **CONDITIONAL USE**

The Planning Commission recommended granting 7-0 with the following conditions:

1. Comply with all state and federal regulations.
2. Comply with all sections of the Davison County Zoning Ordinance.
3. Have a nutrient management plan in place.
4. Have a written plan for the site to address cleanup and disposal of the structures when the economic life of the building has expired. The life of the building shall be considered expired if no animals occupy the building in a 12-month period.
5. All manure shall be injected.
6. Road maintenance agreement with the township.

Motion by Kiner, second by Claggett, after consideration of Section 1206 A Conditional Uses, to grant a Conditional Use Permit for a concentrated animal feeding operation in the Ag District with conditions stated by the Planning and Zoning Board, as requested by Jeff Miiller and Chris DeRocher. This request is pursuant to Section 304 (10) and Section 309 of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NW ¼ of Section 1, T 101 N, R 62 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received April 13, 2018  
Daily Republic April 28, 2018  
Posted April 19, 2018  
Notified Applicant April 18, 2018  
Notified Abutting Property Owners April 18, 2018  
Consideration of 1206 A. Conditional Uses

Roll call vote:

Reider – aye, Weitla – aye, Kiner – aye, Claggett – aye, Bode – aye. Motion carried.

## **VARIANCES**

The Planning Commission recommended granting 7-0

Motion by Weitla, second by Kiner, after consideration of Section 1206 B Variances, to grant a variance for front yard setback of +/- 150' (ft) for a concentrated animal feeding operation resulting in a front yard setback of +/- 150' (ft) from the right-of-way where the required



setback is 300' (ft) in the AG District, as requested by Jeff Miiller and Chris DeRocher. This request is pursuant to Section 309 (3f) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NW ¼ of Section 1, T 101 N, R 62 W, of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received April 13, 2018  
Daily Republic April 28, 2018  
Posted April 19, 2018  
Notified Applicant April 18, 2018  
Notified Abutting Property Owners April 18, 2018  
Consideration of 1206 B. Variances

Roll call vote:

Weitala – aye, Kiner – aye, Claggett – aye, Reider – aye, Bode - aye. Motion carried.

The Planning Commission recommended granting 7-0

Motion by Claggett, second by Reider, after consideration of Section 1206 B Variances, to grant a variance for minimum lot size of +/- 19.42 acres to create a lot size of +/- 5.58 acres where the minimum lot size requirement is 25 acres in the AG Residential District and minimum lot size of +/- 20.07 acres to create a lot size of +/- 4.93 acres where the minimum lot size requirement is 25 acres in the AG Residential District, as requested by Aaron Baas. This request is pursuant to Section 407 (3) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property will be legally described as a Plat of Lots 1 and 2 AJB Subdivision in the NE ¼ of Section 12, T 103 N, R 60 W, of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received April 16, 2018  
Daily Republic April 28, 2018  
Posted April 19, 2018  
Notified Applicant April 18, 2018  
Notified Abutting Property Owners April 18, 2018  
Consideration of 1206 B. Variances

Roll call vote:

Kiner – aye, Claggett – aye, Weitala – aye, Reider – aye, Bode - aye. Motion carried.

### **CONDITIONAL USE**

The Planning Commission recommended granting 7-0.

Motion by Kiner, second by Reider, after consideration of Section 1206 A Conditional Uses, to grant a Conditional Use Permit for a hair salon business Ag District, as requested by Jen and Steve Froning. This request is pursuant to Section 305 of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as Lot A in the NE ¼ of Section 9, T 103 N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received April 16, 2018  
Daily Republic April 28, 2018

Posted April 19, 2018  
Notified Applicant April 18, 2018  
Notified Abutting Property Owners April 18, 2018  
Consideration of 1206 A. Conditional Uses

Roll call vote:

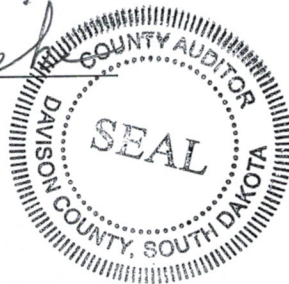
Claggett - aye, Weitala - aye, Kiner - aye, Reider - aye, Bode - aye. Motion carried.

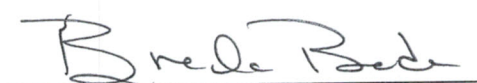
### **ADJOURN**

At 10:30 a.m., motion by Claggett, second by Reider to adjourn Board of Adjustment. All members voted aye. Motion carried.

**ATTEST**

  
Susan Kiepke, Auditor



  
Brenda Bode, Chairperson

**BOARD OF ADJUSTMENT**  
**June 12, 2018**

**CALL TO ORDER**

Chairperson Bode called the meeting of the Davison County Board of Adjustment to order at 9:24 a.m. All members of the Board were present. Also present was Planning & Zoning Administrator Bathke, Deputy Jenniges and Auditor Kiepke.

**APPROVE MINUTES**

Motion by Weitala, second by Claggett, to approve the minutes of the May 8, 2018 meeting. All members voted aye. Motion carried.

**CONDITIONAL USE**

The Planning Commission recommended granting 5-0-2.

Motion by Claggett, second by Kiner, after consideration of Section 1206 A Conditional Uses, to grant a Conditional Use Permit for retail sales of garage doors in the Ag District, as requested by Cody Miles. This request is pursuant to Section 305 of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the W190' of S311.5' of N711.5' of the SW ¼ of Section 2, T 102 N, R 60 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received April 19, 2018  
Daily Republic June 2, 2018  
Posted May 22, 2018  
Notified Applicant May 25, 2018  
Notified Abutting Property Owners May 22, 2018  
Consideration of 1206 A. Conditional Uses

Roll call vote:

Claggett - aye, Kiner - aye, Reider - aye, Weitala - aye, Bode - aye. Motion carried.


**ADJOURN**

At 9:27 a.m., motion by Reider, second by Weitala to adjourn Board of Adjustment. All members voted aye. Motion carried.

**ATTEST**

  
Susan Kiepke, Auditor



  
Brenda Bode, Chairperson

**BOARD OF ADJUSTMENT**  
**July 17, 2018**

**CALL TO ORDER**

Chairperson Bode called the meeting of the Davison County Board of Adjustment to order at 9:15 a.m. All members of the Board were present. Also present was Planning & Zoning Administrator Bathke, Deputy Jenniges and Auditor Kiepke.

**APPROVE AGENDA**

Motion by Claggett, second by Kiner to approve the agenda for the July 17, 2018 meeting. All members voted aye. Motion carried.

**APPROVE MINUTES**

Motion by Claggett, second by Weitala, to approve the minutes of the June 12, 2018 meeting. All members voted aye. Motion carried.

**PUBLIC INPUT**

Chairperson Bode called for public input. Hearing none, the meeting continued.

**VARIANCES**

The Planning Commission recommended granting 5-0-2.

Motion by Kiner, second by Claggett, after consideration of Section 1206 B Variances, to grant a variance for minimum lot size of +/- 22.979 acres, to create a lot size of +/- 2.203 acres, where the minimum lot size requirement is 25 acres in the AG Residential District and for minimum lot size of +/- 20.487 acres, to create a lot size of +/- 4.513 acres, where the minimum lot size requirement is 25 acres in the AG Residential District as requested by Ken Schoenfelder. This request is pursuant to Section 407 (4)(5) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property will be legally described as a Plat of Lots 1 and 2 of Ken's Addition in the NE ¼ of Section 22, T 102 N, R 60 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received June 5, 2018

Daily Republic July 6, 2018

Posted June 28, 2018

Notified Applicant June 26, 2018

Notified Abutting Property Owners June 26, 2018

Consideration of 1206 B. Variances

Roll call vote:

Kiner – aye, Weitala – aye, Reider – aye, Claggett – aye, Bode - aye. Motion carried.

The Planning Commission recommended granting 5-0-2.



Motion by Claggett, second by Reider, after consideration of Section 1206 B Variances, to grant a variance for lot size of +/- 20 acres to create a lot of +/- 5 acres, where minimum lot size requirement is 25 acres in the AG District, as requested by Brad Buysee. This request is pursuant to Section 307 (4) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property will be legally described as Tract 1 of Buysee Addition, an Addition in the NE ¼ of the SE ¼ of Section 21, T 102 N, R 61 W, of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received June 22, 2018  
Daily Republic July 6, 2018  
Posted June 28, 2018  
Notified Applicant June 26, 2018  
Notified Abutting Property Owners June 26, 2018  
Consideration of 1206 B. Variances


Roll call vote:

Weitala – aye, Kiner – aye, Claggett – aye, Reider – aye, Bode - aye. Motion carried.

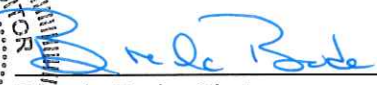
### **ADJOURN**

At 9:22 a.m., motion by Kiner, second by Reider to adjourn Board of Adjustment. All members voted aye. Motion carried.

**ATTEST**

  
\_\_\_\_\_  
Susan Kiepke, Auditor



  
\_\_\_\_\_  
Brenda Bode, Chairperson

**BOARD OF ADJUSTMENT**  
**August 14, 2018**

**CALL TO ORDER**

Chairperson Bode called the meeting of the Davison County Board of Adjustment to order at 9:15 a.m. All members of the Board were present. Also present was Planning & Zoning Deputy Administrator Jenniges and Auditor Kiepke.

**APPROVE AGENDA**

Motion by Claggett, second by Reider to approve the agenda for the August 14, 2018 meeting. All members voted aye. Motion carried.

**APPROVE MINUTES**

Motion by Weitala, second by Claggett, to approve the minutes of the July 17, 2018 meeting. All members voted aye. Motion carried.

**PUBLIC INPUT**

Chairwoman Bode called for public input. Hearing none, the meeting continued.

**VARIANCE**

The Planning Commission recommended granting 5-0-2.

Motion by Claggett, second by Kiner, after consideration of Section 1206 B Variances, to grant a variance for front yard setback of +/- 15' (ft) resulting in a front yard setback of +/- 60' (ft) from the right of way where the required setback is 75' (ft) in the AG District, as requested by Derek Mueller. This request is pursuant to Section 308 of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property will be legally described as Tract 1 of DJM Addition, an Addition in the NW ¼ of the NW ¼ of Section 9, T 101 N, R 60 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received July 23, 2018

Daily Republic August 3, 2018

Posted July 26, 2018

Notified Applicant July 24, 2018

Notified Abutting Property Owners July 24, 2018

Consideration of 1206 B. Variances

Roll call vote:

Kiner – aye, Claggett – aye, Weitala – aye, Reider – aye, Bode - aye. Motion carried.

**ADJOURN**

At 9:20 a.m., motion by Weitala, second by Reider to adjourn Board of Adjustment. All members voted aye. Motion carried.

**ATTEST**

  
Susan Kiepke, Auditor





Brenda Bode, Chairperson

**BOARD OF ADJUSTMENT**  
**September 18, 2018**

**CALL TO ORDER**

Chairperson Bode called the meeting of the Davison County Board of Adjustment to order at 9:18 a.m. All members of the Board were present. Also present was Planning & Zoning Administrator Bathke, Deputy Jenniges, and Deputy Auditor Matthews.

**APPROVE AGENDA**

Motion by Claggett, second by Kiner, to approve the agenda for the September 18, 2018 meeting. All members voted aye. Motion carried.

**APPROVE MINUTES**

Motion by Claggett, second by Kiner, to approve the minutes of the August 14, 2018 meeting. All members voted aye. Motion carried.

**PUBLIC INPUT**

Chairperson Bode called for any public input not already on the agenda, hearing none public input section of the meeting was closed.

**VARIANCES**

The Planning Commission recommended granting 5-0-2 absent.

Motion by Reider, second by Claggett, after consideration of Section 1206 B., to approve a variance for minimum lot size of +/- 21.99 acres to create a lot size of +/- 3.01 acres where the minimum lot size requirement is 25 acres in the AG Residential District; as requested by Rex and Janice Balcom. This request is pursuant to Section 407 (1) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property will be legally described as A Plat of Lot E of Countryside Addition, A Subdivision of Lot 1 in the SE ¼ of Section 16, T 102 N, R 60 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received: July 6, 2018  
Daily Republic: August 31, 2018  
Posted: August 24, 2108  
Notified Applicant: August 21, 2018  
Notified Abutting Property Owners: August 21, 2018  
Consideration of 1206 B. Variances

Roll call vote:

Weitala-aye, Reider-aye, Kiner-aye, Claggett-aye, Bode-aye. Motion carried.

The Planning Commission recommended granting 5-0-2 absent.



Motion by Claggett, second by Reider, after consideration of Section 1206 B., to approve a variance for minimum front yard setback of +/- 35'(ft) to create a front yard setback of +/- 40'(ft) where the minimum front yard setback is 75'(ft) in the AG District, as requested by Kyle Herges. This request is pursuant to Section 308 of the Davison County Zoning Ordinance as adopted on 4/1/98 and subsequently amended. The property is legally described as Lot 16 of Enemy Creek Estates in the NE ¼ & NW 1/84 of Section 16, T 102 N, R 60 W, of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received: August 10, 2018  
Daily Republic: August 31, 2018  
Posted: August 24, 2108  
Notified Applicant: August 21, 2018  
Notified Abutting Property Owners: August 21, 2018  
Consideration of 1206 B. Variances

Roll call vote:

Weitala-aye, Reider-aye, Kiner-aye, Claggett-aye, Bode-aye. Motion carried.

### **CONDITIONAL USE**

The following is a brief summary of the conversation that took place prior to conditional use permit being approved.

Christ Christopher and Martin Butler gave a presentation outlining their plans and logistics of the proposed Concentrated Animal Feeding Operation. The presentation stated that the building will be owned by Christ Christopher and located on a parcel which will be deeded to Christ from his father John. The animals will be owned by Prairie View LLC and managed by Pipestone Systems. Christ will be responsible for manure removal. After three years, the chores and the property maintenance may be returned to Christ.

Jim Mathis of Blendon Township and the closest property owner spoke to his concerns about the smell from the pigs and the effect that the proposed CAFO will have on his existing therapeutic business. Stating that the prevailing NW winds would blow in his direction. He also questioned the location of the barn and why it could not be placed further north, away from his property.

Jerry Smith spoke his concerns that the public he has surveyed and spoken with do not want more CAFOs, yet the approval of these operations continues.

Bruce Gillam voiced his concerns for the health and wellbeing of the community. He mentioned concerns with runoff into the watershed. He was concerned with diseases, in particular E. coli in the manure that would be put into the ground.

Mitch Peterson, an attorney from Sioux Falls with the Davenport, Evans, Hurwitz and Smith Law Firm spoke to his record of opposition and litigation in these matters in eastern South Dakota. He voiced his criticism that an engineering report was not conducted for this project. Mr. Peterson also spoke about aspects of the Davison County Zoning Ordinance 1206(A) in which the commission would be allowed to say no if certain conditions are not met.

John Christopher, the father of Christ, spoke to the difficulties of keeping children on the farm in today's world, and the opportunity that these types of operations give to accomplish that goal. He also stated that he lives on the farmstead, and thus wants to be a steward of the land.

Steve Hergot from Lisbon township, and neighbor of Dale Smith expressed that he wanted a 1-year moratorium on approval of CAFOs to address all areas of concern.

Jerry Smith claimed that farmers will find a way, and do not need income from a CAFO to farm.

Brad Hohn of MDS Manufacturing spoke in support of the proposed project stating the contradiction of "NIMBY" not in my back yard, to those who want locally sourced food. He also pointed out the argument over cattle vs. hog CAFOs and feels that hogs get an undue amount of opposition in comparison. Brad stated that fertilizer does not get any more organic than this.

Amy Storm spoke in support of the project. She stated that she was born and raised on the farm and has had and now has pigs on the farm. She spoke to the allegations of a health risk and stated from her experiences with her family she has seen no adverse effects. She also stated that she currently has a successful photography business, on a hog farm.

Linda Perkins, from Lisbon township and an employee of Tri State Neighbor, but not speaking today as a representative for the Tri State Neighbor. Ms. Perkins spoke to the general practice of pig CAFOs and in her opinion they are an environment of cruelty to animals, especially regarding the sows.

Christ Christopher then answered questions from the board.

Commissioner Weitala asked a question from a statement proposed by Mr. Gillam about whether E. coli can be spread to the water via runoff. Mr. Christopher answered that because the manure is injected, the soil acts as a filter.

Commissioner Kiner asked if at the beginning of planning if he reached out and contacted the neighbors. Mr. Christopher answered that most of his other neighbors have barns already and that most are family except for Mr. Mathis' property.

Commissioner Reider asked if there was any consideration of moving the barn north, when planning the location. Mr. Christopher stated that this was the best viable location on their land. He stated that spacing with the other barns in the area were a factor and that in this location they would not have to haul manure to another location.

Commissioner Claggett spoke to the proliferation of CAFOs and spoke to the concern of how many is too much.

Commissioner Bode asked Mr. Christopher if they had planned for a test well. Christ responded yes, and that on the farm, his parents use well water for drinking for themselves. Bode also asked what they used for a site analysis not only for location but for the land that would be used. Christ said that they took soil samples and that the density of the soil in that location was suited for injection. They also have a management plan, which includes procedure to keep runoff out of the water ways.

At 10:30 a.m. the public discussion ended, and debate was limited to the board.



Commissioner Kiner stated he does have a concern with flood plain runoff and the water supply.

Commissioner Claggett stated his concern for the proliferation of CAFO facilities and is concerned at what point is too much that contamination becomes an issue.

Commissioner Weitala stated as a member of the Planning Commission she voted no. However, because of the presentation and due diligence with planning Christ has done she has reversed her decision.

Commissioner Reider thanked the public for their input. He stated concentration level could be an issue and suggested further study would be helpful. Reider also mention that if you do look around at other locations it does show that we are not concentrated.

Commissioner Bode stated that the applicant has fulfilled the requirements of the ordinances and provided all things that are needed. She stated that she is happy to see Pipestone will be using a compost site to dispose of the deceased animals instead of incineration. Bode also asked that an additional condition, on site test well to monitor contamination, be added.

The Planning Commission recommended granting 2-3-2 absent, with the following conditions. However, the motion Failed.

1. Comply with all state and federal regulations.
2. Comply with all sections of the Davison County Zoning Ordinance.
3. Have a nutrient management plan in place.
4. Have a written plan for the site to address cleanup and disposal of the structures when the economic life of the building has expired. The life of the building shall be considered expired if no animals occupy the building in a 12-month period.
5. All manure shall be injected.
6. Road maintenance agreement with Blendon Township.
7. Two rows of fast growth low shrubs on the south side of the barn to be maintained and living.

Motion by Reider, second by Weitala, after consideration of Section 1206 A., to approve a conditional use permit for a concentrated animal feeding operation in the AG district with conditions stated by the Planning and Zoning Board, and with the additional condition on site test well to monitor contamination, as requested by Christ Christopher. This request is pursuant to Section 301(10) and section 309 of the Davison County Zoning Ordinance as adopted on 4/1/98 and subsequently amended. The property is legally described as S ½ of the NE ¼ of Section 2, T 104 N, R 62 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received: July 30, 2018

Daily Republic: August 31, 2018

Posted: August 24, 2108

Notified Applicant: August 21, 2018

Notified Abutting Property Owners: August 21, 2018

Consideration of 1206 A. Conditional Uses

Roll call vote:

Kiner – Nay, Claggett – aye, Weitala – aye, Reider – aye, Bode - aye. Motion carried.

## **CONDITIONAL USE**

The following is a brief summary of the conversation that took place prior to conditional use permit being approved.

Prior to discussion the board reviewed a request for consideration presented by Jerry Smith which was signed by 52 residents of Lisbon township stating their opposition of all future CAFOs in Lisbon Township until the commission revises the ordinances to address the issues that have been raised.

Jarod Klock gave a presentation regarding a proposed 2,400 unit finishing barn to coincide with an existing 2,400 unit facility constructed in 2004 that is located on Jarod's brother-in-law's farm. In his presentation he stated that the building will be owned by Jarod Klock and Roger Gerlach. The animals will be owned by Nathan Kleinsasser of ProPork LLC and the facility will be managed by Pipestone System. Jarod can opt out from the contract with ProPork with a 1-year notice and use his own pigs.

Dale Smith, the chairman of Lisbon Twp. referenced a report from District III entitled "Davison County Rural Site Analysis", which he states that in which Davison County and Lisbon township are not suited for these types of facilities. He asked why we are not considering this report? He also referenced the aquifer that lies under Davison County which he expressed that these facilities have a potential to contaminate. He urged that we a moratorium on any new CAFOs.

Larry Olsen a Lisbon township Supervisor had concerns about the loads and heavy trucks on township roads. He asked if damage occurs to the roads will the township get paid for the repairs. He also stated his concerns with the loss in property value that may occur. Larry stated he was one of the individuals getting signature in Lisbon township to oppose all future CAFOs.

Tyler Klumb spoke on his father Gary's behalf as the closest resident to the proposed CAFO. He said their family is in full support of the project and that the distance to their residence, 1,100' (ft), is of no concern to them.

Ron Halweg of Lisbon township spoke to setting a limit of how many CAFOs can be in a given area. He spoke to his experiences living in Iowa where the regulations are more lenient on placement. And now they have problems with where the manure can go, and often have to haul it miles away. He encouraged revising the ordinances to increase the distance from non-participating land owners.

Elder Herman spoke regarding his concerns about his and others property values going forward.

Mitch Peterson, an attorney from Sioux Falls with the Davenport, Evans, Hurwitz and Smith Law Firm spoke again with the same criticism of a lack of an engineering report on this project. He stated that the ¼ mile setback is shockingly small. He urged the commission to say no to this proposal. Mr. Peterson claimed that the District III study disagrees with this project.



Brad Hohn of MDS manufacturing, referenced that in Minnehaha County they have recently reduced the setbacks from ½ mile to ¼ mile.

Larry Olsen referenced the signatures that were collected and stated that these people are farmers too. He urged the board to consider the public lack of acceptance of these facilities.

Jarod Klock then answered questions from the board.

Commissioner Bode asked Jarod as to the procurement of the pigs, and where they come from. Mr. Klock answered that the pigs would be obtained from Mr. Kleinsasser who is associated with Pipestone System. Bode also asked if he they had any issues with disease at there existing operation. Mr. Klock stated no. Bode asked why they chose Pipestone to manage operations. Jarod spoke to the familiarity they already have with the company, they manage their existing facility well, and they like that they are a family owned company. Bode asked how the site analysis was done to choose the site, and if Pipestone had any input. Jarod stated no, and that they choose the location based on less road usage at this site. Bode asked if they have had any runoff issues at the existing facility. Mr. Klock responded no, and never a complaint from DENR.

At 11:36 a.m. the public discussion ended and discussion was limited to the board.

Commissioner Reider stated he understood the two sides of this issue and that the fairness to property owners and public is often difficult to balance.

Commissioner Bode stated that we need to make our decisions based on the ordinances we have in place today. She referenced the request for consideration presented and stated that it does have an impact on future decisions and brings to mind issues that will need to be addressed in the future. Bode also discussed the lack of opposition at the public hearings when the ordinance was updated. Bode acknowledged that there is a heightened awareness today and that tomorrow needs to come sooner than later.

Commissioner Claggett discussed the difference in this application and what is described in the district III report based on the size and capacity of the units.

Commissioner Kiner's biggest concerns are runoff into the tributaries that have a larger impact on the public interest.

Commissioner Bode stated that the boards first obligation is to follow the ordinances in place. She said she is comfortable with this application with the Klumbs being in approval. She stated Larry Olsen's concern with township roads is a concern in all townships. In this application the road situation is addressed with a road agreement with the County. Bode stated the effect on property value is opinion and is not considered. She stated that this application met all of the conditions in the ordinance.

The Planning Commission recommended granting 4-1-2 absent, with the following conditions:

1. Comply with all state and federal regulations.
2. Comply with all sections of the Davison County Zoning Ordinance.
3. Have a nutrient management plan in place.

4. Have a written plan for the site to address cleanup and disposal of the structures when the economic life of the building has expired. The life of the building shall be considered expired if no animals occupy the building in a 12-month period.
5. All manure shall be injected.
6. Road maintenance agreement with the county highway department.

Motion by Claggett, second by Weitala after consideration of Section 1206 A., to approve a conditional use permit for a concentrated animal feeding operation in the AG District with conditions stated by the Planning and Zoning Board, with the additional condition of an on site test well to monitor contamination, as requested by Jarod Klock. This request is pursuant to Section 304 (10) and Section 309 of the Davison County Zoning Ordinance as adopted on 4/1/98 and subsequently amended. The Property is legally described as S 1/2 of the of the SW ¼ of Section 32, T 102N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received: August 10, 2018

Daily Republic: August 31, 2018

Posted: August 24, 2108

Notified Applicant: August 21, 2018

Notified Abutting Property Owners: August 21, 2018

Consideration of 1206 A. Conditional Uses

Roll call vote:

Claggett – aye, Kiner – Nay, Reider – aye, Weitala – aye, Bode – aye. Motion carried.

## **VARIANCES**

The Planning Commission recommended granting 3-2-2 absent.

Motion by Claggett, second by Reider, after consideration of Section 1206 B. to approve a variance for a minimum setback from a non-participating residential dwelling of +/- 220' (ft) resulting in a setback from a non-participating residential dwelling of +/- 1,100' (ft) from a concentrated animal feeding operation where the setback is 1,320' (ft) in the AG District and minimum setback from the west right of way of +/- 100' (ft) resulting in a setback of +/- 200' (ft) from a concentrated animal feeding operation where the required setback is 300' (ft) in the AG District as requested by Jarod Klock. This request is pursuant to Section 3:09(3)f, 3:09(6), and 3:09(7) of the Davison County Zoning Ordinance as adopted on 4/1/98 and subsequently amended. The property is legally described as S 1/2 of the of the SW ¼ of Section 32, T 102N, R 61 W of the 5<sup>th</sup> P.M., Davison County, South Dakota.

Application received: August 10, 2018

Daily Republic: August 31, 2018

Posted: August 24, 2108

Notified Applicant: August 21, 2018

Notified Abutting Property Owners: August 21, 2018

Consideration on 1206 B. Variances

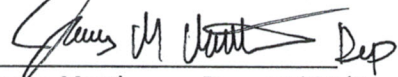
Roll call vote:

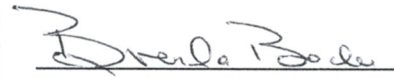
Reider – aye, Claggett – aye, Kiner – aye, Weitala – aye, Bode – aye. Motion carried.

## ADJOURN

Motion by Weitala, second by Claggett, to adjourn the Board of Adjustment at 11:55 a.m. All members voted aye. Motion carried.

## ATTEST

  
James Matthews, Deputy Auditor

  
Brenda Bode, Chairperson





**BOARD OF ADJUSTMENT**  
**September 25, 2018**

**CALL TO ORDER**

Chairperson Bode called the meeting of the Davison County Board of Adjustment to order at 10:58 a.m. All members of the Board were present. Also present was Planning & Zoning Administrator Bathke, Deputy Jenniges and Auditor Kiepke.

**APPROVE AGENDA**

Motion by Claggett, second by Weitala to approve the agenda for the September 25, 2018 meeting. All members voted aye. Motion carried.

**APPROVE MINUTES**

Motion by Claggett, second by Weitala to approve the minutes of the September 18, 2018 meeting. All members voted aye. Motion carried.


**PUBLIC INPUT**

Chairperson Bode asked for public input. Hearing none, the meeting continued.

**ADJOURN**

At 11:02 a.m., motion by Reider, second by Kiner to adjourn Board of Adjustment. All members voted aye. Motion carried.

**ATTEST**

  
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Susan Kiepke, Auditor

  
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Brenda Bode, Chairperson

**BOARD OF ADJUSTMENT**  
**November 13, 2018**

**CALL TO ORDER**

Chairperson Bode called the meeting of the Davison County Board of Adjustment to order at 9:22 a.m. All members of the Board were present. Also present was Deputy Planning & Zoning Administrator Jenniges, and Deputy Auditor Matthews.

**APPROVE AGENDA**

Motion by Claggett, second by Weitala, to approve the agenda for the November 13, 2018 meeting. All members voted aye. Motion carried.

**APPROVE MINUTES**

Motion by Claggett, second by Kiner, to approve the minutes of the September 25, 2018 meeting. All members voted aye. Motion carried.

**CONFLICTS OF INTEREST**

Chairwoman Bode asked for any conflicts of interest to be declared, none stated.

**PUBLIC INPUT**

Chairperson Bode called for any public input not already on the agenda, hearing none the public input section of the meeting was closed.

**VARIANCES**

The Planning Commission recommended granting 7-0.

Motion by Weitala, second by Claggett, after consideration of Section 1206 B., to approve a variance for minimum lot size of +/- 21 acres to create a lot size of +/- 4 acres where the minimum lot size requirement is 25 acres in the Agricultural Residential District; as requested by Jason Nedved. This request is pursuant to Section 407 (4) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as South 1/2 of the North 1/2 of the Northeast 1/4 of the Southeast 1/4 and the South 1/2 of the Northeast 1/4 of the Southeast 1/4 of Section 8, T 102 N, R 60 W of the 5th P.M. Davison County, South Dakota.

Application received October 15, 2018

Daily Republic November 2, 2018

Posted October 26, 2018

Notified Applicant October 23, 2018

Notified Abutting Property Owners October 23, 2018

Consideration of 1206 B. Variances



Roll call vote:

Reider-Aye, Weitala-Aye, Kiner-Aye, Claggett-Aye, Bode-Aye. Motion Carried.

## **CONDITIONAL USE**

Prior to the denial of the conditional use permit. The board heard input from the applicant and neighbors of the applicant. The following is a brief summary of the dialog that took place.

Larice Hamilton explained his position on the project, stating he was unaware of the Mobile Home Construction and Safety Standards Act of 1974, or the Davison County zoning ordinance that restricts the importation of trailer homes that are from 1965 and older. Mr. Hamilton also spoke about the infrastructure improvement that he has made to his property.

Jeff Leuning, a neighbor of Larice Hamilton, stated that he nor any of the other neighbors that he has spoken have an issue with the trailer in question.

Mahlon Byler, a neighbor of Larice Hamilton, spoke in support of Mr. Hamilton's request. Mr. Byler stated that it was his understanding that a trailer of this age could possibly be in the city limits of Ethan or Mitchell, with approval of the governing bodies, and could not understand why Davison County has the restriction in place. He also spoke about a nuisance property in the area.

The commission discussed the differences in a Modular Home vs. Trailer House. Commissioner Reider stating that if there is a serial number, like the home in question, it is a trailer. Commission Claggett added that another factor that indicates that this a trailer is that it is not built on a foundation.

Commissioner Bode stated her decision that she had made at the Planning Commission was correct and that they could not set aside the law to make a contradicting decision. She also clarified Mr. Byler's question that in Ethan a trailer of that age may only be brought in to replace an existing trailer, not be placed in a new location. She was unclear as to what Mitchell's ordinances are but stated that it would certainly need prior approval.

The Planning Commission recommended denial of an unpermitted trailer house, and it must be removed by May 1, 2019, 6-1.

Motion by Weitala, second by Reider, after consideration of Section 1206 A., to deny as recommended from the Planning Commission with the stipulation the trailer referenced must be removed by May 1, 2019, a conditional use permit for a rental property of three or more units including a trailer house built in 1965, as requested by Larice Hamilton. This request is pursuant to Section 302 and Section 304 (27) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as E 5/8 of the S 1/2 of the SE 1/4 EX Lot 15, H-1, & H-2 in Section 15, T 101 N, R 60 W of the 5th P.M., Davison County, South Dakota.

Application received October 5, 2018  
Daily Republic November 2, 2018

Posted October 26, 2018

Notified Applicant October 23, 2018

Notified Abutting Property Owners October 23, 2018

Consideration of 1206 A. Conditional Uses

Roll call vote:

Kiner-Aye, Claggett-Aye, Bode-Aye, Reider-Aye, Weitala-Aye. Motion Carried.

### **CONDITIONAL USE**

The Planning Commission recommended denial 7-0.

Prior to the approval of a conditional use permit, the applicant, Samantha Beeson answered questions from the commissioners. Ms. Beeson explained that this will not be a storefront for their towing business rather an operational location to park and maintain their trucks, as well as store towed vehicles inside on occasion before they are taken to another location.

Commissioner Bode stated the reason the Planning Commission recommended denial was because they had little information on the project at the time without the Ms. Beeson there to explain the purpose of the building.

Motion by Claggett, second by Kiner, after consideration of Section 1206 A., to approve a conditional use permit for a towing business, as requested by Samantha Beeson. This request is pursuant to Section 305 of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as Lots A and B of Puetz's Subdivision in the West 1/2 of the Northwest 1/4 of Section 11, T 101 North, Range 60 West of the 5th P.M., Davison County, South Dakota.

Application received October 19, 2018

Daily Republic November 2, 2018

Posted October 26, 2018

Notified Applicant October 23, 2018

Notified Abutting Property Owners October 23, 2018

Consideration of 1206 A. Conditional Uses

Roll call vote:

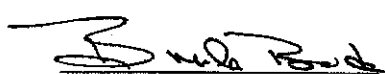
Claggett-Aye, Bode-Aye, Reider-Aye, Weitala-Aye, Kiner-Aye. Motion Carried.

### **ADJOURN**

Motion by Claggett, second by Reider, to adjourn the Board of Adjustment at 10:15 a.m. All members voted aye. Motion carried.

**ATTEST**

  
James Matthews, Deputy Auditor

  
Brenda Bode, Chairperson

**BOARD OF ADJUSTMENT**  
**December 4, 2018**

**CALL TO ORDER**

Chairperson Bode called the meeting of the Davison County Board of Adjustment to order at 9:20 a.m. Members of the Board present were Bode, Weitala, Kiner, Claggett. Absent Reider. Also present was Planning & Zoning Deputy Jenniges and Auditor Kiepke.

**APPROVE AGENDA**

Motion by Claggett, second by Kiner to approve the agenda for the December 4, 2018 meeting. All members present voted aye. Motion carried.

**APPROVE MINUTES**

Motion by Kiner, second by Claggett to approve the minutes of the November 13, 2018 meeting. All members present voted aye. Motion carried.

**PUBLIC INPUT**

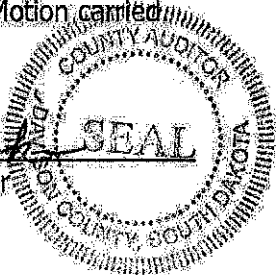
Chairperson Bode asked for public input. Hearing none, the meeting continued.

**ADJOURN**

At 9:21 a.m., motion by Kiner, second by Weitala to adjourn Board of Adjustment. All members present voted aye. Motion carried.

**ATTEST**

  
Susan Kiepke, Auditor



  
Brenda Bode, Chairperson