



**MINNEHAHA COUNTY
ZONING BOARD OF ADJUSTMENT
MEETING MINUTES**

JUNE 26, 2023

**MINUTES OF THE
MINNEHAHA COUNTY ZONING BOARD OF ADJUSTMENT
June 26, 2023**

A meeting of the Zoning Board of Adjustment was held on June 26, 2023 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY ZONING BOARD OF ADJUSTMENT MEMBERS PRESENT: Bonnie Duffy, Mike Ralston, Ryan VanDerVliet, Adam Mohrhauser, and Joe Kippley.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and Mason Steffen – County Planning
Maggie Gillespie – States Attorney

The meeting was chaired by Bonnie Duffy. The meeting was called to order by Chair Bonnie Duffy at 9:23 pm.

PUBLIC COMMENT.

Commissioner Duffy opened the floor for public comment and nobody moved to speak.

ITEM 1. Approval of Minutes – October 25, 2021

A motion was made by Commissioner Kippley and seconded by Commissioner Ralston to **approve** the meeting minutes from October 25, 2021. The motion passed unanimously with 4 votes in favor and 0 votes against the motion.



ITEM 2. **ZONING BOARD OF ADJUSTMENT APPEAL #23-01 – Appeal of the Planning Director’s decision to deny the issuance of a building permit for a horse stable prior to the construction of a single-family dwelling on the property legally described as Lot 11 Block 2 Cedar Ridge Addition N½ SW¼ Section 3 T102N-R49W Mapleton Township.**

Petitioner: Christopher Kranzler

Property Owner: Same

Location: Approximately 3.5 miles north of Sioux Falls

Staff Report: Scott Anderson

Staff Analysis: The petitioner initially contacted staff on May 22, 2023 via the County website inquiring on general rules for obtaining a building permit for a small garden shed to store supplies and equipment to maintain their property. The subject property is part of the Cedar Ridge Planned Development. Currently Lot 11, Block 2 is vacant. Staff responded the same day to explain that accessory structures such as a garden shed would not be allowed until a primary use had been established. The primary use for this parcel is for a single-family residence. The email correspondences are included for review. On May 25, the petitioner came into the Planning Office to revisit the question of allowing an accessory building to be permitted prior to establishing a principal use. Once again, staff indicated that this was not permitted. On May 26, 2023, Mr. Kranzler appealed the Planning Director’s rules for the administration of Zoning Ordinance. The Planning Director is granted the authority to enforce the provision of the Zoning Ordinance and establish rules for its administration, as outlined in Article 22.01(A). An appeal of the Planning Director’s decision is addressed in Article 21.03 of the Zoning Ordinance.

Lot 11, Block 2 of Cedar Ridge Planned Development was originally part of Sub Area C – Ag. The property owner, Brad Wagner, subsequently amended the Planned Development in 2021 to change the use of this area allowing it to be changed from Sub Area C – Ag to Sub Area A – residential. Ordinance MC 16-169-21 changing the land use from AG to Residential is attached for your review. The ordinance indicates that 2 additional **single-family residential lots** are to be included in Sub Area A – Residential on the subject property upon which Lot 11, Block 2 has been platted.

Therefore, as set forth above, the current principal use of the parcel is clear, single family residential pursuant to Ordinance MC 16-169-21. The Zoning Ordinance has defined principal use and principal building as:

550. **PRINCIPAL BUILDING.** A building in which is conducted the primary or predominant use of the lot on which it is located.

555. **PRINCIPAL USE.** The primary or predominant use of any lot.

The Zoning Ordinance also provides a definition for accessory building or use which is:

5. **ACCESSORY BUILDING OR USE.** A subordinate building or portion of the main building, the use of which is incidental to and customary in connection with



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the main building or the main use of the premises and which is located on the same lot with such main building or use. An accessory use is one which is incidental to the main use of the premises.

An accessory use is one that is incidental to the main use of the premises. While in this case the principal use has been set by ordinance, no principal use has yet been established. The subject property in this case (Lot 11, Block 2) is vacant. A garden shed is not the principal use, but would be an accessory use to a single-family residence. Similarly, a horse stable is also not the principal use of the property, a petitioner must first be granted a conditional use permit as indicated in Article 10.0614 (A)(1) before constructing a horse stable. The applicant has not requested or obtained a conditional use permit for a stable.

Staff feels that the Zoning Ordinance is being correctly interpreted. Accessory uses are not allowed on a parcel until the principal use has been established. The Board of Adjustment can adopt staff's decision regarding the garden shed and deny the applicants appeal or the Board of Adjustment overturn the staff's decision regarding the garden shed and allow that accessory structure to be constructed. As the applicant has not yet applied for a conditional use permit for the stable, the applicant must apply for a conditional use permit before any decision on that is presented to this body. A conditional use permit for the stabling of horses requires they are owned by the **RESIDENT** of the property and not used or stabled as part of a commercial operation on the property.

Recommendation: Staff finds that an accessory structure cannot be constructed prior to a principal use being established on the subject property and that in addition, an applicant must be granted a conditional use permit before constructing a horse stable, indicating that the stable is also an accessory use to the established principal use of the property.

Public Testimony

Scott Anderson, the County Planning Director, explained the staff report and decision to deny the issuance of a building for a horse stable on the property.

The petitioner, Christopher Kranzler of 4720 S Vista Park Avenue, Sioux Falls, SD, was present and addressed the commission with his views regarding the regulations for the Cedar Ridge Planned Development District. Mr. Kranzler stated that his original intent was to place a garden shed on the property, but after discussions with planning staff he was told that a garden shed would be an accessory use that would require a house to be constructed on the property first. Mr. Kranzler stated that he agrees with that interpretation, but that a horse stable is a different use that is specifically listed in the permitted uses section of Subarea A of the Cedar Ridge Planned Development. Additionally, Mr. Kranzler stated that it is his interpretation that any use allowed in the RR Rural Residential zoning district is allowed in Subarea A as a principal use of the property, and therefore a horse stable should be able to be constructed as a principal building on the property. Mr. Kranzler then explained that Scott's recommendation to obtain a conditional use permit is contrary to an email that was sent to him by Scott that stated that conditional use permits are not allowed with planned development districts. Finally, Mr. Kranzler reiterated that a horse stable is a preapproved principal use within Subarea A of this planned development, and



that he has consulted a real estate attorney who agrees with his interpretation.

Commissioner Kippley asked the petitioner if he would agree that the ordinance states that the horses must be owned by the resident of the property, and therefore in order to have a horse stable the petitioner would need to have an existing house as a principal use. The petitioner disagreed with this interpretation and stated that a horse stable is a principal use, and therefore he should be able to build the stable before the house. Commissioner Kippley then asked if there is not a residence on the property then would the horse stable be considered a commercial use. Mr. Kranzler stated that it would not be a commercial use and would only be for his own personal use. Commissioner Kippley further questioned the petitioner if he believes the principal use within this subarea has to be a residential use. The petitioner stated that the ordinance, in his opinion, does not say the principal use has to be a residential use, and that a horse stable is specifically listed in the ordinance. Commissioner Kippley stated that the conditional use section of the ordinance that allows for a horse stable assumes that a residential dwelling is already on the property. The petitioner then commented that this community has a horse stable and arena in the middle of the development, and that what he is asking for is not a controversial issue.

At this time, the County Planning Director explained to the commission that the existing horse stables are in a different subarea than this property, and this subarea in question is a residential subarea. Scott then apologized to the petitioner for the error regarding the conditional use permit process within a planned development, and stated that the petitioner could apply for a conditional use permit to allow a horse stable. However, Scott explained that there would need to be a residence on the property first, before a conditional use permit would be approved. Commissioner Kippley then asked Scott what would happen if the commission upheld the decision to deny a building permit, and the petitioner applied for a horse stable conditional use permit. Scott responded to say that if the petitioner applied for a horse stable conditional use permit, planning staff would recommend denial of that permit unless a house was built on the property prior to the conditional use permit process. Finally, Scott explained that the petitioner could place a building less than 120 square feet on the lot without any permits because the county does not require a building permit for buildings of this size.

The petitioner then stated that it is his belief that any uses listed in the ordinance are permitted, and that he bought the property based on the understanding that he could build the horse stable. Mr. Kranzler further commented that a horse stable is a listed use in each subarea within this planned development and other uses in Subarea A, such as a substation, would not logical need a residential use on the property prior to being constructed. Finally, Mr. Kranzler stated that approval of a permit for a horse stable on this property, will not set a precedent because these specific regulations only apply to the Cedar Ridge Planned Development.

Commissioner Kippley stated that he is inclined to follow Scott's interpretation of the ordinance, and that a conditional use permit would be a better place to consider any potential horse stable. Commissioner Kippley then asked planning staff if a new subarea could be created for this property. Scott Anderson explained that the petitioner could apply for a major amendment to the planned development to create a new subarea, and that that would go through additional public hearings and notification of neighbors. Finally, Scott stated that he worked with the original



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developer of this planned development, and that it was not the intent for every resident to have horse stable.

Action

A motion was made by Commissioner Kippley to **uphold** the decision to deny the issuance of a building permit for a horse stable prior to the construction of a single-family dwelling. The motion was seconded by Commissioner VanDerVliet. The motion was approved unanimously with 4 votes in favor and 0 votes against the motion.

Administrative Appeal #23-01 – Denied



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Old Business

None.

New Business

None.

Adjourn

A motion was made to **adjourn** by Commissioner Kippley and seconded by Commissioner Ralston. The motion passed unanimously. The meeting was adjourned at 9:56 p.m.