

## **MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council convened at 5:30 p.m. on April 21<sup>st</sup>, 2014 as the Board of Adjustment. Present were, Mayor, Don Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Ron Cuka, Merle Bartunek, Tom Beeson, and Todd Johannsen. Absent: Ron Fredrich and Roger Schroeder.

The meeting opened with the Pledge of Allegiance.

The Mayor called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the Planning and Zoning Commission from the March 31<sup>st</sup>, 2014 zoning meeting. A motion was made by Johannsen, second by Bartunek to approve the agenda. All voted aye, motion carried.

The Planning and Zoning Commission has recommended a variance application be allowed of Rich & Gina Dufur for property located at 200 5<sup>th</sup> Street SW described as Lots 10 and 11, Block 25, Milwaukee 4<sup>th</sup> Addition, City of Wagner, Charles Mix County, South Dakota. The board reviewed the zoning variance request and recommendations of the Zoning Commission. The request explained that there needed to be a setback adjustment per the application for a new addition that the Dufur's want to add to the south side of their house. The variance request is for two feet. So instead of the 33 foot setback, the setback would be 31 feet. Discussion followed. A motion was made by Beeson, second by Bartunek to approve the recommendation for the variance request for Rich and Gina Dufur. All voted aye, motion carried.

The Planning and Zoning Commission has recommended a variance application for the City of Wagner for property located at 408 Main Avenue SE described as S ½ of Lot 17, Lot 16, Block 27, Milwaukee 4<sup>th</sup> Addition, City of Wagner, Charles Mix County, South Dakota. The board reviewed the zoning variance request and recommendations of the Zoning Commission. The city has sold this portion of property to Bill Hartley. Part of the sale agreement was for the city to install a fence that would run across the property approximately from the Yankton Sioux Housing Authority to the City of Wagner's tan shed the south. The city is requesting setback variance of five feet from the commercial zoning requirements. The setback is required so it would proportionally line up with the two existing buildings in an esthetic manner. Mr. Ken Cotton informed the zoning board that the fence would be steel and that one would not be able to see/view what was behind the fence. General discussion followed. Additionally the City is requesting a variance for the height of the fence of ten feet instead of eight feet. The applicant feels that this height is required to shield the view of vehicle salvage and also deter individuals that might be exposed to car fluids and salvaged vehicles that may pose to be harmful. Discussion followed. A motion was made by Bartunek, second by Beeson to approve the recommendations for the variance request for the City of Wagner. All voted aye, motion carried.

The Planning and Zoning Commission has recommended a conditional use application for Colby and Halie Kirwan for property that consists of a 12' X 18' shed, located at 11 Grant Avenue SE described as Lots 1 and 2, ex Lot H-1 of Lot 1, Block 15, Milwaukee 2<sup>nd</sup> Addition,

City of Wagner, Charles Mix County, South Dakota. Mr. Kirwan would like take the shed and make it into an office where he would have landscaping samples and designs set up and customers could come and view them. The board reviewed the zoning variance request and recommendations of the Zoning Commission. Discussion followed. A motion was made by Johannsen, second by Cuka to approve the recommendations of the zoning commission for the conditional use permit for Colby and Halie Kirwan. All voted aye, motion carried.

A motion was made by Johannsen, second by Bartunek to adjourn the Board of Adjustment at 5:45 pm. All voted aye, motion carried.

APPROVED \_\_\_\_\_  
Don Hosek, Mayor

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

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**MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council convened at 6:52 p.m. on May 19<sup>th</sup>, 2014 as the Board of Adjustment. Present were, Mayor, Don Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Ron Cuka, Merle Bartunek, Tom Beeson, Ron Fredrich, Roger Schroeder and Todd Johannsen. Absent: None.

The meeting opened with the Pledge of Allegiance.

The Mayor called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the Planning and Zoning Commission from the April 28<sup>th</sup>, 2014 zoning meeting. A motion was made by Johannsen, second by Schroeder to approve the agenda. All voted aye, motion carried.

The first recommendation was for rezoning a property for Anjelic Properties, LLC for property located at 518 W SD Hwy 46 described as Lot 2, Anjelic Addition, City of Wagner, Charles Mix County, South Dakota. The property is currently zoned commercial for the Sleepy Pine Motel and the owner requested that it be rezoned to R-3, Multi-Family Residential District. The property owner's intent is to sell the property and the new owners would like to take the 12 unit motel and turn it into a 6 units of apartments to include one, two and three bedroom apartments. The apartment complex will also include a small laundry facility for its residents. The board of adjustments reviewed the recommendation of the Planning and Zoning Commission. Discussion followed. A motion was made by Cuka, seconded by Beeson, to approve the recommendation of the Planning and Zoning Commission and rezoning the property from Commercial to R-3 Multi-Family Residential District. All voted aye, motion carried.

The second recommendation was for a conditional use application for Michael Harford, located at 210 High Avenue NW described as Lot 12, Block 10, LaShier's Addition, City of Wagner, Charles Mix County, South Dakota. Mr. Harford would like a conditional use permit to sell custom made firearms. Mr. Harford has applied for a federal firearm permit, gone through the application process and has been approved. The board of adjustments reviewed the recommendation of the Planning and Zoning Commission. Discussion followed. A motion was made by Johannsen, second by Schroeder to approve the recommendations of the Planning and Zoning Commission and allow the conditional use permit for Michael Harford to sell custom made firearms. All voted aye, motion carried.

A motion was made by Beeson, second by Fredrich to adjourn the Board of Adjustment at 6:59 pm. All voted aye, motion carried.

APPROVED \_\_\_\_\_  
Don Hosek, Mayor

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

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## **MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council convened at 5:30 p.m. on June 9<sup>th</sup>, 2014 as the Board of Adjustment. Present were, Mayor, Don Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Ron Cuka, Merle Bartunek, Tom Beeson, Ron Fredrich, Roger Schroeder and Todd Johannsen. Absent: None.

The meeting opened with the Pledge of Allegiance.

The Mayor called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the Planning and Zoning Commission from the May 19<sup>th</sup>, 2014 zoning meeting. A motion was made by Johannsen, second by Bartunek to approve the agenda. All voted aye, motion carried.

The first recommendation was for a zoning variance for Nicole Weber, located at 201 Front Avenue NE described as S ½ of Lot 11 & 12, Block 4, Grimes & Absner Addition, City of Wagner, Charles Mix County, South Dakota. Ms. Weber would like to put in a chain link fence for her daycare children. If placed according to zoning requirement for a corner lot, she would not have adequate room for the children to play. She is requesting a six foot variance on the east side of her house or 17 feet from the curb, which faces Front Avenue NE and an eight foot variance on the south side or 15 feet from the curb which faces South Park Street NE. The planning and zoning board recommendation is to allow the variance for the fence. Discussion followed. A motion was made by Beeson, second by Schroeder to approve the recommendation of the planning and zoning board and allow the zoning variance for Nicole Weber. All voted aye, motion carried.

The second recommendation was for rezoning a property for Foster Construction located at 302 2<sup>nd</sup> Street SE described as Lot 7 & 8, Block 13, Milwaukee Second Addition, City of Wagner, Charles Mix County, South Dakota. The board reviewed the rezoning request made by Foster Construction. The property is currently zoned commercial for Foster Construction and the owner is requesting that it be rezoned to R-1, Single-Family Residential District. The property owner's intent is to sell the property to his brother, and he will be remodeling the inside of the building to make a home for his wife and children. The recommendation of the planning and zoning board was to allow the rezoning of the property subject to the following conditions:

1. Building will be inspected by appropriate fire, electrical and plumbing officials.
2. Remodeling will begin within six months and be completed in 2 years from the date of the building permit.
3. Property will be cleaned up of all construction materials once the Board of Adjustments final decision is made.
4. Lawn be kept up; free of noxious weeds, volunteer trees, debris, etc.
5. Sidewalk on the south side of building is repaired.

Discussion followed. A motion was made by Schroeder, second by Cuka to approve the recommendation of the planning and zoning board with the above stated conditions and approve the rezoning of the property. All voted aye, motion carried.

A motion was made by Fredrich, second by Beeson to adjourn the Board of Adjustment at 5:45 pm. All voted aye, motion carried.

APPROVED \_\_\_\_\_  
Don Hosek, Mayor

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

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## **MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council reconvened at 6:25 p.m. on September 29<sup>th</sup>, 2014 as the Board of Adjustment. Present were, Mayor, Don Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Ron Cuka, Merle Bartunek, Tom Beeson, Ron Fredrich, Roger Schroeder and Todd Johannsen. Absent: None.

The Mayor called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the Planning and Zoning Commission from the September 8<sup>th</sup>, and September 15<sup>th</sup>, 2014 planning and zoning meeting. A motion was made by Johannsen, second by Schroeder to approve the agenda. All voted aye, motion carried.

This being the time and place for the published public hearing, the Mayor opened the public hearing for a variance request on Lots 2 and 3, Block 9, Cihlars Addition, Wagner, SD. No parties were present to speak in favor or against the request.

The first recommendation was for a zoning variance for Paul Foster. Mr. Foster submitted a building permit for a 90' X 48' X 14' steel shed to be placed on Lots 2 & 3. The building permit was denied because under the R-1 district, it did not meet the measurement requirements as per definition of a garage which shall not be larger than seventy-five (75) percent of the area of the largest floor of the principal building. Also, the garage/shed size exceeds the size allowed for one lot. Additionally, a garage/shed cannot be placed on an empty lot as there needs to be a principal use, such as a home present to have an accessory use, such as a garage/shed. The planning and zoning commission recommended the variance be granted to build the shed on lots 2 & 3 subject to the following conditions:

1. Everything be stored inside the large shed;
2. White building to be removed from the property;
3. Smiley face shed to be relocated to concrete pad behind trailer house, but must be at least 20' off alley right-of-way line;
4. All five lots to be tied together by restrictive deed or replatted into one tract;
5. Once trailer is moved off of property it will not be allowed to be replaced with another one.
6. Trim trees in the alley.

There being no further comments on the matter, a motion was made by Beeson, second by Fredrich to close the public hearing. All voted aye, motion carried.

Discussion followed. The general concern by the board of adjustments was the size of the shed in a residential area. A motion was made by Schroeder, second by Johannsen to deny the variance based on the proposed structure being four times what is allowed by zoning ordinance, citing it is too big for the residential area. All voted aye, motion carried.

This being the time and place for the published public hearing, the Mayor opened the public hearing for a variance request on Lots 1 & 2, Block 23, 4<sup>th</sup> Addition, Wagner, SD, allowing for

a setback variance of an existing bin, and a height variance for the existing bin and a height variance for a grain leg that serves the existing bin.

The Planning and Zoning recommended that the variance be granted for 8 feet from the 20 foot setback for an existing bin. They also recommended that a 65' height variance for the grain bin and a 100 foot height variance for the grain leg be granted subject to the following 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 met 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.

There being no further comments on the variance application, a motion was made by Schroeder, second by Beeson to close the public hearing. All voted aye, motion carried.

Discussion followed. A motion was made by Schroeder, second by Beeson to approve the recommendation of the planning and zoning commission; and approve a variance of 8 feet, no closer than 12 feet from the right-a-way line for the existing bin. Also approve that a 65' height variance for the existing grain bin and a 100 foot height variance for the grain leg and that this be subject to the following conditions as the proposed in the rezoning ordinance changing the use of the property from Residential (R-1) to Highway Commercial HC. All voted aye, motion carried.

A motion was made by Schroeder, second by Johannsen to adjourn the Board of Adjustment at 6:45 pm. All voted aye, motion carried.

APPROVED \_\_\_\_\_  
Don Hosek, Mayor

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

Published once at the approximate cost of: \_\_\_\_\_.

## **MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council convened at 7:00 p.m. on October 6<sup>th</sup>, 2014 as the Board of Adjustment. Present were, Mayor, Don Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Ron Cuka, Merle Bartunek, Tom Beeson, Ron Fredrich, Roger Schroeder and Todd Johannsen. Absent: None. Also present: Brian McGinnis from Planning and Development District III.

The Mayor called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the Planning and Zoning Commission from the September 18<sup>th</sup>, 2014 planning and zoning meeting. A motion was made by Schroeder, second by Johannsen to approve the agenda. All voted aye, motion carried.

This being the time and place for the published public hearing, the Mayor opened the public hearing for a variance request on Lots 1 and 2, Block 23, 4<sup>th</sup> Addition, Wagner, SD. allowing for a setback variance of a proposed grain bin, and a height variance for the proposed bin. Sam and Angie Fousek were present concerning the application.

The Planning and Zoning recommended that the variance be granted for 0 feet from the 20 foot setback for a proposed grain bin. They also recommended that a 65' height variance for the grain bin subject to the following 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. That Fousek's shall construct a fence along the western edge of their property, which shall meet city approval before construction, which said fence shall be in the same location of the existing fence on Fousek's property, which said fence shall be of break-a-way rail road ties or metal posts, strung with metal chains or cable, posts to be no more than 16.5 feet apart, and said posts and chains shall have permanent reflective tape, or the like, so as to draw the attention of the walking or driving public to the location of said fence.

13. That Fousek's shall immediately contact Bob Babcock, PE, of Helm's & Associates Engineering, Aberdeen, SD for the purpose of relating to Bob Babcock, PE the diameter of all bins on the bin site property, the height of all bins on the said property, and the height of all grain legs on the said property, and shall do all that is necessary to comply with all regulations of the Federal Aviation Administration and the SD DOT Division of Aeronautics in regard to proper lighting on those structures requiring same.

14. 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.

There being no further comments on the variance application, a motion was made by Johannsen, second by Schroeder to close the public hearing. All voted aye, motion carried.

Discussion followed. A motion was made by Beeson, second by Cuka to approve the recommendation of the planning and zoning commission; and approve a variance of 0 foot, also approving that a 65' height variance for the proposed grain bin, both subject to the following conditions as the proposed in the rezoning ordinance changing the use of the property from Residential (R-1) to Highway Commercial HC as listed above. Five voted aye, Bartunek voted nay, motion carried.

A motion was made by Fredrich, second by Schroeder to adjourn the Board of Adjustment meeting at 7:05 pm. All voted aye, motion carried.

APPROVED \_\_\_\_\_  
Don Hosek, Mayor

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

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**MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council convened at 7:00 p.m. on May 18<sup>th</sup>, 2015 as the Board of Adjustment. Present were, Mayor, Don Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Ron Cuka, Merle Bartunek, Tom Beeson, Roger Schroeder and Todd Johannsen. Absent: Ron Fredrich.

The meeting opened with the Pledge of Allegiance.

The Mayor called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the Planning and Zoning Commission from the April 30<sup>th</sup>, 2015 zoning meeting. A motion was made by Bartunek, second by Cuka to approve the agenda. All voted aye, motion carried.

The Board of Adjustments reviewed the recommendation of the Planning and Zoning Commission on the application of Shining Star Academy, for a setback variance of four foot for a 16' X 24' addition to the daycare located on lots 10, 11 & 12, Block 8, Grimes and Abshers Addition, City of Wagner, South Dakota.

Dorothy Spease and CJ McNinch are requesting a four foot variance for the addition so it will match with the existing house. Constructing the addition to the correct setbacks would cause all the windows to be covered. Constructing the addition with the four foot setback will also match to the existing roofline.

Discussion followed. A motion was made Johannsen, second by Beeson to approve the variance as requested, allowing a four foot variance for the addition. All voted aye, motion carried.

A motion was made by Schroeder, second by Johannsen to adjourn the Board of Adjustment at 7:05 pm. All voted aye, motion carried.

APPROVED \_\_\_\_\_  
Don Hosek, Mayor

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

Published once at the approximate cost of \_\_\_\_\_

**MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council convened at 7:00 p.m. on July 6<sup>th</sup>, 2015 as the Board of Adjustment. Present were, Mayor, Don Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Ron Cuka, Merle Bartunek, Tom Beeson, and Todd Johannsen. Absent: Ron Fredrich and Roger Schroeder.

The meeting opened with the Pledge of Allegiance.

The Mayor called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the Planning and Zoning Commission from the June 15<sup>th</sup>, 2015 zoning meeting. A motion was made by Beeson, second by Bartunek to approve the agenda. All voted aye, motion carried.

The Board of Adjustments reviewed the recommendation of the Planning and Zoning Commission on the application of Casey's General Store for a setback variance of a small rectangular portion of a proposed 21' X 6'8" X 8'8" cooler/freezer addition to the rear of the Casey's building located on that portion of the South 350' of the West 258' of the SW<sup>1</sup>/<sub>4</sub> of the SE<sup>1</sup>/<sub>4</sub> of the SW<sup>1</sup>/<sub>4</sub>, lying northeasterly of the abandoned railroad right of way, except Lot H1 thereof and including a portion of Lot AB thereof, all in Section 33, Township 96 North, Range 63 West of the 5<sup>th</sup> Principal Meridian, Charles Mix County, South Dakota. The Planning and Zoning commission approved the variance.

Discussion followed. Bartunek noted that the application and planning and zoning minutes reflected that the depth of the addition was 8'6" but the map attached cited the depth as being 6'8". It is also noted that the property owner's 1 inch water service line will be directly under this addition. Any issues with the water line are the property owner's sole responsibility. A letter from Northwestern Energy was also obtained citing that there would be no encroachment on Northwestern Energy's utility easement on the Casey's property. A motion was made by Johannsen, second by Cuka to approve the variance as requested, allowing the variance for the addition, contingent upon the confirmation of the depth of addition being 6'8". All voted aye, motion carried. Upon contacting Galen Karas, Construction Supervisor for Casey's General Stores, he confirmed he made an error on the application and the depth of the cooler is 6'8".

A motion was made by Johannsen, second by Cuka to adjourn the Board of Adjustment at 7:10 pm. All voted aye, motion carried.

APPROVED \_\_\_\_\_  
Don Hosek, Mayor

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

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**MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council convened at 5:30 p.m. on May 23<sup>rd</sup>, 2016 as the Board of Adjustment. Present were, Mayor, Don Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Ron Cuka, Scott Honomichl, Tom Beeson, Ron Fredrich, Roger Schroeder and Todd Johannsen. Absent: None.

The meeting opened with the Pledge of Allegiance.

The Mayor called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the Planning and Zoning Commission from the May 2<sup>nd</sup>, 2016 Planning and Zoning meeting. A motion was made by Beeson, second by Fredrich to approve the agenda. All voted aye, motion carried.

The Board of Adjustments reviewed the recommendation of the Planning and Zoning Commission on the application of Sharon J. Haar for a conditional use for property located at 619 SE 1<sup>st</sup> Street and 621 SE 1<sup>st</sup> Street described as West 200' of Lot F, Hicks Addition, City of Wagner, Charles Mix County, South Dakota. The Planning and Zoning Commission recommended that the conditional use be allowed.

The Mayor opened the public meeting and asked for comments. Sharon J. Haar explained that she purchased a governors house and wants to place it on property that is currently zoned Highway Commercial. Single family homes are listed as a conditional use for highway commercial district. Mrs. Haar owns the home also, located at 619 SE 1<sup>st</sup> Street. The house was there prior to zoning being put in place. Mrs. Haar would like to have a conditional for 619 and 621 SE 1<sup>st</sup> Street. Discussion followed.

The Mayor closed the public hearing. A motion was made Fredrich, second by Johannsen to approve the conditional use as requested, allowing the house to be placed in a Highway Commercial zoning district. All voted aye, motion carried.

A motion was made by Schroeder, second by Johannsen to adjourn the Board of Adjustment at 5:37 pm. All voted aye, motion carried.

APPROVED \_\_\_\_\_  
Don Hosek, Mayor

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

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"This Institution Is An Equal Opportunity Provider."

**MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council convened at 7:00 p.m. on July 5<sup>th</sup>, 2016 as the Board of Adjustment. Present were, Mayor, Don Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Ron Cuka, Scott Honomichl, Tom Beeson, Ron Fredrich, Roger Schroeder and Todd Johannsen. Absent: None.

The meeting opened with the Pledge of Allegiance.

The Mayor called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the Planning and Zoning Commission from the June 20<sup>th</sup>, 2016 Planning and Zoning meeting and to hold a public hearing on the matter. A motion was made by Beeson, second by Schroeder to approve the agenda. All voted aye, motion carried.

Mrs. Kirwan has recently started her home day care business, Little Clovers Daycare. Since there is no fence, they would like to install one, so the children have a safe play environment. Since the fence will be chain link, and easier to climb, they are requesting an additional foot variance for the fence, so it could be five feet instead of the required four foot height. Since the fence would start approximately 16 inches above the prevailing grade of the side walk because of a retaining wall, the total variance would be an additional 28 inches from the level of the sidewalk. Because it will be chain link, visibility should not be an issue for drivers on the highway. They also requested a variance of 0 (zero) feet from the 10 foot required setback. If they were to place it at the required 10 foot requirement, the fenced in yard would be very small.

The Planning and Zoning Commission recommended that the two variances be granted.

Discussion followed. The Mayor closed the public hearing. A motion was made Cuka, second by Honomichl to approve the two variances as requested. All voted aye, motion carried.

A motion was made by Fredrich, second by Johannsen to adjourn the Board of Adjustment at 7:07 pm. All voted aye, motion carried.

APPROVED \_\_\_\_\_

Don Hosek, Mayor

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

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**MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council convened at 5:30 p.m. on October 13<sup>th</sup>, 2016 as the Board of Adjustment. Present were, Mayor, Don Hosek, Finance Officer, Rebecca Brunsing, and the following councilmen: Ron Cuka, Scott Honomichl, Tom Beeson, Roger Schroeder and Todd Johannsen. Absent: Ron Fredrich and Ken Cotton.

The meeting opened with the Pledge of Allegiance.

The Mayor called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the Planning and Zoning Commission from the September 26<sup>th</sup>, 2016 Planning and Zoning meeting and to hold a public hearing on each application. A motion was made by Beeson, second by Schroeder to approve the agenda. All voted aye, motion carried.

The first order of business is the application of Tom and Linda Soukup for a conditional use on property located at the east ½ of Lot 5, of Wagner Country Estates Addition, City of Wagner, Charles Mix County, South Dakota. Mr. and Mrs. Soukup would like to build a garage on an empty lot. This use is listed as a conditional use in the Wagner Zoning Code. Discussion followed. The Planning & Zoning Commission recommends approving the conditional use. There being no further comments, the Mayor closed the public meeting. A motion was made by Johannsen, second by Schroeder to approve the recommendation of the conditional use for the garage. All voted aye, motion carried.

The Mayor moved to the next order of business, a public hearing for a variance application of Antonia Humphrey located at Lot One (1) and the West 60 feet of the North Half of the West Half of the East Half (W60' of N1/2 of W1/2 of E1/2), of Block One (1), in the town of East Wagner, (being within the corporate limits of the City of Wagner), in Charles Mix County, South Dakota, according to the recorded plat thereof; and, East 58 feet of Lot Two (2), of Block One (1), in the town of East Wagner (being within the corporate limits of the City of Wagner), Charles Mix County, South Dakota.

Mrs. Humphrey would like a variance for the height of the fence from the required four feet to five feet. This is mainly to keep their dog in the yard. The fence will be chain link, so there is no issue with safety. Discussion followed. The Planning & Zoning Commission recommends approving the variance application. There being no further comments, the Mayor closed the public meeting. A motion was made by Johannsen, second Cuka to approve the variance for the fence from four feet to five feet. All voted aye, motion carried.

A motion was made by Johannsen, second by Honomichl to adjourn the Board of Adjustment at 5:44 pm. All voted aye, motion carried.

APPROVED \_\_\_\_\_

Don Hosek, Mayor

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

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**MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council convened at 5:30 p.m. on May 22<sup>nd</sup>, 2017 as the Board of Adjustment. Present were, Mayor, Don Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Ron Cuka, Scott Honomichl, Tom Beeson, Ron Fredrich, Roger Schroeder and Dale Petrik. Absent: None.

The meeting opened with the Pledge of Allegiance.

The conflict of interest declaration statement was recited. No conflict was cited.

The Mayor called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the Planning and Zoning Commission from the May 1<sup>st</sup>, 2017 Planning and Zoning meeting. A motion was made by Fredrich, second by Honomichl to approve the agenda. All voted aye, motion carried.

It is noted that for Board of Adjustment actions the Mayor votes.

The Board of Adjustments reviewed the recommendation of the Planning and Zoning Commission on the conditional use application of Dave & July Ishmael for property located at 50' X 112 ½ ' beg. at SW corner of E ½ -E ½; 50' X 112 ½', beg. 50' E of SW corner of E ½-E ½, Block 1, East Wagner Addition, City of Wagner, Charles Mix County, South Dakota. Building of garages on empty lots has recently been added to the Wagner Zoning Code through the ordinance process as a conditional use.

The Planning and Zoning Commission approved the building of the structure on an empty lot. No one was present concerning the application for public comment. Discussion followed. A motion was made by Beeson, second by Fredrich to approve the Planning and Zoning Commission's recommendation for the approval of the structure on an empty lot. All voted aye, motion carried.

It is noted that the size of the garage does not meet standard # 2 of the Section 718, Performance and Construction Standards for Garages on empty lots. The Board of Adjustments will meet on Monday, June 5<sup>th</sup>, 2017 at 7:00 pm at Wagner City Hall for a public hearing to consider the recommendations of the Wagner Planning and Zoning Commission on the variance application for the size of the garage.

A motion was made by Petrik, second by Schroeder to adjourn the Board of Adjustment at 5:37 pm. All voted aye, motion carried.

APPROVED \_\_\_\_\_  
Don Hosek, Mayor

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

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## **MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council convened at 7:00 p.m. on June 5<sup>th</sup>, 2017 as the Board of Adjustment. Present were, Mayor, Donald R. Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Ron Cuka, Scott Honomichl, Tom Beeson, Ron Fredrich, Roger Schroeder and Dale Petrik. Absent: None.

The meeting opened with the Pledge of Allegiance.

The conflict of interest declaration statement was recited. No conflict was cited.

The Mayor called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the ETJ Planning and Zoning Commission and the Planning and Zoning Commission from the May 15<sup>th</sup>, 2017 meeting. A motion was made by Honomichl, second by Schroeder to approve the agenda. All voted aye, motion carried.

It is noted that for Board of Adjustment actions the Mayor votes.

The Mayor explained that the first item on the agenda is for a public hearing on a conditional use application of Lighthouse Ministry for property located at Lot G, Doom Subdivision in Government Lot 1, 5-95-63 & E 60' of N 325' Lot F, Doom Subdivision in Government Lot 1 5-95-63, Charles Mix County, South Dakota. They would like to build a church on the west edge of Wagner approximately across from the football field. A church is listed as a conditional use in the extraterritorial zoning regulations and therefore requires the proper notifications and hearings of adjoining property owners. The Planning & Zoning Board recommended that the conditional use be allowed. No one was present in opposition to building the church. A motion was made by Beeson, second by Cuka to approve the conditional use for a church as recommend by the ETJ Planning & Zoning Commission. All voted aye, motion carried.

The Mayor indicated that the next item is a public hearing for the consideration of the ETJ Planning and Zoning Commission's recommendation on a variance application of acre size on the same property as above. Minimum lot size is five acres. The property for the church is 3.84 acres, therefore, they are asking for a 1.16 acre variance of the lot size. The ETJ Planning and Zoning Commission recommended the variance. Discussion followed. A motion was made by Schroeder, second by Fredrich to allow the 1.16 variance for acre size as recommend by the ETJ Planning and Zoning Commission. All voted aye, motion carried.

The Mayor stated the next item on the agenda is a public hearing for the consideration of the Planning and Zoning Commission's recommendation on a variance application of Dave & July Ishmael for property located at 50' X 112 ½' beg. at SW corner of E ½ -E ½; 50' X 112 ½', beg. at 50' E of SW corner of E ½-E ½, Block 1, East Wagner Addition, City of Wagner, Charles Mix County, South Dakota. A conditional use application has been approved to build the garage on the empty lot. Mr. and Mrs. Ishmael have now presented an application for a variance for the size of the garage. According to the Wagner Planning and Zoning Ordinance, Section 718, construction and performance standards for garage

on an empty lot shall not be more than 1,200 square feet. The Ishmaels are asking for an 800 square foot variance for the size of the garage for a total of 2,000 square feet. The Planning and Zoning Commission approved the variance. Much discussion followed. No neighbors were present in opposition of the variance. No motion was made. No action taken.

The item on the agenda for consideration is recommendation of the Planning and Zoning Commission for a variance application of Jeanette Doom for property located at E 35' of Lot 9, Lot 10 and Lot 11, Block 4, Wagner Heights Addition, City of Wagner, Charles Mix County, South Dakota. Jeff Doom was present on behalf of Jeanette Doom to speak about the variance. Mr. Doom has designed plans for two tiny houses to be built on the property. According to the Wagner Planning and Zoning Ordinance, Section 714, the minimum lot size for each house is 7,500 square feet. Each lot size is 6,864 square feet, therefore Mr. Doom is asking for a 636 square foot variance for each lot. Mr. Doom presented complete plans for the two homes. The houses will meet all the required setbacks for each lot. Neighbors were present to voice their concerns with the tiny homes being built. Much discussion followed. A motion was made by Schroeder, second by Cuka to approve the recommendations of the Planning & Zoning Commission to allow the variance for each lot. All voted aye, motion carried.

The Board of Adjustment adjourned at 7:40 pm.

APPROVED \_\_\_\_\_

Donald R. Hosek, Mayor

Attest \_\_\_\_\_

Rebecca Brunsing, Finance Officer

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## **MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council convened at 5:30 p.m. on October 12<sup>th</sup>, 2017 as the Board of Adjustment. Present were, Mayor, Don Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Ron Cuka, Scott Honomichl, and Tom Beeson. Absent: John Tyler, Ron Fredrich, and Roger Schroeder. It is noted that the Mayor is a voting member for Board of Adjustment meetings, therefore a quorum was present.

The meeting opened with the Pledge of Allegiance.

The conflict of interest declaration statement was recited. No conflict was cited.

The Mayor called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the Planning and Zoning Commission from the September 18<sup>th</sup>, 2017 Planning and Zoning meeting. A motion was made by Beeson, second by Cuka to approve the agenda. All voted aye, motion carried.

The Mayor stated that the first application is for variance application # VR 2017-03 for Dennis Fechner and Colby Series 17, LLC located at Lots 7,8,9,10,11 and 12, Block 16, Milwaukee 2<sup>nd</sup> Addition of Wagner, Charles Mix County, South Dakota. The request is to allow 10' X 18' parking stalls along the front row of parking along the highway. The application stated that to provide a safer condition from a fire protection standpoint they have opted to keep the building over 10 feet away from the existing city building to the south. When the proposed building is shifted to the north, the applicant will lose some room in the parking lot and would like to take that room out of the northern most parking stalls. The definition of a parking space area is to be 10' X 20'. They are requesting a two foot variance of 10' X 18' parking stalls on the northern most part of the proposed parking lot. Discussion followed. No one was present that spoke in opposition of the application. A motion was made by Cuka, second by Honomichl approving the recommendations of the Planning and Zoning Commission and to allow the variance of two feet for the parking stalls. All voted aye, motion carried.

The Mayor stated that the next application is for variance application #VR 2017-04 for Dennis Fechner and Colby Series 17, LLC located at Lots 7,8,9,10,11 and 12, Block 16, Milwaukee 2<sup>nd</sup> Addition of Wagner, Charles Mix County, South Dakota. As stated on the application, the power poles that run own the alley create the hardship. The building and associated services need to be kept away. Allowing for this six inch variance also helps keep the "downtown" feel to Main Avenue by keeping the building closer to the street to match the surrounding conditions. Discussion followed. No one was present that spoke in opposition of the application. A motion was made by Beeson, second by Cuka approving the recommendations of the Planning and Zoning Commission and to allow the six inch variance. All voted aye, motion carried.

A motion was made by Honomichl, second by Beeson to adjourn the meeting at 5:45 pm. All voted aye, motion carried.

Approved \_\_\_\_\_  
Donald R. Hosek, Mayor

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

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## **MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council convened at 7:00 p.m. on May 7<sup>th</sup>, 2018 as the Board of Adjustment. Present were, Mayor, Don Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Ron Cuka, Scott Honomichl, Tom Beeson, Ron Fredrich, Roger Schroeder and John Tyler. Absent: None.

The Pledge of Allegiance was recited.

The conflict of interest declaration was cited. The Mayor asked if there were any conflicts. There were none.

The Mayor called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the Planning and Zoning Commission from the March 20<sup>th</sup>, 2018 meeting. A motion was made by Beeson, second by Cuka to approve the agenda. All voted aye, motion carried.

This being the time and place for the published public hearing, the Mayor opened the public hearing for a variance request for Country Pride Corporation located on Lots 3 & 4, Railroad Subdivision in NE ¼ of 4-95-63 (2.76A), City of Wagner, Charles Mix County, South Dakota.

David Hartley, Country Pride representative was present to explain the improvements that they will be making to the property.

Country Pride will be tearing down the two rectangular buildings, the main building where grain is currently dumped and the two square storage structures as well. In addition to the two 3,000 new overhead bins, they will be installing a grain leg which will be 140 feet high. The maximum height of a structure in a highway commercial zoning district is 35 feet. Therefore, they are asking for a 105 foot variance.

A determination was filed with the Federal Aviation Administration and they determined that the structure does not exceed obstruction standards and would not be a hazard to air navigation at that height. Additionally, marking and lighting are not necessary for aviation safety.

Agnes Nedved and Tub Harrington were present and directed questions to Mr. Hartley.

There being no further comments on the variance application, a motion was made by Schroeder, second by Beeson to close the public hearing. All voted aye, motion carried.

Discussion followed. A motion was made by Beeson, second by Cuka to approve the recommendation of the planning and zoning commission; and approve a variance of 105 foot variance for the grain leg. All voted aye, motion carried.

A motion was made by Schroeder, second by Fredrich to adjourn the Board of Adjustment at 7:12 pm. All voted aye, motion carried.

APPROVED \_\_\_\_\_  
Don Hosek, Mayor

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

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**MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council convened at 5:30 p.m. on May 29<sup>th</sup>, 2018 as the Board of Adjustment. Present were, Mayor, Don Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Ron Cuka, Scott Honomichl, Tom Beeson, Brenda Jatton, Roger Schroeder and John Tyler. Absent: None.

The Pledge of Allegiance was recited.

The conflict of interest declaration was cited. The Mayor asked if there were any conflicts. There were none.

The Mayor called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the Planning and Zoning Commission from the May 10<sup>th</sup>, 2018 meeting. A motion was made by Schroeder, second by Tyler to approve the agenda. All voted aye, motion carried.

This being the time and place for the published public hearing, the Mayor opened the public hearing for a variance request for Walt Nedved located at 607 SE 1<sup>st</sup> Street, legal description: W 80' of Lot 11 and Lot 12, Block 13, East Wagner Addition, City of Wagner, Charles Mix County, South Dakota.

Mr. Nedved would like to build a deck coming off his front door. In order for the deck to be even with the stepping out the front door, the deck will have to be 36" tall. This exceeds the 30" maximum by six inches. No one appeared in opposition to the variance application. The Planning and Zoning Commission did approve the six inch variance.

There being no further comments on the variance application, the Mayor closed the public hearing. All voted aye, motion carried.

Discussion followed. A motion was made by Beeson, second by Cuka to approve the recommendation of the planning and zoning commission; and approve a variance of six inches for the height of the proposed deck. All voted aye, motion carried.

A motion was made by Honomichl, second by Jatton to adjourn the Board of Adjustment at 5:35 pm. All voted aye, motion carried.

APPROVED \_\_\_\_\_  
Don Hosek, Mayor

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

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**MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council convened at 5:30 p.m. on July 16<sup>th</sup>, 2018 as the Board of Adjustment. Present were, Council President, Roger Schroeder, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Ron Cuka, Scott Honomichl, Tom Beeson, Brenda Jatton, and John Tyler. Absent: Don Hosek.

The Pledge of Allegiance was recited.

The conflict of interest declaration was cited. The Council President asked if there were any conflicts. There were none.

Public Comment was offered. This is the opportunity for anyone not listed on the agenda to speak to the city council. Speaking time will be limited to 3 minutes. No action will be taken on questions or items not on the agenda. No one was present for the public comment time.

The Council President called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the Planning and Zoning Commission from the June 26<sup>th</sup>, 2018 meeting. A motion was made by Honomichl, second by Tyler to approve the agenda. All voted aye, motion carried.

This being the time and place for the published public hearing, the Council President opened the public hearing for a variance request for Jamie Soukup, property located at 645 E SD Hwy 46, legal description E 412' of Lot B, Hicks Addition, City of Wagner, Charles Mix County, South Dakota.

Mr. Soukup is relocating his Pioneer Seed business to Wagner and will need to put up three bulk seed bins. The height of the bins with the concrete will be approximately 37 feet tall. This is two feet over the 35 foot maximum height requirement. Mr. Soukup is requesting a two foot variance. The Planning and Zoning Commission approved the variance.

Discussion followed. There being further comments on the variance application, the Council President closed the public hearing. A motion was Beeson, second by Jatton to approve the recommendations of Planning and Zoning Commission and approve the variance of two feet. All voted aye, motion carried.

A motion was made by Cuka, second by Tyler to adjourn the Board of Adjustment at 5:37 pm. All voted aye, motion carried.

APPROVED \_\_\_\_\_  
Roger Schroeder, Council President

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

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## **MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council convened at 5:30 p.m. on September 19<sup>th</sup>, 2018 as the Board of Adjustment. Present were, Council President, Roger Schroeder, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Ron Cuka, Scott Honomichl, Brenda Jatton, and John Tyler. Absent: Don Hosek and Tom F. Beeson. Others present at the meeting: Brian McGinnis and Greg Henderson from Planning and Development District III.

The Pledge of Allegiance was recited.

The conflict of interest declaration was cited. The Council President asked if there were any conflicts. There were none.

Public Comment was offered. This is the opportunity for anyone not listed on the agenda to speak to the city council. Speaking time will be limited to 3 minutes. No action will be taken on questions or items not on the agenda. No one was present for the public comment time.

The Council President called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the Planning and Zoning Commission from the August 28th, 2018 meeting. A motion was made by Tyler, second by Jatton to approve the agenda. All voted aye, motion carried.

This being the time and place for the published public hearing, the Council President opened the public hearing for a variance request for Dale Petrik located at 416 SE Elm Avenue, described as Lot 4 ex W 150' of N 23' of Block 8, and Mobile Home Title #102688516, City of Wagner, Charles Mix County, South Dakota.

Mr. Petrik would like to build and attach another garage onto his existing one. The total square footage of the garage does not meet the 75% rule for a garage as a subordinate building and is asking for a 766 square foot variance above the 75% rule. Also the garage does not meet the setback requirements of 20 feet from the right of way line. Therefore he is seeking a 10' variance of the 20' setback requirement.

Discussion followed concerning garages in general in reference to the 75% rule and garages built upon non-abutting or non-contiguous lots in an R-1 zoned area. The consensus of the council is that the 75% rule may need to be changed to a higher percentage because the average square footage of a house may limit landowners to build an appropriate size garage. More discussion followed.

There being no further comments on the variance application, the Council President closed the public hearing. A motion was Roger, second by Tyler to approve the

recommendations of Planning and Zoning Commission and approve the variance request of 766 square feet for the garage with the intent of increasing the 75% rule to 125% by a policy to be implemented at a later time. Four voted aye, Cuka voted nay, motion carried.

A motion was made by Tyler, second by Jatou to approve a 10 foot variance of the 20 foot setback requirement. Four voted aye, Cuka voted nay, motion carried.

A motion was made by Cuka, second by Honomichl to adjourn the Board of Adjustment at 6:30 pm. All voted aye, motion carried.

APPROVED \_\_\_\_\_  
Roger Schroeder, Council President

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

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## **MEETING OF THE COMMON COUNCIL AS THE LOCAL BOARD OF ADJUSTMENTS OF THE CITY OF WAGNER, CHARLES-MIX COUNTY, SOUTH DAKOTA**

The City Council convened at 5:30 p.m. on November 26<sup>th</sup>, 2018 as the Board of Adjustment. Present were, Mayor Donald R. Hosek, Finance Officer, Rebecca Brunsing, City Attorney, Ken Cotton, and the following councilmen: Ron Cuka, Scott Honomichl, Tom F. Beeson, Brenda Jatón, Roger Schroeder and John Tyler. Absent: None. Others present at the meeting: Dale Petrik.

The Pledge of Allegiance was recited.

The conflict of interest declaration was cited. The Mayor asked if there were any conflicts of interest. There were none.

Public Comment was offered. This is the opportunity for anyone not listed on the agenda to speak to the city council. Speaking time will be limited to 3 minutes. No action will be taken on questions or items not on the agenda. No one was present for the public comment time.

The Mayor called the meeting to order stating that the purpose of the meeting was reviewing the recommendations of the Planning and Zoning/Extra Territorial Jurisdiction Commission from the October 29th, 2018 meeting. A motion was made by Jatón, second by Beeson to approve the agenda. All voted aye, motion carried.

This being the time and place for the published public hearing, the Mayor opened the public hearing for a request for a variance application for Pat Breen located at 29676 Sunrise Street, described approximately as S 75' of Lot 20, Sunset Acres Subdivision, Wagner, Charles Mix County, South Dakota. Mr. Breen is purchasing additional land from Jeff Doom. According to Section 2613, Minimum Lot Requirements, lots are to be a minimum of 5 acres. Discussion followed.

Continuing the public hearing for a request for a variance application for Jeff Doom located at 29670 Sunrise Street, described approximately as N 75' of Lot 20 and Lot 19, Sunset Acres Subdivision, Wagner, Charles Mix County, South Dakota. Mr. Doom is going to build a house for a new property owner. According to Section 2613, Minimum Lot Requirements, lots are to be a minimum of 5 acres. Therefore, Mr. Doom is asking for a 3.90 acre variance. Discussion followed

No one appeared in favor or against the variance applications.

There being no further comments on the variance application, the Mayor closed the public hearing. The Planning and Zoning/Extra Territorial Jurisdiction Commission made the recommendation to approve both variances.

A motion was made by Beeson, second by Cuka to accept the recommendation of the Planning and Zoning/ETJ Commission for the Pat Breen application. All voted aye, motion carried.

A motion was made by Schroeder, second by Tyler to accept the recommendation of the Planning and Zoning/ETJ Commission for the Jeff Doom application. All voted aye, motion carried.

A motion was made by Schroeder, second by Cuka to adjourn the Board of Adjustment at 5:37 pm. All voted aye, motion carried.

APPROVED \_\_\_\_\_  
Donald R. Hosek, Mayor

Attest \_\_\_\_\_  
Rebecca Brunsing, Finance Officer

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