

**Wagner Planning and Zoning Commission Meeting**  
**Monday, September 18<sup>th</sup>, 2014**  
**Wagner City Hall**  
**12:00PM**

Meeting called to order at 12:08 pm.

Members stood and recited the Pledge of Allegiance.

Members Present: Dale Petrik, Jean Pirner John Greger Vern Twitero and Chad Peters.  
Others present: Becky Brunsing, Finance Officer, City Attorney, Ken Cotton, Angie Fousek and Jim Reinbold. Absent: None.

A motion was made by Petrik, second by Pirner to approve the agenda. All voted aye, motion carried.

The Commission considered the application of Fousek Grain LLC for a setback variance of a proposed grain bin and a height variance for the proposed grain bin, located on lots 1 & 2, Block 23, 4<sup>th</sup> Addition, City of Wagner, South Dakota.

Mr. Fousek would like a variance of 0 feet from the 20 foot setback for a proposed bin. He also is requesting a 65' height variance for the grain bin.

Discussion followed. Mr. Reinbold is concerned about the fence issue. He stated that the fence catches trash and keeps it from blowing east. There is also the question of whether Francis Doom owns the property that the fence is on. Mr. Cotton is currently checking into this with the County GIS Department and the County Registrar of Deeds.

It was also discussed that there was not a permit filed for the replacement of the bin that was replaced. Mr. Cotton told him that by mistake that one was not obtained. Mr. Cotton also stated that the rezoning action is meant to bring total site into compliance with Wagner Zoning Ordinances.

Mr. Reinbold wanted to hear the conditions. Peters read out loud the conditions. Mr. Reinbold wanted to make sure that the fence was discussed at the public meeting and first reading of the rezoning ordinance on September 29<sup>th</sup>, 2014.

Twitero stated that he was concerned that a precedent was being set and a 0 foot setback for a structure of that size would not be adequate.

There being no further discussion, a motion was made by Petrik, second by Pirner, to recommend the variance be granted for a 0 foot from the 20 foot setback for the proposed bin and a 65' height variance for the proposed grain bin subject to the same conditions as the

proposed rezoning ordinance changing the use of the property from Residential (R-1) to Highway Commercial HC. The conditions are as follows:

1. No on ground storage of grain shall be allowed on the property.
2. No chemicals, fertilizers or equipment shall be stored or allowed on the property. Grain handling equipment may only be on the property during those times of the year that grain is being harvested and those times of year when grain is being marketed.
3. That six (6) grain bins are the maximum number of bins that shall ever occupy the above described real property.
4. No abandoned or unusable grain handling, or any other equipment of any kind or type, shall be allowed upon the property.
5. No rubble or refuse of any kind or type shall be allowed upon the property at any time.
6. No spilled or rotting grain shall be allowed on the property. All grain stored on the property must be inside one of the six (6) bins allowed on the property.
7. No parking of grain or truck equipment shall be parked on any neighboring properties without permission from the owner of said adjoining property or properties.
8. All setbacks required by Highway Commercial category must be meant at all times.
9. The bin footing and floor frame in the northwest corner of the property will be removed and no bin will be constructed where that bin footing and floor frame was originally laid out.
10. The property is to only be used now and in the future exclusively and only for grain in-bin storage.
11. Sam Fousek and Angie Fousek, d/b/a Fousek grain are hereby allowed to construct the grain leg up to the replacement bin that has been constructed prior to this zoning change for use in the 2014 harvest season, subject to Sam Fousek and Angie Fousek, d/b/a Fousek Grain granting onto the City of Wagner an Indemnification and Hold Harmless Agreement acceptable to the City of Wagner releasing the City of Wagner from any and all liability for the cost of said grain leg and its installation in the event Fousek's would put up the grain leg and for any reason the rezoning of the property does not occur.

12. The City of Wagner shall have all enforcement powers over this rezoned real property, and the conditions set forth herein, given to the City of Wagner by this ordinance, the Wagner Municipal Code, and any and all other state and federal laws.

13. Must meet all Federal Aviation Administration (FAA) or SD Aeronautical (DOT) requirements in regards to the height of the grain bin and the height of the grain leg.

Petrik, Pirner, Greger and Peters voted aye, Twitero voted nay, motion carried. The Board of Adjustments meeting is scheduled for Monday, October 6<sup>th</sup>, 2014 at 7:00 pm at City Hall.

A motion was made by Greger, second by Pirner to as adjourned at 12:43 pm.

Respectfully submitted,

Ken Cotton  
City Attorney

Rebecca Brunsing  
Finance Officer