LAKE COUNTY COMMISSION MINUTES
SEPTEMBER 1, 2020

The Board of Lake County Commissioners met in regular session on September 1, 2020 at 9 a.m. in the commission meeting room at the Lake County courthouse. Chair Kelli Wollmann called the meeting to order. Auditor Barrick called roll call: Commissioner Roger Hageman, Commissioner Aaron Johnson, Commissioner Deb Reinicke, Commissioner Dennis Slaughter, and Commissioner Kelli Wollmann all present. The Pledge of Allegiance was recited.

AGENDA APPROVED:

Motion by Reinicke, second by Slaughter, to approve the agenda of September 1, 2020. Motion carried.

MINUTES APPROVED:

Motion by Hageman, second by Johnson, to approve the unapproved minutes of August 18, 2020. Motion carried.

COMMUNITY COMMENTS: None

PAYROLL APPROVED:

Motion by Reinicke, second by Johnson, to approve the payroll of August 10-August 23, 2020. Motion carried. COMMISSIONERS: $2,688.26; AUDITORS OFC: $9,046.24; TREASURERS OFC: $4,805.92; STATES ATTORNEY OFC: $8,203.76; GOVT BLDGS: $4,792.00; DIR EQUALIZATION OFC: $5,640.78; REGISTER DEEDS OFC: $3,326.31; VSO: $721.60; SHERIFF OFC: $14,839.46; JAIL: $13,255.42; EMA: $1,697.60; 911 COMM CENTER: $8,519.90; 24/7: $1,312.13; ROAD & BRIDGE: $15,683.32; WELFARE: $74.00; CHN: $1,133.59; WIC: $139.21; EXTENSION; $1,316.00; ZONING; $1,592.96. GRAND TOTAL: $98,788.46.

ACCOUNTS PAYABLE APPROVED:

Motion by Slaughter, second by Hageman, to approve the accounts payable of August 28 and September 2, 2020. Motion carried. Commissioner Reinicke questioned the Infotech billing.

Accounts Payable 8-28-20 General: SDRS Special Pay Plan, Vacation Pay, $2,281.69, OCSE, Child Support, $260.77, Dakotaland Fed Cr Union, Cu 8-28-20, $75.00, Lake Co Treasurer, Withholding, $15,495.39, Avera Health Plans, Sept 20 Health Ins Premium, $3,605.16, Optilegra Inc, Sept 20 Vision Upgrade, $234.04, Aflac, Aug Cancer/Int Care, $2,149.30, SD Retirement System, Aug 20 Collections, $8,343.88, SD Supp Retirement Plan, Aug 20 Collections, $2,590.00, **Commissioner:** Unum Life Insurance, Sept 20 Life Ins Premium, $19.17, Optilegra Inc, Sept 20 Vision Premium, $35.76, Midcontinent Comm, Service, $31.92, **Judicial:** Premiere Global Services, Aug Phone System, $26.62, **Auditor:** SD Retirement System, Sp Pay, $45.00, SD Retirement System, Aug 20 Collections, $545.08, Unum Life Insurance, Sept 20 Life Ins Premium, $14.40, Avera Health Plans, Sept 20 Health Ins Premium, $1,153.50, Optilegra Inc, Sept 20 Vision Premium, $8.94, Midcontinent Comm, Service, $23.94, **Treasurer:** SD Retirement System, Aug 20 Collections, $576.72, Unum Life Insurance, Sept 20 Life Ins Premium, $14.40, Avera Health Plans, Sept 20 Health Ins Premium, $1,730.25, Optilegra Inc, Sept 20 Vision Premium, $26.82, **St Atty:** SD Retirement System, Aug 20 Collections, $984.44, Unum Life Insurance, Sept 20 Life Ins Premium, $14.40, Avera Health Plans, Sept 20 Health Ins Premium, $1,153.50, Optilegra Inc, Sept 20 Vision Premium, $26.82, Midcontinent Comm, Service, $31.92, **Gvt Bldg:** SD Retirement System, Aug 20 Collections, $575.04, Unum Life Insurance, Sept 20 Life Ins Premium, $14.40, Avera Health Plans, Sept 20 Health Ins Premium, $1,153.50, Optilegra Inc, Sept 20 Vision Premium, $26.82, City Of Madison, Util/Mower Shed, $148.18, Northwestern Energy, Service, $10.00, Midcontinent Comm, Service, $7.98, **DOE:** SD Retirement System, Aug 20 Collections, $690.08, Unum Life Insurance, Sept 20 Life Ins Premium, $19.20, Avera Health Plans, Sept 20 Health Ins Premium, $1,730.25, Optilegra Inc, Sept 20 Vision Premium, $26.82, Midcontinent Comm, Service, $39.90, **ROD:** SD Retirement System, Aug 20 Collections, $153.12, Unum Life Insurance, Sept 20 Life Ins Premium, $9.60, Avera Health Plans, Sept 20 Health Ins Premium, $1,153.50, Optilegra Inc, Sept 20 Vision Premium, $17.88, Midcontinent Comm, Service, $15.96, **VSO:** Midcontinent Comm, Service, $7.98, **Sheriff:** SD Retirement System, Aug 20 Collections, $2,336.57, Unum Life Insurance, Sept 20 Life Ins Premium, $38.40, Avera Health Plans, Sept 20 Health Ins Premium, $3,460.50, Optilegra Inc,

Sept 20 Vision Premium, $71.52, Verizon Wireless, Jetpack Service, $560.22, **Jail:** SD Retirement System, Aug 20 Collections, $1,889.95, Unum Life Insurance, Sept 20 Life Ins Premium, $38.40, Avera Health Plans, Sept 20 Health Ins Premium, $4,037.25, Optilegra Inc, Sept 20 Vision Premium, $62.58, Northwestern Energy, Service, $65.86, Midcontinent Comm, Service, $143.58, **Coroner:** Unum Life Insurance, Sept 20 Life Ins Premium, $4.80, Optilegra Inc, Sept 20 Vision Premium, $8.94, **Support Of Poor:** SD Retirement System, Aug 20 Collections, $8.88, Unum Life Insurance, Sept 20 Life Ins Premium, $.24, Avera Health Plans, Sept 20 Health Ins Premium, $28.84, Optilegra Inc, Sept 20 Vision Premium, $.45, Midcontinent Comm, Service, $7.98, **CHN:** SD Retirement System, Aug 20 Collections, $136.27, Unum Life Insurance, Sept 20 Life Ins Premium, $3.84, Optilegra Inc, Sept 20 Vision Premium, $7.15, **WIC:** SD Retirement System, Aug 20 Collections, $16.47, Unum Life Insurance, Sept 20 Life Ins Premium, $.96, Optilegra Inc, Sept 20 Vision Premium, $1.79, **Extension:** SD Retirement System, Aug 20 Collections, $162.36, Unum Life Insurance, Sept 20 Life Ins Premium, $4.80, City Of Madison, Utilities, $471.95, Midcontinent Comm, Service, $7.98, Northwestern Energy, Service, $10.00, **Weed:** Midcontinent Comm, Service, $7.98, **Zoning:** SD Retirement System, Aug 20 Collections, $191.16, Unum Life Insurance, Sept 20 Life Ins Premium, $4.56, Avera Health Plans, Sept 20 Health Ins Premium, $547.91, Optilegra Inc, Sept 20 Vision Premium, $8.49, Midcontinent Comm, Service, $7.98, **Hwy Rd-Br:** Lake Co Treasurer, Withholdings, $3,600.46, Avera Health Plans, Sept 20 Emp/Sp Premiums, $538.08, Optilegra Inc, Sept 20 Vision Upgrade, $112.28, Aflac, Aug Cancer/Int Care, $246.64, SD Retirement System, Aug 20 Collections, $1,873.98, SD Supp Retirement Plan, Aug 20 Collections, $350.00, SD Retirement System, Aug 20 Collections, $1,821.01, Unum Life Insurance, Sept 20 Life Ins Premium, $48.00, Avera Health Plans, Sept 20 Health Ins Premium, $5,767.50, Optilegra Inc, Sept 20 Vision Premium, $89.40, City Of Madison, Utilities, $487.85, Northwestern Energy, Service, $10.43, Sioux Valley Energy, Hwy 34 St Lights, $156.00, Midcontinent Comm, Service, $15.96, **911 Comm:** Lake Co Treasurer, Withholdings, $1,924.25, Avera Health Plans, Sept 20 Premium, $1,062.28, Optilegra Inc, Sept 20 Vision Upgrade, $12.20, Aflac, Aug Cancer/Int Care, $206.38, SD Retirement System, Aug 20 Collections, $989.51, SD Supp Retirement Plan, Aug 20 Collections, $80.00, SD Retirement System, Aug 20 Collections, $989.51, One Recipient, Deductible Reimbursement, $750.00, Unum Life Insurance, Sept 20 Life Ins Premium, $24.00, Avera Health Plans, Sept 20 Health Ins Pr, $2,883.75, Optilegra Inc, Sept 20 Vision Premium, $44.70, Midcontinent Comm, Service, $15.96, **EMA:** Lake Co Treasurer, Withholdings, $400.92, Aflac, Aug Cancer/Int Care, $28.08, SD Retirement System, Aug 20 Collections, $203.72, SD Supp Retirement Plan, Aug 20 Collections, $25.00, SD Retirement System, Aug 20 Collections, $203.72, Unum Life Insurance, Sept 20 Life Ins Premium, $4.80, Avera Health Plans, Sept 20 Health Ins Premium, $576.75, Optilegra Inc, Sept 20 Vision Premium, $8.94, Sioux Valley Energy, Sirens, $464.93, Midcontinent Comm, Service, $7.98, City Of Madison, Utilities, $261.35, Northwestern Energy, Service, $10.00, **24/7:** Lake Co Treasurer, Withholdings, $242.04, SD Retirement System, Aug 20 Collections, $77.74, **Grand Total: $88,271.75**

Accounts Payable 9-2-20 Commissioner: Infotech Solutions Llc, Email, $15.00, **Election:** Infotech Solutions Llc, Maint, $66.00, **Judicial:** Daniel P Feldhaus Report, Transcript, $81.40, Dawson, Jacob D, CAA Fees, $4,780.50, Stanford, Lori, CAA Fees, $2,334.25, Deya Thorin Spanish Interpreter, $43.50, **WITNESS-JUROR-APPEARANCE FEES/MILEAGE**: Carper, Leanne, $58.40, Mckillip, William, $58.40, Malcomb, Larry, $61.76, Reinicke, F Curt, $53.36, Schaefer, Theresa, $55.88, Walker, Jilicia, $20.84, **Auditor:** Infotech Solutions Llc, Email/Maint, $114.00, Office Peeps Inc, Nameplate/Wall Calendar Refill, $96.66, Madison Ace Hardware, Hooks/Link/Chain-Covid, $45.35, **Treasurer:** A & B Business Solutions, Printer Maint, $192.75, Infotech Solutions Llc, Maint, $161.85, First Bank & Trust, Deposit Tickets/400, $97.25, Office Peeps Inc, Desk/Wall Calendar Refill, $53.68, **St Atty:** Sanford Health, Prof Service, $1,401.00, Infotech Solutions Llc, Email/Maint, $260.00, A & B Business Solutions, Copier Maint, $79.00, Office Peeps Inc, Copy Paper (2), $68.80, **Gvt Bldg:** Timmer Supply Company, PSB Electric/Mega Tape, $64.76, Infotech Solutions Llc, Email/Maint, $38.00, Timmer Supply Company, PSB Connect/Ptrap, $9.17, Hillyard, Covid-Sanitizer Pump/2 Cases, $335.99, Cole's Petroleum Inc, Gas, $164.40, Madison Ace Hardware, Hooks/Link/Chain-Covid, $151.77, Shred-It USA, Service, $161.51, **DOE:** Century Business Prod Inc, Copier

Maint/Usage, $62.54, Infotech Solutions Llc, Email/Maint, $218.00, Office Peeps Inc, Copy Paper, $34.40, Madison Ace Hardware, Hooks/Link/Chain-Covid, $34.43, **ROD:** Infotech Solutions Llc, Email/Maint, $152.00, Office Peeps Inc, Wall/Desk Calendar, $22.38, **VSO:** Office Peeps Inc, Folders, $31.35, Infotech Solutions Llc, Email/Maint, $47.95, **GIS**: Infotech Solutions Llc, Email/Maint, $33.00, **IT:** Intuvio Solutions, Website Renewal/1 Yr, $499.95, Infotech Solutions Llc, Backup/Maint, $880.00, **Sheriff:** Madison Reg Health System,19-Bl Alcohols, $1,737.00, Infotech Solutions Llc, Email/Maint/Dell Latitude computer(3), $2,881.83, Office Peeps Inc, Planner/Calendar/Rcpt Book, $83.66, Power Promotions, Sew Patches (2), $5.00, Office Peeps Inc, Copy Paper, $34.40, SD Sheriffs' Association, Walburg reg, $60.00, Mac's Repair, Update Components/20 Durango, $3,000.00, Cole's Petroleum Inc, Gas, $917.50, **Jail:** Madison Reg Health System, Clinic Services, $17.00, Infotech Solutions Llc, Email/Maint/Dell Latitude Computer(2), $1,926.84, Phoenix Supply, Covid-Gloves/Masks, $1,099.71, Madison Ace Hardware, Paint/Supplies, $124.93, **Coroner:** Sanford Health Service, Autopsy, $2,250.00, **Support Of Poor:** Infotech Solutions Llc, Email/Maint, $38.00, **MI Board:** Yankton County Treasurer, MI Service, $122.50, Oftedal, Abby, MI Hearing, $485.00, **Extension:** Office Peeps Inc, Black Ink Crtg, $93.11, Madison Booster Club,4-H Ad, $100.00, **Weed:** Lake County Treasurer, Certified Mail (2), $13.90, **Zoning:** Infotech Solutions Llc, Email/Dell Latitude computer w/docking station, $2,214.99, Office Peeps Inc, Calendar Desk/Wall(2)/ Planner, $72.71, Madison Ace Hardware, Elect Sup/Serv Window-Covid, $30.79, **Hwy Rd & Br:** Diesel Machinery Inc, 4wk Rental Superior Broom, $4,800.00, Butler Machinery Co, Labor, $14,845.20, Aramark Uniform Services, Service, $78.82, Prostrollo Auto Plaza Co, Screw/Steering Column, $10.52, Timmer Supply Company, Shop Capacitor/Kicker, $19.44, Cole's Petroleum Inc, Fm 222 Grease-1 Case, $115.20, Butler Machinery Co, Parts, $10,499.33, Cole's Petroleum Inc, Diesel 10-30/Drum Deposit, $686.45, Timmer Supply Company, Ofc Bathroom/Tank Ball-Bolt, $19.87, Office Peeps Inc, Copy Paper (2), $68.80, Cole's Petroleum Inc, Gas/Diesel, $5,535.09, Tire Motive Service Cntr, Tire Repair, $28.00, Jebro Inc, Asphalt/Freight, $171,790.30, Infotech Solutions Llc, Email/Maint, $91.00, **911 Comm:** SD Dept Of Public Safety, TTY Service, $5,400.00, Infotech Solutions Llc, Email/Maint, $142.00, Office Peeps Inc, Copy Paper, $34.40, **EMA:** Kibble Equipment Llc, Generator Maint-Chester, $757.62, Infotech Solutions Llc, Email/Maint, $45.50, Cole's Petroleum Inc, Gas/Diesel, $99.29, **Bldg:** Amert Construction Co, Exterior Steps To Basement, $7,800.00, **24/7:** Redwood Toxicology Lab, 5 Panel Drug Test/250, $525.00, Satellite Tracking, May GPS Bracelets/110 Days, $357.50, **Dive Team:** Landshark Scuba, Weight Bag/Tank Boot/Inspection, $115.75, A-Ox Welding Supply Co, Hydrostatic Test/Certification, $100.52, **Grand Total: $254,415.70**

4-H GROUNDS/RENTAL APPLICATIONS:

CAO Shelli Gust presented the following 4-H grounds applications:

Odean Dickerson, to use the 4-H Center on September 13, 2020 for a celebration of life for Janet Dickerson, former Extension Agent for Lake County. Motion by Reinicke, second by Slaughter, to approve the application of Odean Dickerson for a celebration of Life for Janet Dickerson on September 13, 2020, contingent upon valid proof of insurance being provided and applicant encourages those in attendance to practice social distancing as much as possible, limits the number of people inside the building at any one time so that social distancing is possible, provides hand sanitizer for the event, frequently cleans commonly used surfaces during the event, and encourages face masks. Motion carried.

Feeding South Dakota, to use the 4-H parking lot on the 2nd Monday of each month for its food distribution events from 1:15 p.m. - 3:15 p.m. Dave Hare, buildings and grounds superintendent has no objections. Motion by Slaughter, second by Reinicke, to approve for a trial period of three months, the application of Feeding South Dakota for a food distribution event on the 2nd Monday of each month from 1:15 p.m. – 3:15 p.m., with a review and possible extension of the application in December 2020. Motion carried.

SPECIAL MALT BEVERAGE LICENSE:

As per advertisement the board reviewed the application of St Thomas Aquinas Parish Gala Committee, for a temporary special malt beverage license on September 19, 2020 at the St Thomas House on Lake Herman for a lakeside dinner and drive in. Teri Jaspers was present to tell the board

that there will be a movie showing and car hops delivering food. The attendees will stay in their cars or have lawn chairs to watch the movie. ID's will be checked. Motion by Reinicke, second by Johnson, to approve the temporary special on-sale license application #20-06 of St Thomas Aquinas Parish for a lakeside dinner and drive in at the St Thomas House on Lake Herman on September 19, 2020, on the condition that it is explained to the attendees that it would be an open container to drink alcohol in their vehicle. Alcohol must be consumed outside the vehicle. Motion carried.

2021 PROVISIONAL BUDGET HEARING:

This being the date and time as per advertisement, Auditor Barrick told the board that no changes have been made to the Provisional budget since publication. Barrick stated that she had received the utility values and was currently working on those values. The cash balance applied to the general fund is $595,474. Chair Wollmann asked if anyone in attendance would like to speak regarding the Provisional budget. Motion by Reinicke, second Johnson, to adopt the Provisional Budget for the year 2021. Motion carried.

ABATEMENT/ELDERLY TAX FREEZE:

Deb Walburg, Treasurer, met with the board to discuss one abatement where the applicant missed the elderly tax freeze deadline. Motion by Reinicke, second Slaughter, to approve abatement #2020-7 in the amount of $310.13. Motion carried.

REVOKE EMPLOYMENT OFFER:

HRS Shelli Gust told the board Jonathan Rasmussen who was approved last meeting as a heavy equipment operator did not complete his pre-employment screening. She is asking the board to revoke his employment offer. Motion Hageman, second Slaughter, to revoke Jonathan Rasmussen's employment offer as he did not complete his employment screening. Motion carried.

Motion by Reinicke, second by Hageman, to authorize HRS Shelli Gust to advertise for a full-time heavy equipment operator. Motion carried.

UTILITY OCCUPANCY APPLICATION/PERMIT:

Nels Nelson, Hwy Supt., presented the following utility occupancy application/permit to the board.

2020-23 Sioux Valley Energy, Jim Kuyper, PO Box 216, Colman SD. Work to be done—replacement of existing under ground power line do to age and service interruptions 457th Ave along 233rd St. Motion by Johnson, second by Reinicke, to approve utility occupancy permit #2020-23 for Sioux Valley Energy and authorize the chair to sign. Motion carried.

COUNTY ROADS AND BRIDGES ADVISORY APPLICATIONS:

Shelli Gust, CAO, presented eight applications for the County Roads and Bridges Advisory Committee. Chair Wollmann and Commissioner Johnson recused themselves from this discussion. Motion by Reinicke, second by Slaughter, to select Charlie Johnson, Blake Neu, Dale Thompson, Misty Alfson, Dan Lindholm, and Jay Mennis to be the six members of the public to be on the County Roads and Bridges Advisory Committee. Motion carried. Gust will schedule the first meeting.

MEETINGS ATTENDED:

Commissioner Slaughter attended East Dakota Transit, LAIC, Roberta Janke's retirement party, and Paula Barrick's swearing in. Chair Wollmann attended 4H leaders and Madison Public Library. Commissioner Reinicke attended Domestic Violence, Roberta Janke's retirement party, and Paula Barrick's swearing in. Commissioner Johnson attended Roberta Janke's retirement party.

LOCAL EMERGENCY OPERATIONS PLAN (LEOP):

Shelly Gust, CAO told the board that the current LEMPG should be reviewed and updated. Gust asked the commissioners to review the plan and if they have any questions, comments or recommended changes, they should contact EM Kody Keefer or herself prior to September 17th. Approval of this plan is scheduled for the September 17th commission meeting.

CITY PROPOSAL/233RD (Old 34) AND 234th St (BYPASS ROAD):

Madison Mayor Marshall Dennert, brought to the commission proposals from the City of Madison regarding 233rd St and 234th St. His list of proposals were:

1) City will fill pot holes in Sept 2020 on the North side of Old Hwy 34 from Airport Road to where the fence runs North and South for the airport.

2) County will assume that section of Old Hwy 34 and will perform maintenance and snow removal to Airport Road coming from the east.
3) City will assume the Bypass and will perform maintenance and snow removal from Pizza Ranch corner south to where the LAIC property ends on 455th Ave.
4) County will release 100% jurisdiction of zoning, subdivision regulation, and building code 1320 feet from section line.
5) County will compensate the City $350,000 for any future repairs to the road.

Discussion included needed lighting on the bypass, city maintains the road from Pizza Ranch to Gehl, the city has more funding capability than the county, the city has DOT information regarding the bypass that the county would like to see, the county has statutorily required responsibilities and no more handshake agreements but have legal documents drawn. Motion by Reinicke, second by Hageman, to acknowledge receipt of the city proposal to 233rd St and 234th St. Motion carried.

BOARD OF ADJUSTMENT:

Motion by Reinicke, second Johnson, to enter into a board of adjustment. Motion carried.

Findings of Fact in Support of its Motions to Approve Hodne Homes, LLC's Variance Application: The Board of Adjustment acknowledged receipt of the hearing transcript from the remand hearing on July 21, 2020 in their agenda packet. The Board of Adjustment acknowledged receipt of proposed findings of fact at today's meeting. Chair Wollmann provided procedural direction to the Board as follows: "I, Kelli Wollmann, Chair of the Board of Adjustment, will read each finding out loud. At the end of each finding, I will pause. If any Board of Adjustment member disagrees with the finding or wishes to propose an amendment to the finding, that will be your opportunity to make your position known. Otherwise, I will continue on to the next finding. At the end of the list of findings, we will take a roll call vote." The Board of Adjustment reviewed each finding individually. On finding #12, Reinicke requested that the phrase "the Supreme Court found that" be inserted between the words "specifically" and "the" in the first sentence. All members of the Board agreed with that amendment. On finding #13, Reinicke requested that the phrase "to the Board of Adjustment" be inserted between the words "presented" and "that" in the first sentence. All members of the Board agreed with that amendment. On finding #14, Reinicke requested that the phrase "to the Board of Adjustment" be inserted between "presented" and "that" and that the word "to" be inserted between "order" and "facilitate". All members of the Board agreed with that amendment. On finding #15, Wollmann requested that the word "Supreme" be replaced with the word "South" and Reinicke requested that the phrase "to the Board of Adjustment" be inserted between the words "presented" and "at" in the second paragraph. All members of the Board agreed with that amendment. On finding #15, Reinicke questioned whether the specific district, LP-3, should be included next to the phrase "in the district involved," but it was explained by State's Attorney Kloeppner that was a direct quote from the county's zoning ordinance so the language could not be amended.

With those amendments, the Board of Adjustment considered the following Findings of Fact:

Findings of Fact

Remand to Board of Adjustment

Hodne Homes, LLC's Variance Application

Pursuant to the Order Remanding Matter to Lake County Board of Adjustment for Further Proceedings on Hodne Homes, LLC's Variance Application, filed on May 29, 2020 in Karen Dunham v. Lake County Commission, Lake County Commission Sitting as the Lake County Board of Adjustment, and Hodne Homes, LLC, File 39CIV18-71, this matter came before the Lake County Board of Adjustment on July 21, 2020. The Board having taken testimony and heard the evidence, the Board now enters the following Findings of Fact in support of its motions to approve the Petitioner's application for a Variance.

1. Hodne Homes, LLC ("Applicant") filed application for a Variance on property legally described as: Lot 1 Dunham's & Hemmer's 1st Addition, SW ¼ SW ¼ Sec 25-106-52, Lakeview Township, Lake County, SD in the "LP 3" District.
2. Applicant requested a variance to build closer to the south side and rear yard lot line.
3. Applicant's lot is 50' wide with a 167' depth. The proposed building is 47' wide with a 120' depth.

4. Applicant seeks a 5’ ft. variance from the rear yard setback. Also, Applicant seeks a 1' variance from the southern side yard lot lines. Applicant meets the northern side yard and front yard required setback. Applicant’s building is constructed in a way that causes it to line up with the existing neighboring buildings on the front yard side of the building.
5. The Lake County Zoning Ordinance requires that a land owner go through the variance process if they cannot meet the setbacks.
6. Adjoining neighbors to the East and West and the township were contacted. They raised no objections to the Variance request. Their signatures were obtained in approval.
7. The adjoining neighbor to the North has been contacted and also notified via certified mail. Karen Dunham and her son, Chris, object to the variance request.
8. Initially the size of the building was proposed with a 48' width. Applicant changed its plans and reduced the size of the building to a 47' width to accommodate Mrs. Dunham's adjoining lot lines. Applicant is not asking for a variance from their adjoining lots, and will honor the required 2' setback.
9. The Board held a public hearing on the variance application on April 17, 2018. The Lake County Board of Adjustment granted the Applicant the requested Variance.
10. The Lake County Board of Adjustment’s decision was appealed to the Third Judicial Circuit Court, Lake County, South Dakota, which affirmed the decision. The matter was then appealed to the South Dakota Supreme Court.
11. The South Dakota Supreme Court determined that additional proceedings were needed before the Lake County Board of Adjustment to address specific factors for a Variance under Section 505 of the Lake County Zoning Ordinance, which states:
    The Board of Adjustment shall have the power, where, by reason of exception, narrowness, shallowness or shape of a specific piece of property at the time of the enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantially impairing the intent and purpose of this Ordinance.
12. More specifically, the Supreme Court found that the Board made no determination that because of a particular feature of the property at the time the Ordinance was enacted, or because of some "extraordinary and exceptional" situation on the property, a variance was necessary. The Court also found that the Board also failed to consider whether the denial of the variance to build a facility exceeding the setback requirements would create “peculiar and exceptional practical difficulties” or an “exceptional and undue hardship” on the Applicant.
13. At the remand hearing, evidence was presented to the Board of Adjustment that the property at issue adjoins property to the south which is the location of Applicant’s commercial building which houses the sales office, desks, and the repair shop. It is the only property in Lake County where there is a commercial property directly adjacent to an LP-3 property.
    The Board finds that the Applicant’s LP-3 property being located adjacent to its commercial property creates an extraordinary or exceptional situation or condition on Applicant’s property, such that the denial of the variance would create peculiar and exceptional practical difficulties or an exceptional and undue hardship for Applicant.
14. At the remand hearing, evidence was presented to the Board of Adjustment that, in order to facilitate the sale of boats made by manufacturers such as Crestliner and Manitou, Applicant has to demonstrate to those manufacturers that it has a sales office, a shop, and a sufficient display area to show the boats; and that the setback rules and limitations on the size of buildings in the LP-3 district would not accommodate a showroom large enough for storage of these boats and the Applicant could not have made the building any smaller and still met such dealer requirements.

The Board finds that, based upon the size of the lot in question and the limitations faced by Applicant's business in selling certain brands of boats, an extraordinary or exceptional situation or condition on Applicant's property exists, such that the denial of the variance would create peculiar and exceptional practical difficulties or an exceptional and undue hardship for Applicant.

15. The South Dakota Supreme Court also remanded for further consideration under Section 505(3) of the Lake County Zoning Ordinance, which provides that "[u]nder no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district."

    The Board finds, based upon the testimony presented to the Board of Adjustment at the remand hearing, that the storage and display of boats fits within the approved uses for oversized private and commercial storage facilities within the LP-3 district.

Motion by Reinicke, second by Johnson, to approve the findings made today. Roll call vote of 5 yes and 0 no. Wollmann – Yes. Hageman – Yes. Johnson – Yes. Reinicke – Yes. Slaughter – Yes. Motion carried. Motion by Johnson, second by Reinicke, that based on the findings just adopted, the variance is approved. Roll call vote of 5 yes and 0 no. Wollmann – Yes. Hageman – Yes. Johnson – Yes. Reinicke – Yes. Slaughter – Yes. Motion carried.

REGULAR SESSION:

Motion by Reinicke, second by Johnson, to adjourn as a board of adjustment and return to the regular session. Motion carried.

EXECUTIVE SESSION:

Motion by Reinicke, second by Hageman, to enter into executive session for personnel SDCL 1-25-2(1) and pending litigation 1-25-2(3). Motion carried.

REGULAR SESSION:

Motion by Reinicke, second by Hageman, to return to the regular session. Motion carried. Chair Wollmann announced that three pending litigation matters and five personnel issues were discussed in executive session.

2020 PROPOSED SDACC RESOLUTION:

Chair Wollmann will attend the session at annual SDACC convention regarding voting on proposed resolutions. Chair Wollmann asked if the commissioners had any concerns on any of the resolutions.

TRAVEL REQUEST:

Kody Keefer to attend SD Emergency Management Assoc Conference at Spearfish September 14th-17th.

ADJOURNMENT:

Motion Reinicke, second Johnson, at 12:35 p.m. to adjourn. Motion carried. The next meeting will be held on September 17, 2020 at 9 a.m.

/s/Paula Barrick	/s/Kelli Wollmann
PAULA BARRICK	KELLI WOLLMANN
Lake County Auditor	Chair, Lake County Commission

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