

Planning Conditions of Approval

Commission Meeting Date: February 7, 2023

ITEMS FROM PLANNING & ZONING

BOARD OF ADJUSTMENT: (Requires a super majority vote (4 affirmative))

- a. **VARIANCE / VA 23-01: Barry and Judy Bauer.** To reduce the rear yard setback to construct a detached garage in a Rural Residential District in accordance with Sections 207 and 509 of the Pennington County Zoning Ordinance.

Lot L, Brechtel #1 Subdivision, Section 34, T1S, R5E, BHM, Pennington County, South Dakota.

MOVED by Hadcock and seconded by Rossknecht to approve VA 23-01 with two (2) conditions because of the topography and there are no objections from the neighbors. Vote: Unanimous.

1. That this Variance only applies for the portion of the north property line setback requirements that will be encroached upon by construction of the proposed detached garage; and,
2. That the applicant obtains an approved Building Permit, prior to construction, and adheres to any building inspection requirements.

CONTESTED HEARINGS:

- d. **ROAD CONSTRUCTION WITHIN A SECTION LINE RIGHT-OF-WAY / CS 23-01: Brian Deschaine.** To construct 745 feet of road within the Section Line Right-of-Way between Sections 13 and 14, T1N, R9E to provide access to property located in Section 13, T1N, R9E, BHM, Pennington County, South Dakota.

MOVED by Hadcock and seconded by Lasseter to approve CS 23-01 with eight (8) conditions. Vote: Unanimous.

1. That the roadway located within the Section Line Right-of-Way be improved to meet all requirements of Pennington County Ordinance #14 (which includes submittal of engineered road construction plans) or a request to waive these requirements be approved by the Board of Commissioners;
2. That if the amount of disturbed area exceeds one (1) acre, a Department of Agriculture and Natural Resource's Storm Water Construction Permit be obtained;
3. That the requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual, or equivalent, shall be followed during construction;

4. That dust control measures be implemented to prevent dust from leaving the site and impacting the adjacent properties;
5. That if culverts are installed, the design is submitted to the County Drainage Engineer for review prior to installation;
6. That any disturbed areas shall be stabilized and re-vegetated as required in §507(A) of the Pennington County Zoning Ordinance;
7. That any monuments establishing property boundaries be replaced as necessary, if disturbed by construction of the road; and
8. That the applicants obtain an approved Approach Permits from County Highway.

e. **(HIGHWAY) EXCEPTION REQUEST TO ORDINANCE 14 / ER 01-18-23-1: Brian Deschaine.**

MOVED by Hadcock and seconded by Lasseter to approve ER 01-18-23-1 with four (4) conditions. Vote: Unanimous.

1. Road width will be no less than 20' with 6" of gravel surfacing.
2. Ditches will be built to Ordinance 14 specifications regardless of road width.
3. The size and location of all cross culverts will be approved by the Highway Department.
4. Bring back a resolution declaring 153rd Avenue as a no Maintenance Road.

f. **ROAD CONSTRUCTION WITHIN A SECTION LINE RIGHT-OF-WAY / CS 23-02: Brian Deschaine.** To construct 720 feet of road within the Section Line Right-of-Way between Sections 13 and 24, T1N, R9E to provide access to property located in Section 13, T1N, R9E, BHM, Pennington County, South Dakota.

MOVED by Rossknecht and seconded by Lasseter to approve CS 23-02 with eight (8) conditions. Vote: Unanimous.

1. That the roadway located within the Section Line Right-of-Way be improved to meet all requirements of Pennington County Ordinance #14 (which includes submittal of engineered road construction plans) or a request to waive these requirements be approved by the Board of Commissioners;
2. That if the amount of disturbed area exceeds one (1) acre, a Department of Agriculture and Natural Resource's Storm Water Construction Permit be obtained;
3. That the requirements, guidelines, and criteria for storm water and erosion control in the Pennington County Storm Water Manual, or equivalent, shall be followed during construction;
4. That dust control measures be implemented to prevent dust from leaving the site and impacting the adjacent properties;
5. That if culverts are installed, the design is submitted to the County Drainage Engineer for review prior to installation;

6. That any disturbed areas shall be stabilized and re-vegetated as required in §507(A) of the Pennington County Zoning Ordinance;
7. That any monuments establishing property boundaries be replaced as necessary, if disturbed by construction of the road; and
8. That the applicants obtain an approved Approach Permits from County Highway.

h. **PUBLIC HEARING OF PLANNED UNIT DEVELOPMENT OVERLAY / PU 22-17: David Allard.**

To allow a Planned Unit Development Overlay for a mixed-use structure, a mobile home park, and a multiple-family dwelling in a Commercial District in accordance with Sections 211, 216, 303, 304 and 305 of the Pennington County Zoning Ordinance.

Lot 1 of Lot D of SW1/4SE1/4 and RR Right-of-Way Across Lot 1, Subdivision of Section 31, 2N-6E, Section 31, T2N, R6E, BHM, Pennington County, South Dakota.

MOVED by Rossknecht and seconded by Hadcock to approve PU 22-17 with sixteen (16) conditions. Vote: Unanimous.

1. That the mobile home park has a maximum of seven mobile home spaces, one mixed-use structure, and one multiple family dwelling;
2. That an approved Floodplain Development Permit be obtained prior to any disturbance or placement of structures within the boundaries of the Special Flood Hazard Area or Floodway;
3. That this Planned Unit Development Overlay be amended prior to any expansion of uses or the addition of any single-wide mobile homes exceeding the maximum allowed spaces;
4. That the address (12350 W Highway 44) be clearly posted at the driveway so it is visible from both directions of travel on Highway 44, in accordance with Pennington County Ordinance #20;
5. That within 6 months the applicant works with Staff to assign addresses/lot numbers to all mobile homes, rental units, and the commercial office;
6. That within 6 months the applicant permanently finishes the partition wall separating the commercial office from the stick-built living quarters;
7. That within 6 months the applicant applies for a Building Permit for the recently finished space within the mixed-use structure and pays any associated penalty fees;
8. That an approved Building Permit be obtained for any structure(s) exceeding 144 square feet or permanently anchored to the ground;
9. That the multiple-family dwelling meet the requirements of Pennington County Zoning Ordinance (PCZO) § 303;
10. That all mobile homes meet the requirements of PCZO § 304;
11. That the mobile home park meets the requirements of PCZO § 305;

12. That no accessory structure, of any size, shall be used for sleeping, rental, living, vacation home rental, or the like without first amending this Planned Unit Development Overlay;
13. That the subject property remains free of debris and junk vehicles;
14. That the maximum number of people living on the subject property be limited to 24, unless the onsite wastewater treatment system (OSWTS) is upgraded, permitted, and approved by the State and County;
15. That State and County approval be required if any changes are made to the existing OSWTS, the system causes groundwater pollution, or wastewater from the system surfaces; and,
16. That this Planned Unit Development Overlay be reviewed in six (6) months, on a complaint basis, or as deemed necessary by the Pennington County Planning Commission or Board of Commissioners to verify that all Conditions of Approval are being met.