

Codington County/City of Watertown  
Joint Planning Commission/Joint Board of Adjustment Minutes  
November 23, 2015

The Codington County/City of Watertown Planning Commission/Joint Board of Adjustment met for their first meeting on November 23, 2015 at the Codington County Extension Complex. Members of the Joint Planning Commission/Joint Board of Adjustment present were: Bob Fox, Mark O'Neill, Brenda Hanten, Dennis Arnold, Pat Shriver, and Luke Muller (Planner at First District Association of Local Governments/ Codington County Zoning Officer).

Alternate Board Member Mark Stein was also present for this meeting.

Others present were Chad Little, Craig Meidinger, Wes Wilkens, Justin Pietz, Jeff Roe, Jeff Deville, Tyler McElhany, Bob Boettcher, Myron Johnson, Charles Rossow, Rodney Klatt, Mel Ries, and Becky Goens.

Chairman Fox brought the meeting of the Joint Board of Adjustment to order.

Motion by Shriver, second by Hanten, to nominate Bob Fox as 2015 Chairman. Motion for nominations to cease made by O'Neill, second by Shriver. Motion passed unanimously.

Motion by Arnold, second by O'Neill, to nominate Pat Shriver as 2015 Vice Chairman. Motion for nominations to cease made by O'Neill, second by Hanten. Motion by Hanten, second by O'Neill to cast a unanimous ballot. Motion passed unanimously.

Muller introduced and read the Adoption of Standard Findings of Fact for Conditional Uses (attached) as it is a requirement of our ordinances. Motion by Hanten, second by Shriver, to adopt the Standard Findings of Fact for Conditional Uses. Motion passed unanimously.

Muller also read the Adoption of Rules for Hearings of the Joint Board of Adjustment (attached). Motion by Arnold, second by O'Neill, to adopt rules as read by Muller. Motion passed unanimously.

Motion by Hanten, second by Shriver, to approve the three variance requests made by Jeff Roe. These requests include: 1) Minimum Lot Width, 2) More than one-single-family, non-farm dwelling per quarter-quarter-section, and 3) Minimum Lot Size. Property is owned by Teresa Carlson Keegel and is legally described as E321'5" of the S676'7" of SW1/4, Section 14-117-52. Mr. Roe is in the process of purchasing this property and would like to retain residential building rights. Muller reviewed Staff Report History/Issue and recommends approval based on previous Zoning Officer issuing a building permit for a house in 1995 which conferred some sort of vested building right to this property. While Board of Adjustment permission was officially granted, it was presume that the board, based upon similar requests, would have granted such request. The Board grants these variances only because of the specific nature of the request and previous action of the Zoning Officer in August of 1995. Motion passed unanimously.

Motion by Hanten, second Shriver, to approve the Conditional Use Permit request by Justin Pietz for an Extended Home Occupation, as read by Staff to include conditions agreed to by the applicant in a Letter of Assurance. Mr. Pietz would like to operate a home-based boat repair shop on property located at E776.8' of S699' of SE1/4, 28-117-53. Muller reviewed Staff Report History/Issue and Staff Recommendations (attached). Motion passed unanimously.

Motion to adjourn by Hanten, second by O'Neill. Motion passed unanimously.

Respectfully Submitted,

Becky Goens, Secretary

**NOVEMBER 2015  
CODINGTON COUNTY/CITY OF WATERTOWN  
JOINT PLANNING COMMISSION/ JOINT BOARD OF ADJUSTMENT  
STAFF REPORT**

**MONDAY – November 23, 2015 – 9:00 a.m.**

**CODINGTON COUNTY/CITY OF WATERTOWN JOINT BOARD OF ADJUSTMENT**

**ITEM #1: ELECTION OF OFFICERS**

**ITEM #2 ADOPTION OF STANDARD FINDINGS OF FACT FOR CONDITIONAL USES:**

1. Codington County adopted the 2004 City of Watertown Comprehensive Land Use Plan and Amendments thereto for the Joint Jurisdictional Planning Area on June 11, 2015. (Ref: SDCL 11-6-12)
2. The City of Watertown adopted the 2012 Codington County Land Use Plan for the Joint Jurisdictional Planning Area on June 11, 2015. (Ref: SDCL 11-6-12)
3. On June 22, 2015 The City of Watertown adopted Ordinance 15-18, and Codington County adopted Ordinance 61. Each Ordinance Established identical Zoning Regulations and a Zoning Map for the City of Watertown and Codington County Area of Joint Zoning Authority. (Ref: SDCL 11-26-12.1)
4. The Joint Zoning Ordinance for Codington County and the City of Watertown establishes that one (1) County Commissioner, two (2) members of the Codington County Planning Commission and two (2) members of the Watertown Planning Commission shall act as the Board of Adjustment. The Board of Codington County Commissioners and the Watertown City Council further appoints alternates to the Joint Board in the event a Joint Board member is unable to participate in a meeting. (Ref: SDCL 11-2-49; SDCL 11-2-50; SDCL 11-4-13; SDCL 11-4-14; and Joint Zoning Ordinance (Zon. Ord.) 4.04.01.1)
5. The Joint Zoning Ordinance for Codington County and the City of Watertown has identified the Joint Board of Adjustment as the approving authority relating to conditional uses. (Ref: SDCL 11-2-13.3; SDCL 11-4-4.1 and Zon. Ord. 4.04.03.1)
6. Required public notices per South Dakota Codified Law and Joint Zoning Ordinance for Codington County and the City of Watertown have been met. (Ref: SDCL 11-2-57; SDCL 11-4-21 and Zon. Ord. 4.05.01.2 & 4.05.01.3)
7. On the date identified in the public notice a public hearing was held before the Codington County Board of Adjustment. (Ref: SDCL 11-2-57; SDCL 11-4-21 and Zon. Ord. 4.05.01.4)
8. That testimony both in support and in opposition to the request was heard.
9. The Board reviewed proponent, opponent, and staff testimony.
10. Satisfactory provision and arrangements have been made, or may be made if conditions are placed upon the operation, concerning the following (as in Section 4.05.01.6 of the Zoning Ordinance):
  - A. Entrance and exit to property and proposed structures thereon;
  - B. Off-street parking and loading areas;
  - C. Utilities, refuse, and service areas;
  - D. Screening and buffering;
  - E. Signs;
  - F. Required yards and other open space; and
  - G. General compatibility with adjacent properties and other property in the district.

11. The conditional use permit shall expire one (1) year from the date upon which it becomes effective if no construction activities have commenced, or the property is not used for the above described purpose by that time. (Ref: Zon. Ord. 4.05.01.9)
12. The findings contained herein combined with the findings of the Board contained in the motion to approve the conditional use permit serve as the Official Findings of Fact referenced in Section 4.05.01.6 and will be presented, as such to the applicant in written correspondence notifying the applicant of the decision of the Board. The zoning officer is hereby authorized to prepare and issue the conditional use permit and any letters of assurance, building permits or other items associated with said conditional use permit. All documentation described herein shall be retained at the Codington County Zoning Office.

### **ITEM #3 ADOPTION OF RULES FOR HEARINGS OF THE JOINT BOARD OF ADJUSTMENT:**

- Robert's Rules of Order will be followed when applicable.
- Prior to any testimony a motion will be made in the affirmative based upon staff recommendation as read.
- Staff will provide a report and recommendation/Public Hearing is opened
- The applicant may address the Board
- Proponents may address the Board
- Opponents may address the Board
- All comments and questions are to be directed to the Board
- The public hearing will be closed.
- The Board will discuss the item and ask questions of the applicant or audience members.
- The Board will amend any conditions or findings it deems necessary
- A roll call vote will be held – An affirmative vote of 4 members is required to rule in favor of an applicant/appellant on variances and majority of the voting members as established in Chapter 5.38 of the Joint Zoning Ordinance is required to approve conditional uses.
- The Chairman reserves the right to establish a maximum amount of time for a public hearing, and to allocate a maximum amount of time for testimony for each person wishing to testify.
- When a maximum amount of time for a public hearing is to be established, the amount of time allotted for said public hearing be based on the number of people signed up to testify before an item is taken up. The Chairman may determine whether to allow testimony by individuals who did not sign up to testify before the item was taken up.
- We ask that you silence your cell phones and if you need to have any conversations with anyone in the audience we ask that you step outside so everyone can hear the Board and other testimony.
- Anyone responsible for disruptive behavior or noise may be asked to leave the meeting.

### **ITEM #4 (3) VARIANCES**

**Applicant: Jeff Roe**

**Owner: Teresa Carlson Keegel**

**Property Description:** E321' 5" of the S676' 7" of the SW1/4 of Section 14-T117N-R52W, Codington County, South Dakota. (Elmira Township)

**Zoning Designation:** Agricultural

**Request:** Mr. Roe seeks variances from the minimum lot width, minimum lot area (by virtue of existing farmstead exemption), and maximum residential density per quarter-quarter to retain

residential building rights.

**History/Issue(s):**

1. The 5-acre property was issued a building permit for a house by the (previous) zoning officer (#1313) on the above described parcel on 10/17/95.
2. Prior to being purchased by the (owner's at the time) Carlson's the home was owned/used in conjunction with a farming operation, and had been prior to 1976.
  - a. Farmstead on adjacent (SE1/4) was also affiliated with the same farming operation prior to 1976, and was granted farmstead exemption on 5/19/14.
  - b. Jim Aesoph owns property immediately west of the above described property. He has been issued building permits on the basis of his lot being created prior to the adoption of zoning on October 26, 1976.
3. The Roe's seek to purchase the property. The Zoning Officer cannot issue the permit until the property is made legal by issuing these variances.
4. The Joint Jurisdiction Zoning Ordinance, consistent with the Codington County Zoning Ordinance does allow for variance from the 35 acre-minimum lot requirement if the lot is determined to be an existing farmstead which contains at least five acres and thereby affording building rights.
5. The parcel contains an existing farmstead as defined by the Joint Jurisdiction Zoning Ordinance.
6. Staff recommendation –**Variance to Minimum Lot Area (via Existing Farmstead Exemption), Variance to Maximum Residential Density per ¼ ¼ Section, and Variance to Minimum Lot Width**- The Board could use a single motion to approve request based upon the following findings:
  - A. The Zoning Officer in 1995 issued a permit for a house on the above described property. The issuance of the building permits conferred some sort of vested building right to this applicant. While Board of Adjustment permission was not officially granted, it is presumed that the Board based upon similar requests would have granted the request.
  - B. It should be noted that the Board grants this variance only because of the specific nature of the request and previous action by the Zoning Officer in August of 1995.
  - C. It should be noted that the Board grants this variance based upon its similarity to variances approved in the past in similar instances where the zoning officer conferred some sort of vested building rights to a lot of less than 35 acres associated with a farming operation.
  - D. The lot does contain at least five acres which meets the terms of the Ordinance.
  - E. Future similar requests will be required to meet conditions similar to this request.

**Action Item – Variances – Minimum lot size/Existing farmstead exemption (3.04.03.1), minimum lot width (3.04.03.2), residential density per quarter-quarter section (3.04.01.2).**

**ITEM #5 CONDITIONAL USE PERMIT**

**Applicant/Owner: Justin Pietz**

**Property Description:** E776.8' of the S699' of the SE1/4 of Section 28-T117N-R53W, Codington County, South Dakota. (Lake Township)

**Zoning Designation:** A - Agricultural

**Request:** Mr. Pietz seeks to use a portion of his newly permitted storage building to operate a boat repair business.

**History/Issue(s):**

Specifics of Request:

1. Mr. Pietz owns and lives at the above described nonconforming lot of record. (Formerly used as a turkey farm, and group home.)
2. On September 21, 2009 the (County) BOA granted conditional use permits to Mr. Pietz to operate a recreational equipment storage business and lawn care business out of sheds on the property.
3. Mr. Pietz no longer operates the lawn care business, but still operates the storage business.
4. Mr. Pietz has been granted building permit for an additional building to be used for storage of recreational equipment.
5. Mr. Pietz owns a portion of a boat repair business (with one employee) which he seeks to operate out of the new building.

Ordinance and Comprehensive Land Use Plan regarding this request:

1. This request addresses ONLY the proposed boat repair out of a portion of the new shed/shop.
2. The Codington County Comprehensive Land Use Plan (adopted by the City of Watertown for the Joint Jurisdiction Area) lists numerous considerations for Extended Home Occupations on pages 51-52, most of which are addressed in the zoning ordinance, others relating to policies of the Board in granting similar permits.
3. According to the Codington County Comprehensive Land Use Plan (adopted by the City of Watertown for the Joint Jurisdiction Area), Conditional Uses may only be denied if specific criteria for denying the permit can be identified.
4. There shall be no more than 3 non-related employees.
  - a. Only one unrelated employee will be affiliated with this business
5. No change to the outside appearance of the property except to allow for a 16 sq ft sign.
  - a. Grantor will utilize a sign of the maximum sign area. (Replace existing one).
6. Only off-premise signage allowed is SDDOT Tourist Oriented Direction Signs.
  - a. None proposed.
7. No retail sales allowed on site except products prepared on premise in connection with the business.
  - a. Only product sales will be items installed in order to fix recreational equipment.
8. There shall be no outdoor storage associated with the business.
  - a. The Board has allowed limited outdoor storage in certain similar instances (auto sales and repair.)
  - b. Applicant anticipates no more than 2 vehicles/boats outdoor relating to the repair business.
9. Businesses should be agriculturally related.
  - a. Comprehensive land use plan (updated after the zoning ordinance) cites the Board's ability to consider businesses which are of a similar character to other uses allowed in the agricultural district.
  - b. Recreational storage, farm repair, and auto-repair have been allowed as an extended home occupation in the Ag District.
10. Traffic should be of similar volumes as would be expected of other agricultural uses, and parking shall be accomplished outside of the required front yard.
  - a. 42<sup>nd</sup> Street is a collector street in the county and is paved to meet the needs of the present 571 ADvT.
  - b. It is not expected the business will significantly increase traffic on 42<sup>nd</sup> Street SW
11. The business should not be obnoxious to the senses to owners of property neighboring this property.
  - a. All repair will be carried out inside the new shop.
12. Compatibility of Adjacent Uses:

- a. Codington County Comprehensive Land Use Plan (adopted by the City of Watertown for the Joint Jurisdiction Area) explains General Compatibility with adjacent properties not as a justification for denial of a conditional use permit, but as justification for attaching conditions regulating the operation of a proposed use. Further ALL uses if listed as a conditional use are deemed compatible.
13. This property is located over Zone B of the Aquifer Protection District. Specific Performance Standards need to be met if the permit is to be considered valid. (See proposed conditions).

Staff Recommendation

Conditional Use Permit – **Extended Home Occupation (Boat/Recreational Vehicle Repair)**: The Board may table the request, deny the request or approve the request. If approved, the Board may use findings based upon the comprehensive land use plan, zoning ordinance and testimony heard at this meeting:

- A. Standard Findings of Fact for Conditional Uses and Variances adopted November 23, 2015.
- B. The following use is listed in the A – Agricultural Land District and Zone C of the Aquifer Protection Overlay District of the City of Watertown/Codington County Joint Jurisdiction Zoning Ordinance (Ref: SDCL 11-2-17.3):

Extended Home Occupation (Ref: Zon. Ord. 3.04.02.8).

All Conditional Uses Allowed in underlying districts, with the exception of those prohibited provided that they can meet the Performance Standards as outlined for the Aquifer Protection Overlay Zones (Ref Zon. Ord. 3.12.04.02.1)

- C. On or before November 11, 2015, Justin Pietz applied for a conditional use permit (Ref: Zon. Ord. 4.05.01.1) to operate a boat and recreational vehicle repair business as an extended home occupation on property described as:

E776.8' of the S699' of the SE1/4 of Section 28-T117N-R53W, Codington County, South Dakota.  
(Lake Township)

- D. That Extended Home Occupations (Ref: Zon. Ord. 3.04.02.8) are allowable in the A – Agricultural District under certain conditions (Ref: Zon. Ord. 5.12). Therefore the Joint Board of Adjustment finds that it is empowered under Section 3.05.02.8 of the Zoning Ordinance to grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest. (Ref: Zon. Ord. 4.05.01.5)
- E. The application is to change from one extended home occupation permit (lawn care – September 2009) to another (Ref. Zon. Ord. 5.12.2.a)
- F. The proposed extended home occupation will employ three or less non-family employees. (Ref. Zon. Ord. 5.12.2.b)
- G. No change in the outside appearance of the buildings or premises, or other visible evidence of the conduct of such home occupation other than one on-premise sign, not to exceed sixteen (16) square feet in area, non-illuminated is proposed. (Ref. Zon. Ord. 5.12.2.c)
- H. No off-premise signage is proposed in conjunction with this application (Ref. Zon. Ord. 5.12.2.d)
- I. Retail sales will be limited to only materials necessary to complete the repair of boats and other recreational equipment (Ref. Zon. Ord. 5.12.2.e)
- J. Outdoor storage will be limited in a manner similar with other extended home occupations in the Agricultural District in Codington County in the past. (Ref. Zon. Ord. 5.12.2.f)
- K. The application to operate a boat and recreational repair business as an extended home occupation is of a similar character to other uses allowed in the agricultural district. (Ref. Cod. Co Comprehensive Land Use Plan p52; Zon. Ord. 5.12.2.g)
- L. No equipment or process is proposed which would create, noise, vibration, glare, fumes, or

- odor detectable to the normal senses off the property. (Ref. Zon. Ord. 5.12.2.h)
- M. No equipment or process is proposed which would create visual or audible electrical interference in any radio or television receiver or causes fluctuation in line voltage off the property. (Ref. Zon. Ord 5.12.2.i)
- N. The findings contained herein combined with the findings of the Board contained in the motion to approve the conditional use permit serve as the Official Findings of Fact referenced in Section 4.05.01.6 and will be presented, as such to the applicant in written correspondence notifying the applicant of the decision of the Board. The zoning officer is hereby authorized to prepare and issue the conditional use permit and any letters of assurance, building permits or other items associated with said conditional use permit. All documentation described herein shall be retained at the Codington County Zoning Office.
- O. In order to comply with the requirements of Section 4.05.01.6, Section 3.12.05, and Chapter 5.12 of the City of Watertown/Codington County Joint Jurisdiction Zoning Ordinance, the Joint Board of Adjustment prescribes the following conditions and safeguards in conformity with the Joint Jurisdiction Area Comprehensive Land Use Plans and Zoning Ordinance (Zon. Ord. 4.05.01.7) to be agreed to in the form of a "Letter of Assurance" (Ref. Zon. Ord. 4.05.01.10):
- 1) Individuals engaged in such occupation shall consist of family members residing on the premises and up to three (3) non-family employees.
  - 2) Repair work is to be performed inside where possible.
  - 3) Up to 3 vehicles to be repaired or that have been repaired may be stored outside.
  - 4) No vehicles for sale may be stored outside at any time.
  - 5) If complaints are substantiated regarding the outdoor storage of vehicles that have been or will be repaired the Board may require all storage to be inside or screened from view of the right-of-way by means of a fence or tree planting.
  - 6) No junk or salvage materials may be stored on site.
  - 7) Off-premise signage associated with the extended home occupation will be limited to South Dakota Department of Transportation (SDDOT) commercial, directional signs, also known as "Blue Signs".
  - 8) There shall be no change in the outside appearance of the buildings or premises, or other visible evidence of the conduct of such home occupation other than one on-premise sign. On-premise signage may be permitted by the Zoning Officer subject to the following:
    - a) A maximum of 16 square feet of sign area will be allowed.
    - b) Sign will be non-illuminated.
  - 9) Noxious weeds shall be controlled.
  - 10) No traffic shall be generated by such extended home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need of parking generated by the conduct of such extended home occupation shall be provided off the street and other than in a required front yard.
  - 11) No equipment or process shall be used in such extended home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
  - 12) Storage of petroleum products in quantities exceeding one hundred (100) gallons at one (1) locality in one (1) tank or series of tanks must be in elevated tanks; such tanks larger than eleven hundred (1,100) gallons must have a secondary containment system

- 13) The applicant shall meet all State and Federal standards for storage, handling and disposal of all other potentially hazardous waste materials.
- 14) The Conditional Use permit for the extended home occupation is not transferable. Subsequent owners/operators will be required to obtain a conditional use permit.
- 15) Any failure to comply with the terms of this agreement will be deemed a violation of the terms of this Conditional Use permit. Violations will be determined by the Codington County Zoning Officer. If violations are substantiated the Board of Adjustment may hold a hearing to consider revocation of this Conditional Use Permit.

**Action Items: Conditional Use – Extended Home Occupation (3.04.02.8)**