

BOARD OF ADJUSTMENT
February 9, 2016

CALL TO ORDER

Chairperson Bode called the meeting of the Davison County Board of Adjustment to order at 9:15 a.m. All members of the Board were present. Also present were Planning & Zoning Administrator Bathke, Deputy Jenniges, and Auditor Kiepke.

APPROVE MINUTES

Motion by Claggett, second by Reider, to approve the minutes of the December 15, 2015 meeting. All members voted aye. Motion carried.

DISCUSSION ON THE FOLLOWING CONDITIONAL USE APPLICATIONS

Corey Juhl of Juhl Energy reiterated that he has a proposal for up to eleven wind turbines each standing approximately 450' (ft). He said Juhl Energy has done twenty-three (23) wind projects throughout Minnesota and Iowa. This will be their first project in South Dakota.

Dave Olson, who stated he has been a Davison County taxpayer for 40 years and a partner of the CPA firm ELO, feels that the commission needs to conduct financial due diligence in this matter. He believes the addition of wind farms will change the landscape of Davison County. Mr. Olson said he was neither for or against wind energy, he just is cautioning the commissioners to examine all the facts.

Jerry Wadleigh asked if the project was in close proximity to your house, would you be in favor of it? He stated it was right next door to him. He said he is not against wind energy. In fact he said this might be a good thing in the future, just further away from development.

Gene Stehly said that he is not against wind energy, he is against the placement of the proposed wind towers.

Mr. Stehly also presented a letter written by Dan Koupal, Broker for FischerRounds & Associates, which stated that, in his opinion a wind farm located this close to the Stehly property would have a very negative and adverse effect on the amount the acreage would bring if placed on the open market for sale. He further stated that, in his opinion, it would also be difficult to obtain a buyer for the property.

Mr. Stehly reported that he reviewed the minutes from the Planning & Zoning meeting and the first Board of Adjustment meeting dealing with the proposed wind project. He said that when Juhl Energy first presented this plan, they were going to have a test site from August 2015 to August 2016. He further stated that Mr. Greenway said that he had gotten positive response when polling the neighbors. Mr. Stehly said that he gathered 34 signatures in opposition of the proposed wind energy project in Beulah Township, which he presented to the Board.

Travis Krumvieda, who reported living in close proximity to Crow Lake Wind Tower Project, said that he is not for or against this project. He said, however, it does change a person's life with

noise being the biggest difference. He says you hear the towers day in and day out. It reminds him of a grain bin fan running all the time.

He cautioned that with these types of projects comes heavy road traffic. The trucks, which included 43 yard gravel trailers, destroyed the roads. He didn't feel the roads were repaired adequately when the project was finished. He also said that his cows were out eighteen times because the trucks would tear out the corners of his fence.

Doug Hanson, who does not live within the wind tower project area, said that he is not for or against wind towers. In fact, he lives a very green lifestyle. However, he feels this project will change the lives of people living in close proximity to it. He believes Davison County is too densely populated for this type of project.

Ed VanGerpen, past county commissioner and legislature of Bon Homme County said they have one wind project up and running and it has gone very smoothly. There are no residents in the area. However, there is another proposed wind project that is within a mile of Avon. This project has generated much controversy because of the proximity of residents.

Adrian Laurendeau stated that he lives a mile north of the project. He doesn't see any benefit to the neighborhood. He feels like they practically have a small town out there.

David Shelton representing Roland Johnson stated that Mr. Johnson was approached by Juhl Energy and refused the proposal.

Mr. Glen Lowrie presented a letter to the commissioners in opposition of the wind turbine project in Beulah Township, as did Jerry Scott and Harvey Kelley. These letters may be found on file in the Davison County Auditor's office.

Mark Puetz stated that he is a resident of Davison County and sees a nice economic opportunity to utilize renewable energy. He is a proponent of renewable energy and sees it as putting the future into our own hands. He feels the reason that more proponents don't speak out is because you don't see a big smoke stack in Mitchell. It's not in our backyard like it is other places. He believes that renewable energy is a clean, safe option that doesn't harm our streams, lakes, air, etc... He asked the commissioners to please weigh the positives verses the negatives.

Doug Greenway said that he is related to the Greenways proposing the project. He said the family farm has been in the family for four generations and you will not find a more compact farming operation that have more impact.

Mr. Greenway continued saying that of course any new structure anywhere will have an impact. He says this projects meets the proper criteria. He encouraged the commissioners to vote in favor of this project.

Brendon Moore, a student in the Wind Program at MTI, said that he got a scholarship to attend the program and is supposed to work in South Dakota for three years following graduation. He said that himself and fellow students would love to have the opportunity to stay right here and work on this project.

Brad Greenway started by saying that when he and his family reached out to their neighbors he never said they were giving them high fives. He says he and his family fully understand the impact of the project.

Mr. Greenway stated that he sits on his township board. They have had to opt out every year for \$14,500 and nobody says a word.

Mr. Greenway sees this as an opportunity for Davison County. He said wind turbines are the future. In Texas they are powering a very large plant. He sees this as a responsible project.

He says he sees all the students from the MTI Wind Energy class in the audience and looks at this as a positive message for wind energy.

He asked the commissioners to please consider the positive aspects of this project. He also said that Juhl Energy already has a road agreement in place with Beulah Township so there is no need to worry about the roads.

Jerry Buchholz, Clerk of Beulah Township said the I-90 Interstate project utilized Beulah Township roads and they are in as good if not better shape than before the project started.

Mr. Juhl stated that he has been working with Planning and Zoning on a weekly basis. He said that he has tried to give the Board facts. In response to financial issue questions, he said they were just recently taken public and they have had their ups and downs like any other company. He further stated Juhl Energy has owned and operated wind farms since 2011 so they are not a start-up company.

Commissioner Reider thanked everybody for the great discussion.

Commissioner Kiner thanked everybody as well. He said there are a lot of things to take into consideration and it is going to be a tough one.

Commissioner Claggett said his propensity is to look at this through Planning & Zoning and his desire would be to see this go to a vote of the people.

Commissioner Weitala extended her thanks for the good discussion that was held. She said she had respect for both sides. She asked at what point will we understand the full realm of wind energy? She believes wind towers are the future. Will it be today? She doesn't know.

Chairperson Bode said that she accepts the rules we have in place today. She feels it is important that we, as a Board, take into consideration all the facts that have been presented. She also stated that rules that are in place must be followed.

Commissioner Kiner stated that he is concerned about the airport and population density. He said that he loves wind energy, but must listen to majority.

Commissioner Weitala is concerned about the 1,000' (ft) setback. She doesn't believe 1,000' (ft) is enough. She further stated when this all came to be she was in favor of the project. She felt she needed to vote for it when it went through Planning & Zoning. Since the Planning &

Zoning meeting, she has developed some concerns regarding the project. She is proud of Davison County and the people that live here. She said her vote today is not about her, but about Davison County.

Commissioner Bode stated that she would have no problem with wind towers on her farm. She said her concern is following the guidelines and rules. She stated that she believes neighbor input is important, but feels this project follows the rules.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1 and was table by the Davison County Board of Adjustment on December 15, 2015.

Motion by Claggett, second by Kiner, after consideration of Section 1507 B Conditional Uses, to deny a conditional use permit for construction and installation of a commercial wind turbine (turbine 1) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NE ¼ of Section 7, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015

Daily Republic November 28, 2015 and January 29, 2016

Posted December 2, 2015 and January 29, 2016

Notified Applicant November 18, 2015 and January 25, 2016

Notified Property Owner November 18, 2015 and January 25, 2016

Notified Abutting Property Owners November 18, 2015 and January 25, 2016

Consideration of 1507 B. Conditional Uses

Roll call vote:

Reider - aye, Weitalla – aye, Kiner – aye, Claggett – aye, Bode – nay. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1 and was table by the Davison County Board of Adjustment on December 15, 2015.

Motion by Claggett, second by Kiner, after consideration of Section 1507 B Conditional Uses, to deny a conditional use permit for construction and installation of a commercial wind turbine (turbine 2) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NE ¼ of Section 7, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015

Daily Republic November 28, 2015 and January 29, 2016

Posted December 2, 2015 and January 29, 2016

Notified Applicant November 18, 2015 and January 25, 2016

Notified Property Owner November 18, 2015 and January 25, 2016

Notified Abutting Property Owners November 18, 2015 and January 25, 2016
Consideration of 1507 B. Conditional Uses

Roll call vote:

Weitala – aye, Reider – aye, Kinerr – aye, Claggett – aye, Bode – nay. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1 and was table by the Davison County Board of Adjustment on December 15, 2015.

Motion by Claggett, second by Kiner, after consideration of Section 1507 B Conditional Uses, to deny a conditional use permit for construction and installation of a commercial wind turbine (turbine 3) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NW ¼, except the N 813' (ft) of the W 806' (ft) of the NW ¼ of the NW ¼ of Section 8, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015

Daily Republic November 28, 2015 and January 29, 2016

Posted December 2, 2015 and January 29, 2016

Notified Applicant November 18, 2015 and January 25, 2016

Notified Property Owner November 18, 2015 and January 25, 2016

Notified Abutting Property Owners November 18, 2015 and January 25, 2016

Consideration of 1507 B. Conditional Uses

Roll call vote:

Kiner - aye, Weitala – aye, Reider – aye, Claggett – aye, Bode – nay. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1 and was table by the Davison County Board of Adjustment on December 15, 2015.

Motion by Claggett, second by Kiner, after consideration of Section 1507 B Conditional Uses, to deny a conditional use permit for construction and installation of a commercial wind turbine (turbine 4) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NW ¼, except the N 813' (ft) of the W 806' (ft) of the NW ¼ of the NW ¼ of Section 8, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015

Daily Republic November 28, 2015 and January 29, 2016

Posted December 2, 2015 and January 29, 2016

Notified Applicant November 18, 2015 and January 25, 2016

Notified Property Owner November 18, 2015 and January 25, 2016

Notified Abutting Property Owners November 18, 2015 and January 25, 2016

Consideration of 1507 B. Conditional Uses

Roll call vote:

Claggett – aye, Weitala - aye, Kiner – aye, Reider – aye, Bode – nay. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1 and was table by the Davison County Board of Adjustment on December 15, 2015.

Motion by Claggett, second by Kiner, after consideration of Section 1507 B Conditional Uses, to deny a conditional use permit for construction and installation of a commercial wind turbine (turbine 5) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the N ½ of the NE ¼ of Section 8, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015

Daily Republic November 28, 2015 and January 29, 2016

Posted December 2, 2015 and January 29, 2016

Notified Applicant November 18, 2015 and January 25, 2016

Notified Property Owner November 18, 2015 and January 25, 2016

Notified Abutting Property Owners November 18, 2015 and January 25, 2016

Consideration of 1507 B. Conditional Uses

Roll call vote:

Kiner - aye, Reider – aye, Weitala – aye, Claggett – aye, Bode – nay. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1 and was table by the Davison County Board of Adjustment on December 15, 2015.

Motion by Claggett, second by Kiner, after consideration of Section 1507 B Conditional Uses, to deny a conditional use permit for construction and installation of a commercial wind turbine (turbine 6) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NW ¼ of Section 9, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015

Daily Republic November 28, 2015 and January 29, 2016

Posted December 2, 2015 and January 29, 2016

Notified Applicant November 18, 2015 and January 25, 2016

Notified Property Owner November 18, 2015 and January 25, 2016

Notified Abutting Property Owners November 18, 2015 and January 25, 2016

Consideration of 1507 B. Conditional Uses

Roll call vote:

Reider – aye, Claggett – aye, Kiner – aye, Weitala – aye, Bode – nay. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1 and was table by the Davison County Board of Adjustment on December 15, 2015.

Motion by Claggett, second by Kiner, after consideration of Section 1507 B Conditional Uses, to deny a conditional use permit for construction and installation of a commercial wind turbine (turbine 7) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NW ¼ of Section 9, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015

Daily Republic November 28, 2015 and January 29, 2016

Posted December 2, 2015 and January 29, 2016

Notified Applicant November 18, 2015 and January 25, 2016

Notified Property Owner November 18, 2015 and January 25, 2016

Notified Abutting Property Owners November 18, 2015 and January 25, 2016

Consideration of 1507 B. Conditional Uses

Roll call vote:

Reider - aye, Weitala – aye, Kiner – aye, Claggett – aye, Bode – nay. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1 and was table by the Davison County Board of Adjustment on December 15, 2015.

Motion by Claggett, second by Kiner, after consideration of Section 1507 B Conditional Uses, to deny a conditional use permit for construction and installation of a commercial wind turbine (turbine 8) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the SE ¼ except Lots A and B of Charlene's First Addition in the S 714' (ft) thereof of Section 9, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015

Daily Republic November 28, 2015 and January 29, 2016

Posted December 2, 2015 and January 29, 2016

Notified Applicant November 18, 2015 and January 25, 2016

Notified Property Owner November 18, 2015 and January 25, 2016

Notified Abutting Property Owners November 18, 2015 and January 25, 2016

Consideration of 1507 B. Conditional Uses

Roll call vote:

Weitala – aye, Reider - aye, Kiner – aye, Claggett – aye, Bode – nay. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1 and was table by the Davison County Board of Adjustment on December 15, 2015.

Motion by Claggett, second by Kiner, after consideration of Section 1507 B Conditional Uses, to deny a conditional use permit for construction and installation of a commercial wind turbine (turbine 9) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the SE ¼ except Lots A and B of Charlene's First Addition in the S 714' (ft) thereof of Section 9, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015

Daily Republic November 28, 2015 and January 29, 2016

Posted December 2, 2015 and January 29, 2016

Notified Applicant November 18, 2015 and January 25, 2016

Notified Property Owner November 18, 2015 and January 25, 2016

Notified Abutting Property Owners November 18, 2015 and January 25, 2016

Consideration of 1507 B. Conditional Uses

Roll call vote:

Reider - aye, Claggett – aye, Kiner – aye, Weitala – aye, Bode – nay. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1 and was table by the Davison County Board of Adjustment on December 15, 2015.

Motion by Claggett, second by Kiner, after consideration of Section 1507 B Conditional Uses, to deny a conditional use permit for construction and installation of a commercial wind turbine (turbine Alt-1) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the NW ¼ except Lot A of Section 7, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015

Daily Republic November 28, 2015 and January 29, 2016

Posted December 2, 2015 and January 29, 2016

Notified Applicant November 18, 2015 and January 25, 2016

Notified Property Owner November 18, 2015 and January 25, 2016

Notified Abutting Property Owners November 18, 2015 and January 25, 2016

Consideration of 1507 B. Conditional Uses

Roll call vote:

Claggett – aye, Weitala – aye, Kiner – aye, Reider – aye, Bode – nay. Motion carried.

CONDITIONAL USE

The Planning Commission recommended granting 6-0-1 and was table by the Davison County Board of Adjustment on December 15, 2015.

Motion by Claggett, second by Kiner, after consideration of Section 1507 B Conditional Uses, to deny a conditional use permit for construction and installation of a commercial wind turbine (turbine Alt-2) (total structure height of 446' (ft) in AGL) and associated facilities, as requested by Davison County Wind, LLC. This request is pursuant to Section 507 (39) of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as the SE ¼ of Section 7, T 103 N, R 61 W of the 5th P.M., Davison County, South Dakota.

Application received November 13, 2015
Daily Republic November 28, 2015 and January 29, 2016
Posted December 2, 2015 and January 29, 2016
Notified Applicant November 18, 2015 and January 25, 2016
Notified Property Owner November 18, 2015 and January 25, 2016
Notified Abutting Property Owners November 18, 2015 and January 25, 2016
Consideration of 1507 B. Conditional Uses

Roll call vote:

Reider - aye, Kiner – aye, Weitala – aye, Claggett – aye, Bode – nay. Motion carried.

VARIANCE

The Planning Commission recommended granting 6-0-1.

Motion by Reider, second by Claggett, after consideration of Section 1507 C Variances, to grant a variance of +/- 5' (ft) resulting in a front yard setback of +/- 70' (ft); +/- 15' (ft) resulting in a side yard setback of +/- 30' (ft); +/- 15' (ft) resulting in a rear yard setback of +/- 35' (ft), as requested by Greg Robinson. This request is pursuant to Section 515 of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property is legally described as S 18 RODS by E 12 RODS in the SE ¼ of Section 23, T 103 N, R 62 W, of the 5th P.M., Davison County, South Dakota.

Application received January 12, 2016
Daily Republic January 29, 2016
Posted February 2, 2016
Notified Applicant January 19, 2016
Notified Abutting Property Owners January 19, 2016
Consideration of 1507 C. Variances

Roll call vote:

Claggett – aye, Weitala – aye, Kiner – aye, Reider – aye, Bode - aye. Motion carried.

VARIANCE

The Planning Commission recommended denial 6-0-1.

Motion by Claggett, second by Weitala, after consideration of Section 1507 C Variances, to deny a variance of +/- 19.72 acres to create a lot size of +/- 5.28 acres, as requested by Jerome McNary. This request is pursuant to Section 513 of the Davison County Zoning Ordinance as adopted on 4/1/98 and as subsequently amended. The property will be legally described as a Plat of Lots 1 of McNary Addition in the SE ¼ of Section 21, T 102 N, R 60 W, of the 5th P.M., Davison County, South Dakota.

Application received January 14, 2016
Daily Republic January 29, 2016
Posted February 2, 2016
Notified Applicant January 19, 2016
Notified Abutting Property Owners January 19, 2016
Consideration of 1507 C. Variances


Roll call vote:

Kiner – aye, Weitala – aye, Claggett – aye, Reider – aye, Bode - aye. Motion carried.

ADJOURN

At 11:05 a.m., motion by Weitala, second by Reider to adjourn Board of Adjustment. All members present voted aye. Motion carried.

ATTEST



Susan Kiepke, Auditor



Brenda Bode, Chairperson