

BOARD OF ADJUSTMENT
July 18, 2023

CALL TO ORDER

Chairperson Reider called the meeting of the Davison County Board of Adjustment to order at 9:29 A.M. All members of the board were present. Also present were Planning and Zoning Deputy Administrator Wegleitner and Deputy Auditor Matthews.

APPROVE AGENDA

Motion by Kiner, second by Nebelsick, to approve the proposed agenda for the July 18, 2023, meeting. All members voted aye. Motion carried.

APPROVE MINUTES

Motion by Claggett, second by Blaalid, to approve the minutes of the June 13, 2023, meeting. All members voted aye. Motion carried.

PUBLIC INPUT

Chairperson Reider called for public input. He reminded the public that this was for items not on the agenda. Hearing none, the meeting continued.

DECLARE CONFLICTS OF INTEREST

Chairperson Reider asked for any conflicts of interest. Commissioner Blaalid declared a conflict on agenda item #5 regarding the conditional use request by Outlaw Repair & Recovery, Inc. dba Petrik Sanitation, Inc. and recused himself from voting on the matter.

VARIANCE

The Planning Commission recommended granting 6-0-1.

Motion by Nebelsick, second by Kiner, after consideration of Section 1206(B), to grant a variance of +/- 10', creating a setback of +/- 15' from the north property line, where the minimum side yard setback is 25' in the Enemy Creek Development, according to the Conditional Use Permit approved on July 29, 2003, as requested by Matt Bennett. This request is pursuant to Section 308, July 29, 2003 Conditional Use Permit, 1106(B), & 1206(B) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as Lot 3 of Enemy Creek Estates and Enemy Creek Loop, a Subdivision in the NE ¼ and in the SE ¼ of the NW ¼ of Section 14, T 102 N, R 60, W of the 5th P.M., Davison County, South Dakota.

Application received: June 6, 2023
Daily Republic Published: July 1, 2023
Posted Signs: June 30, 2023
Notified Applicant: June 27, 2032
Notified Abutting Property Owners: June 27, 2023
Consideration of 1206(B) Variance

Roll call vote:
Claggett-aye, Blaaid-aye, Kiner-aye, Nebelsick-aye, Reider-aye. Motion carried.

CONDITIONAL USES

The Planning Commission recommended granting 6-0-1.

Motion by Claggett, second by Nebelsick, after consideration of Section 1206(A), to grant a conditional use to allow the construction of an inground pool in the Ag Residential District, as requested by Aaron Baas. This request is pursuant to Section 404(40), 1106(A), & 1206(A) 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 AJB Subdivision in the NE ¼ of Section 12, T 103 N, R 60 W of the 5th P.M., Davison County, South Dakota.

Application received: June 13, 2023
Daily Republic Published: July 1, 2023
Posted Signs: June 30, 2023
Notified Applicant: June 27, 2032
Notified Abutting Property Owners: June 27, 2023
Consideration of 1206(A) Conditional Use

Roll call vote:
Blaaid-aye, Kiner-aye, Nebelsick-aye, Claggett-aye, Reider-aye. Motion carried.

The Planning Commission recommended granting 6-0-1.

Motion by Kiner, second by Blaaid, after consideration of Section 1206(A), to grant a conditional use to allow a shooting range for the Ethan High School Clay Target Team in the Ag District, as requested by Ethan High School Clay Target Team. This request is pursuant to Section 304(35), 1106(A), & 1206(A) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as SW ¼ EX NW ¼ of SW ¼ of Section 12, T 101 N, R 60, W of the 5th P.M., Davison County, South Dakota.

Application received: June 14, 2023
Daily Republic Published: July 1, 2023
Posted Signs: June 30, 2023
Notified Applicant: June 27, 2032

Notified Abutting Property Owners: June 27, 2023
Consideration of 1206(A) Conditional Use

Roll call vote:
Kiner-aye, Nebelsick-aye, Blaalid-aye, Claggett-aye, Reider-aye, Motion carried.

VARIANCE

The Planning Commission recommended granting 6-0-1.

Motion by Kiner, second by Blaalid, after consideration of Section 1206(B), to grant a variance of +/- 16 acres, creating a lot size of +/- 9 acres, where the minimum lot size is 25 acres for a residence in the Ag District, as requested by Allen Jenks. This request is pursuant to Section 307, 1106(B), & 1206(B) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as NE ¼ of Section 30, T 102 N, R 61, W of the 5th P.M., Davison County, South Dakota.

Application received: June 26, 2023
Daily Republic Published: July 1, 2023
Posted Signs: June 30, 2023
Notified Applicant: June 27, 2032
Notified Abutting Property Owners: June 27, 2023
Consideration of 1206(B) Variance

Roll call vote:
Nebelsick-aye, Claggett-aye, Blaalid-aye, Kiner-aye, Reider-aye. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 0-5-1, 1 Recused.

Commissioner Blaalid recused himself.

Motion by Nebelsick, second by Claggett to open the public hearing. All members voted aye.
Motion carried.

Lowell Langstratt of Outlaw Repair & Recovery, Inc. dba Petrik Sanitation, a Hanson County resident, presented the conditional use request to the board. Mr. Langstratt explained he intends to operate a towing and repair service from the property. He addressed the issues that were discussed at the Planning & Zoning meeting. The concerns included headlights shining into houses, similar businesses in area, jake brakes being used on highway, garbage and roll off dumpsters on property, drivers CDL standards, property values, vehicles on property, and their drug and alcohol policy. Mr. Langstratt asked to give him a chance to be an asset to the community.

Robert Ball of H&R Salvage, a Davison County resident, spoke in opposition to the conditional use. Mr. Ball cited issues he has had with Mr. Langstratt and other staff of Petrik Sanitation. Mr. Ball referenced a video he obtained as evidence of unprofessional behavior. He also referenced that nearby businesses are closing in the area and that it is becoming more residential.

Travis Peterson, a Hanson County resident, spoke in support of the conditional use. Mr. Peterson stated issues on roadways are the responsibility of law enforcement and should not be considered. Mr. Peterson referenced the video Mr. Ball discussed and asked as it was not shown that it not be considered. He also discussed the need in Mitchell for more competition in the towing business, and that it would be beneficial to the community.

Greg Tilberg, a Davison County resident, spoke in opposition. Mr. Tilberg stated he lives directly across from the property. He stated it is not zoned commercial. He also discussed trucks that are parked on the property that are idling and running their refrigeration units overnight, the highway that is narrow and does not have adequate shoulders, and the property itself that he claimed was not designed for this type of operation.

Mark Spencer of KOA Campground, spoke in support of the conditional use. Mr. Spencer cited the positive service he has received from Mr. Langstratt and from Outlaw Towing & Repair for his customers.

Mary Alexander, a Davison County resident, spoke in opposition. Mrs. Alexander stated she lives across the highway to the west. She stated the view into the property is obstructed in the summer through trees but in winter can see directly through. She is experiencing garbage including large boxes that blow onto her property.

Linda James, a Davison County resident, spoke in opposition. Mrs. James lives across the highway to the east. She discussed complaints against Outlaw Towing & Repair's property in Hanson County and the condition of the property she thought was in disarray.

Lowell Titze, a Davison County resident, discussed the access road that is on the property that leads to his farm directly south. Mr. Titze stated it is the only way in and out and that would need to remain open, he stated it has been blocked by piled snow in the past. He asked that something should be put in place to block the view into the property and contain trash.

Steve Frank, a Davison County resident, spoke in opposition. Mr. Frank stated he lives across the highway, and that the opinion of the existing residents should be taken into consideration.

Karen Lunn, a Davison County resident, spoke in opposition. Ms. Lunn asked what recourse the neighbors would have if passed if they do not meet the conditions.

Brandon Wingert, Hanson County Sheriff stated he would be available for questions from the board.

Dan Alexander, a Davison County Resident, appeared telephonically, and spoke in opposition. Mr. Alexander stated he has no business or personal concerns with the applicant. He stated he

lives directly across from the property and that his concerns would be increased traffic, lights shining into his house, and trucks idling overnight. Mr. Alexander mentioned that it is currently zoned ag-residential and not commercial.

Michelle Hellman, a Davison County resident, spoke in opposition. Mrs. Hellman asked who would police the vehicles on how long they would be on the property.

Dave Bruns, an employee of American Ice, spoke in support of the conditional use. Mr. Bruns stated the ice trucks come and go during normal business hours leaving around 7 a.m. and returning around 5 p.m. Mr. Bruns also discussed the need for additional wrecker service in Davison County.

Kathy Frank, a Davison County resident, spoke in opposition. Mrs. Frank stated although additional wrecker services may be needed it does not need to be based in a residential area.

Jill Luque, a local businessperson, spoke in support of conditional use. Ms. Luque stated that she believes in Mr. Langstratt and that he will comply with the conditions and make the property better.

Shelby Patton, a Davison County resident, spoke in support of the conditional use. Ms. Patton stated a lot of people misunderstand a conditional use permit, as conditions can be set and if Mr. Langstratt does not comply, then it can be revoked.

Skyler Peterson, former owner of the property and Petrik Sanitation, spoke in support of the conditional use. Mr. Peterson stated that most of the complaints heard are from when he owned the property.

Deanna Wempe, former owner of American Ice, spoke in favor of the conditional use. Mrs. Wempe stated due to changes in the business truck operations during odd hours should not occur anymore. Mrs. Wempe also stated Petrik Sanitation was a good landlord.

Allison Phillips, a Davison County resident, spoke in opposition. Mrs. Phillips stated she lives across the highway from the property. Mrs. Phillips stated she has heard numerous complaints regarding the business in Hanson County. She also stated that she has two kids and does not want a towing company across the road.

Paul Koerner, a Davison County resident, spoke in support of the conditional use. Mr. Koerner stated he has seen improvements from Mr. Langstratt over the years.

Dan Kirkegaard, a Davison County resident, spoke in support of the conditional use. Mr. Kirkegaard stated Mr. Langstratt should be given a chance to operate. He also stated that if conditions are placed to make sure they are met.

Scott Phillips, a Davison County resident, inquired what the definition of Ag Residential is.

Motion by Nebelsick, second by Kiner to close the public hearing. All members voted aye.
Motion carried.

Commissioner Nebelsick asked Hanson County Sheriff Wingert as to validity of the complaints in Hanson County, and whether he found the property there to be a nuisance. Sheriff Wingert stated it has been two to three years since complaints and that he has seen the property cleaned up since and does not find it to be a nuisance.

Commissioner Kiner inquired as to the other business in area as to how they are zoned. Deputy States Attorney Taylor stated they would be under prior nonconforming as they were there prior to the Davison County Zoning Ordinance. Kiner also inquired about the existing conditional use. Mr. Taylor explained that the 2018 conditional use is for the trucking terminal that was granted to Petrik Sanitation, Frito Lay, and American Ice and that it remains.

Chairman Reider inquired with Davison County Sheriff Harr as to what conditions he would like to see placed. Harr stated that a tall privacy fence be placed surrounding where the towed vehicles are going to be parked.

The Board discussed what conditions they would like in place. Including fencing, security cameras.

Motion by Claggett, second by Kiner, after consideration of Section 1206(A), to table the conditional use to operate a commercial trucking terminal to include towing, and a repair shop in the Ag Residential District, as requested by Outlaw Repair & Recovery, Inc. dba Petrik Sanitation, Inc. until August 1, 2023. This request is pursuant to Section 404(9), 404(31), 1106(A), & 1206(A) 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. Addition in the NW1/4 of Section 25, T 103 N, R 61, West of the 5th P.M., Davison County, South Dakota.

Application received: June 7, 2023

Daily Republic Published: July 1, 2023

Posted Signs: June 30, 2023

Notified Applicant: June 27, 2032

Notified Abutting Property Owners: June 27, 2023

Consideration of 1206(A) Conditional Use

Roll call vote:

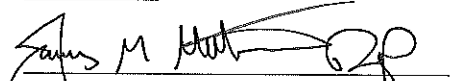
Kiner-aye, Claggett-aye, Blaalid-recused, Nebelsick-Aye, Reider-No. Motion carried.

Chairperson Reider explained the public hearing has been held and closed.

ADJOURN

At 11:20 motion by Nebelsick, second by Claggett, to adjourn Board of Adjustment. All members voted aye. Motion carried.

ATTEST:


James Matthews, Deputy Auditor


Randy Reider, Chairperson

