

The Beulah Planning and Zoning meeting of October 15, 2020 was called to order at 5:13 pm by Jerry Reichenberg at Beulah City Hall.

Present: Jerry Reichenberg, Gerald Bieber, Dale Schwalbe, Chris Renner (by phone), Gary Miller

Absent: Dustin Buchmann, Roger Gazur

Also Present: Beaver Brinkman, David Whipps

Schwalbe moved approval of the September 17, 2020; meeting minutes; seconded by Bieber. Motion carried.

## **PUBLIC INPUT**

David Whipps met with the P & Z Commission regarding revised permit requests **Permit 7663** and **Permit 7724** on behalf of the Nite Owl Bar.

**Permit 7663** - The P & Z Commission was concerned about the Nite Owl undertaking significant changes to what had previously been approved by the Commission and by the variance that was approved by City Council. A larger concrete patio was put in rather than the pavers that had been approved by the City. The project was completed without the changes being approved and The Nite Owl is now in violation of city ordinance which could carry substantial civil penalties.

Whipps explained that during the widespread business shutdown that occurred this spring due to the COVID pandemic, he received an Economic Resiliency Grant after Permit 7663 had been issued. The grant provided for an increase in outdoor seating capacity. The zoning is commercial so therefore the increase in coverage is still in compliance with City ordinance. The Commission reminded Whipps that the Nite Owl's liquor license is tied to the total drinking area which will now include the patio's upgraded capacity.

**Permit 7724** - This permit has not yet been approved. It is for the remodel of the former jewelry store located in the storefront adjacent to the Nite Owl. The basic improvements set out on the permit application such as paneling, flooring, painting generally do not require a permit however there does need to be some oversight given to asbestos removal and lead paint. The rules require that an inspection be undertaken. The permit will be drafted to note this requirement.

**Discussion and Resolution** - There was heated discussion by the parties concerning each side's position on getting a permit before undertaking the work and the need to stay within the scope of the permit. Whipps stated that there wasn't time to notify the Commission of the permit modification given the timing of the grant. The Commission noted that they want to work with Whipps but that he needs to contact them of changes and undertakings on a timely basis. They complimented Whipps on his initiative to upgrade the two properties and stated they are here to provide him assistance rather than acting as a hindrance.

Improvements in the kitchen will be written under a separate permit and require the ND Dept. of Health's oversight. The permit process will take longer given the additional layers of oversight that will be required.

## **OLD BUSINESS**

### **Mercer County Zoning Meeting Update**

Wind Farm Ordinance discussion tabled.

### **Dilapidated Buildings**

Solem Law is drafting a letter regarding 424 Main St. The Commission unanimously agreed to make a recommendation to City Council to accept the bids from Perrault Construction for 305 Main St.

### **Nathan Richter – Fence Permit Update**

A letter has been received from the resident that opposes the fence. Brinkman is reviewing it and will respond accordingly. There was discussion regarding implementing a process under which a proposed variance would be prominently posted on the property to give notice to neighboring property owners.

### **Mark Lauer – Working Without a Permit Update**

Brinkman has still not heard back from Lauer. Brinkman is considering the next steps to take on this infraction balancing its low level of importance and the need to maintain consistent response. Brinkman will contact Chief of Police Frank Senn to meet with Lauer.

### **Roger Gazur Spray Booth Update**

There was no update to report.

### **The Meat Shop Update**

There was no update to report.

### **Fanatics - Update**

Brinkman reported that he is waiting on Solem Law to issue a letter to Lee Bertsch, the owner of Fanatics. There are other health concerns that have been identified by Custer Health. Revoking the establishment's liquor license is what is being considered to address the matter.

## **NEW BUSINESS**

### **Fire Alarm Plans - Approved**

Information sent out as an update only.

### **Fire Alarm Plans – Molco Lanes**

Information sent out as an update only.

### **Fence Letter – Feist and Cairns**

Information sent out as an update only.

### **Dave Gar Variance**

Tabled

### **Michael Woods Permit**

Brinkman reported that he received notice that there appeared to be retaining wall being constructed at the Michael Woods property located at 2217 1<sup>st</sup> Ave NE. The City Engineer determined that a retaining wall was being built. The retaining wall was not included in any prior permits and there has been no application for a separate permit. The construction needs to either be added to the permit issued for the garage or a new permit issued so that the location and length of the retaining wall is recorded in the property records. Brinkman has contacted and Woods who has been uncooperative in

trying to resolve the matter. Brinkman was given authorization to contact Police Chief Frank Senn on the next steps to go forward on the matter.

#### **Les Buchman Permit**

The permit is for the demo of a house and shed located at 120 2<sup>nd</sup> Ave NW. Brinkman noted he has provided Buchman with the requirements from the Dept. of Health regarding asbestos and the need to complete the necessary forms for its removal.

#### **J & B Enterprises Permit**

Ben Lenzen is considering remodeling his rental property located at 309 W. Main St. He has submitted a permit application for the demolition of the interior portion of the house to determine if the structure is salvageable. Brinkman noted that he has provided Lenzen with the same information that was provided to Les Buchman in relation to that demolition.

#### **Approval of Wellness Center Access Road**

Fire Inspector Eli Schumann has approved the Wellness Center's access road. It appears that a Certificate of Occupancy had been issued prior to Duppong's departure.

#### **Approval of Permits 7686 and 7699 and 7710 thru 7725 (See Attached Addendum A)**

Schwalbe moved approval of Permit Numbers 7686 through 7725; Renner seconded. Motion carried.

#### **Proposed Revisions to Building Permit Application**

Brinkman presented a draft of the proposed permit application revision. The Commission will review it for discussion at the November meeting.


#### **Proposed Handicap Parking Downtown**


Brinkman reported that he has proposed having parking spots downtown designated for handicapped parking to City Council. The Commission supported the proposal but also expressed concerns about suitable locations. There is also a proposal going forward under which a 15 minute parking restriction sign would be posted in front of the drug store.

#### **ZONING AND PLANNING AMENDMENTS**

P & Z Commission will need to look at amendments to the zoning code that include, fence heights, planting next to the street, terms of art and expiration dates.

Schwable moved to adjourn the meeting; seconded by Renner. Motion carried.

  
Chairman

  
Secretary

7686	Jamey & Tracy Backus	705	Hwy 49 N	Construct 40 ft x 80 ft x 16 ft Shop Building
7699	Mark Lauer	604	Hwy 49 N	Replace Asphalt roof w/metal roof - work done w/o p
7710	Renee Carlson	413	2nd Ave SW	Remove and replace asphalt shingles - garage
7711	Michael & Amy Hinckley	1006	Beacon Lane	Add Wall in Basement
7712	Bernadette Olsen	600	11th Ave NE	install 12x32 shed Extension of time on prior Permit #
7713	Bernadette Olsen	600	11th Ave NE	
7714	Dennis Heidel	409	Central Ave N	Steel Roofing
7715	Kaleb Thorp	107	16th St NW	Install 6ft high fence
7716	<i>Per</i> SummerBreeze Apartments	1200-		
7717	Michael & Amy Hinckley	1206	3rd Ave NW	Remove & Replace Shingles - both Units
7718	Levi & Karmen Guthmiller	1006	Beacon Lane	Install two (2) egress windows
7719	Gary & Susan Miller	1106	Chestnut Lane	Remove and replace asphalt shingles on house
7720	Coal Country Rentals	109	4th St. NE	Construct a 26ft x 10ft steel shed
7721	Lesly & Joette Buchmann	500	Railroad St SW	Remove & Replace asphalt shingles and repair of wall
7722	Tipton Living Trust	120	2nd Ave NW	Demo house and shed
7723	Brandon Nelson	109	4th Ave SW	Garage Foundation Repair
7724	Whipps Enterprises	220	1st St SE	Remove and replace asphalt shingles
7725	Ben & Julie Lenzen	129	W Main ST	Remodel of commercial space
		309	W Main ST	Remodel of commercial space