

**MINUTES OF THE  
MINNEHAHA COUNTY PLANNING COMMISSION**  
June 24, 2013

A meeting of the Planning Commission was held on May 20, 2013 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Mike Cypher, Jeff Barth, Susie O'Hara and Bonnie Duffy.

**STAFF PRESENT:**

Scott Anderson, Pat Herman, Dustin Powers and Travis Halm - County Planning

The meeting was chaired by Susie O'Hara.

Commissioner Steinhauer entered the meeting via phone call to establish a quorum and vote on the Variance request.

**ITEM 1. VARIANCE #13-004 to reduce side yard and rear yard setback.**

Petitioner: Troy Novak

Property Owner: same

Location: 25989 482<sup>nd</sup> Avenue; Corson, SD

**General Information**

Legal Description – Lot A & B Block 1 Corson Fauske's Addition of Section 22-T102N-R48W

Present Zoning – C Commercial

Existing Land Use - Commercial

Parcel Size – < 1 Acre

**Staff Report:** Scott Anderson

**Staff Analysis**

The applicant is requesting a variance to reduce the minimum setback from the north and west property lines from 10 and 20 feet to 0 feet. The subject property is located in the village of Corson. The applicant is requesting the variance in order to modify the existing building and construct an addition on the north and west sides of the building.

On May 3, 2013, staff conducted a site visit. The subject property is located in a commercial area along SD Highway 11. The community theater building is located directly to the south and would be most impacted. There is a large gravel parking area to the north and west.

On September 24, 2012, the Zoning Board of Adjustment granted a variance reducing the side yard setback along the south property line from 10 feet to 0 feet. This variance allowed the applicant to construct a semi-enclosed smoking area for bar patrons.

**1. That specific circumstances or conditions, such as exceptional narrowness, topography, or siting exists.**

The bar has been in operation prior to the Zoning Ordinance being adopted by the County. Furthermore, the existing lots were platted in such a fashion that they might be considered archaic in nature. The existing bar currently consumes nearly the entire lot.

**2. That the Variance does not grant a use which is otherwise excluded from that particular district, or diminish or impair property values within the area.**

The requested Variance would not allow a use otherwise excluded from the district.

**3. That due to the specific circumstance or existing conditions strict application of the Zoning Ordinance would be an unwarranted hardship.**

Strict adherence to the setback requirements would be a hardship. Allowing the reduced setback will allow modifications to occur which will make this unique parcel more useful.

**4. That the granting of a Variance is not contrary to the public interest and is in harmony with the general purposes and intent of the Zoning Ordinance.**

The proposed addition and subsequent need for a reduced setback does not harm the public. Furthermore, staff finds that a reduced setback would be in harmony with the general purpose and intent of the Zoning Ordinance.

**5. That because of circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.**

Due to the archaic platting, the property can't be further developed while meeting the setbacks. Over the years, portions of the lots have been taken for highway right-of-way, further impacting the ability to expand on the two small lots.

If approved, the property owner must address a building code item when constructing any addition. Staff has included the building code item as a condition of approval. Further expansion of the building will further restrict the number of parking spaces for the business. Historically, patrons have parked on the streets in Corson or in the gravel areas around the Corson elevator.

**Recommendation**

Staff recommended approval of Variance #13-004 to reduce the side yard setback along the north property line from 10 feet to 0 feet and to reduce the rear yard setback along the west property line from 20 feet to 0 feet with the following condition:

1. The building wall located on the property line cannot have any openings {windows-doors} and must be constructed of a minimum {2 hour} fire resistive material. The construction must meet the specific conditions of Chapter 7 of the 2012 IBC code.

**Public Testimony**

Troy Novak, 7019 W. 51<sup>st</sup> Street, stated that they want to continue updating the roof because it has a significant sag in the middle. They plan on replacing the trusses and when doing so would like to complete an addition, therefore the reason for the variance request.

**Action**

A motion was made by Barth and seconded by Duffy to **approve** Variance #13-004 with the stated condition. The motion passed unanimously (5-0).

**Variance #13-004 – APPROVED**

**CONSENT AGENDA**

A motion was made by Cypher and seconded by Barth to **approve** the consent agenda. The motion passed unanimously.

**ITEM 2. Approval of Minutes – May 20, 2013**

A motion was made by Cypher and seconded by Barth to **approve** the minutes from May 20, 2013. The motion passed unanimously.

**ITEM 3. CONDITIONAL USE PERMIT #13-036 to amend CUP #03-043 to allow the retail sales of firearms and ammo.**

Petitioner: Stacey Brouwer  
Property Owner: Richard Brower  
Location: South of Hartford

**General Information**

Legal Description – Lot 4 Block 1 Brower Addition SW ¼ of Section 27-T102N-R51W  
Present Zoning – I-1 Light Industrial  
Existing Land Use - Retail Sales  
Parcel Size – 1 Acre

**Staff Report:** Scott Anderson

**Staff Analysis**

The applicant would like to sell firearms, ammunition and accessories out of an existing antiques business. The existing antique business was approved by Conditional Use Permit #03-43 in June of 2003 with one condition: The site plan shall conform to the submitted site plan. Zoning approval by the County is required before the applicant can update his ATF (Alcohol, Tobacco & Firearms) license.

Staff met with the applicant on site to discuss the details of the proposed use. The applicant indicated that they are currently allowed to sell guns that are over 100 years old. They often buy estates which include firearms that are between new and 100 years old. They would like to sell these used and/or vintage firearms along with antique firearms.

On June 10, 2013 staff conducted a site visit. The property is located at the I-90 Hartford interchange. There are several industrial and commercial businesses located in this industrial area.

**1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.**

The proposed home occupation of gun sales as a home occupation should have limited effect on the uses already permitted in the area or property values.

**2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**

The proposed Conditional Use Permit should not impact the commercial and industrial uses in the area.

**3) That utilities, access roads, drainage and/or other necessary facilities are provided.**

Kelsy Drive provides access to the site. This road is graveled and in average to poor condition. No new roads will be needed to access the site. All required utilities are in place to the existing business.

**4) That the off-street parking and loading requirements are met.**

The applicant must provide one (1) off-street parking space for each 300 square feet of gross floor area, as required in Article 15.02(T). Staff's inspection of the site found approximately twenty (20) parking spaces available.

**5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.**

The additional traffic resulting from the potential sale of firearms should not cause a nuisance to the existing industrial and commercial uses in the area.

**Recommendation**

Staff recommended approval of Conditional Use Permit #13-036 amending Conditional Use Permit #03-043 to allow gun sales as a Class 1 home occupation and adding the following conditions:

1. That the applicant meet the requirements of Article 16 of the Minnehaha County Zoning Ordinance. A Sign Permit shall be obtained prior to the installation of any sign.
2. That a minimum of one (1) off-street parking space for each 300 square feet of gross floor area be provided. Each parking space shall measure at least nine (9) feet by eighteen (18) feet and shall be kept in a dust free manner.
3. That the applicant obtains a state Sales Tax License.

**Action**

A motion was made by Cypher and seconded by Barth to **approve** Conditional Use Permit #13-036 with the stated conditions. The motion passed unanimously (4-0).

**CUP #13-036 – APPROVED**

**ITEM 4. CONDITIONAL USE PERMIT #13-037 to transfer 1 residential building eligibility from the NE ¼ SE ¼ to the SE ¼ SE ¼; all in Section 29-T101N-R51W.**

Petitioner: Ronald Heemstra  
Property Owner: same  
Location: 1 mile south of Wall Lake

**General Information**

Legal Description – SE ¼ SE ¼ of Section 29-T101N-R51W  
Present Zoning – A-1 Agricultural  
Existing Land Use - Agricultural  
Parcel Size – 40 Acres

**Staff Report:** Travis Halm

**Staff Analysis**

This is a request to transfer a residential building eligibility from a lower elevation to a higher elevation within the same parcel. Approval of the transfer request would move the unused eligibility to the SE ¼ SE ¼ from the NE ¼ SE ¼, all of Section 29 in Wall Lake Township.

**1) The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.**

The surrounding land use is predominately agricultural crop ground with rural residences to the east. The petitioner's request to transfer a building eligibility will not increase the number of dwellings allowed under density zoning.

**2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.**

There should be no major effect upon the normal and orderly development of the area.

**3) That utilities, access roads, drainage and/or other necessary facilities are provided.**

The construction of new dwelling units is required to be in conformance with the County's zoning, septic and building code. The petitioner will need to obtain a driveway permit from Wall Lake Township before the County can issue a building permit.

**4) That the off-street parking and loading requirements are met.**

Applicant is taking two acres out of agricultural production, which meets the minimum required lot size for a residential dwelling is 1 acre. This is sufficient space to meet any parking needs for a single family home.

**5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.**

These should not be at a level as to constitute a nuisance.

**Recommendation**

Staff found that the requested transfer is in conformance with the zoning ordinance and recommended approval of Conditional Use Permit #13-037 with the following conditions:

- 1) Each housing site shall be platted and a right-to-farm notice filed on the deed of each lot prior to the issuance of a building permit.
- 2) That Wall Lake Township shall approve any new driveway access.

**Action**

A motion was made by Cypher and seconded by Barth to **approve** Conditional Use Permit #13-037 with the stated conditions. The motion passed unanimously (4-0).

**CUP #13-037 – APPROVED**

**ITEM 5. REZONING #13-006 from the I-1 Light Industrial District to the C Commercial District.**

Petitioner: Tom Brown  
Property Owner: same  
Location: Corson

**General Information**

Legal Description – Brown’s Lot 3 in Tract 2 Foster-Buckwalter Addition N ½ of Section 22-T102N-R48W  
Present Zoning – I-1 Light Industrial  
Existing Land Use - Commercial  
Parcel Size – 2.97 Acres

**Staff Report:** Pat Herman

**Staff Analysis**

This is a request to rezone property from the I-1 Light Industrial District to the C Commercial District. The property is located just north of Corson. Property to the east is zoned I-1 Light Industrial and the land use is a mining operation. There is a single family house to the immediate south and then further south is a rail road car repair business; both of which are zoned I-1 Light Industrial. North and east of the site the land is zoned A-1 Agricultural and is used for agricultural purposes.

The petitioner is requesting to down zone the property, essentially changing the zoning to a less intensive district. The petitioner has retired from the business that he was operating at this site and has received an offer of purchase for the property. The buyer is a church, a use which is not allowed in the I-1 District. In the C Commercial District a church is an allowed use.

A down zoning should not oppose any hardships on the surrounding properties and is a compatible with both the agricultural and industrial land uses in this area. The church is required to obtain a building permit and will work with the Building Inspector to ensure the building is brought into compliance with the adopted building and septic codes.

The approximately 3 acre lot has sufficient room to meet parking requirements for a church. Access from to the site is from 482<sup>nd</sup> Avenue/Highway 11 and has an approved driveway approach. There is no floodplain on this property.

**Recommendation**

Staff finds that the rezoning will not impact the surrounding land uses and is in compliance with the Comprehensive Plan. Staff recommended approval of Rezoning #13-006.

**Action**

A motion was made by Cypher and seconded by Barth to recommend **approval** of Rezoning #13-006. The motion passed unanimously (4-0).

**Rezoning #13-006 – APPROVAL RECOMMENDED**

**Old Business**

*No Items.*

**New Business**

- A. Pat Herman gave a briefing on Envision 2035.
- B. Scott Anderson introduced the Planning Intern Travis Halm.

**County Commission Items**

*No Items.*