

Butte County Board of Adjustment Meeting Minutes
Butte County Courthouse
Commission Meeting Room
839 5th Avenue
Belle Fourche, SD 57717
Phone: 605-892-4485

Tuesday, August 15, 2023

THE BUTTE COUNTY BOARD OF ADJUSTMENTS CONVENED AT 1:00 P.M. on August 15, 2023. Commissioners present were Harms, Ager, Walton, Herman, and Erk.

Motion Ager, Second Walton to approve the agenda with no changes. Vote Unanimous. Motion Carried.

Motion by Herman, Second by Walton to approve the Board of Adjustment Meeting minutes from July 25, 2023, with no changes. Vote Unanimous. Motion Carried.

Beginning at **1:05 PM** a Public Hearing was held to consider an application for a variance from the requirement that medical cannabis establishments may open between the hours of 7:00 AM and 7:00 PM, Monday through Friday. Application for variance submitted by Redwater Cannabis Care Dispensary Application For Variance Of Butte County Ordinance # 2021-02 Section 2.A Hours of Operation; Second Amended Ordinance To Regulate Medical Cannabis within Butte County.

- Jake Johnson - General Manager of Redwater Cannabis Care spoke on the accessibility of card holders to get their medicine. Mr. Johnson spoke on the reason they are doing what they do – provide quality of care for those with cancer, life threatening, and end of life illnesses. Mr. Johnson spoke on the reasonable access required by SDCL 28.13.16. Mr. Johnson believes that the current hours are not reasonable access. Finally, Mr. Johnson spoke about the fact that the county has never overregulated any other businesses. Mr. Johnson suggested that the ordinance be revised to include things such as providing state inspection results to commissioners.
- Sue Broadhurst quoted Romans 13, she believes this mean that commissioners should follow the ordinance and laws on the land. Ms. Broadhurst said the commissioners should not allow the variance.
- Erica Douglas started saying that she hasn't attended any meetings and wanted to ensure the commissioners that those fights in Butte County resonate with her and opposers to medical cannabis are not fringe. Ms. Douglas believes that if commissioners focused on responsibilities instead of emotion there could be healing. Ms. Douglas gave a description of variance and spoke of the inconsistent application of the law by issuing a variance. Ms. Douglas shared a story about her sister and her struggles with drugs.
- Rose VanSickle said the commissioners only offer public comments because it is the law. Ms. VanSickle went on to discuss the reason for variances are only being done because the current ordinance isn't being followed.
- Steve Clooten said the biggest reason he was speaking today was that he was looking at the cannabis establishments with a commonsense approach by looking at them as a business venture and monetary benefits. Mr. Clooten is concerned about additional costs as a result of medical cannabis such as additional law enforcement.

Mr. Clooten wants the commissioners to consider both sides of the issues and not rush when considering approvals/renewals of medical cannabis establishments.

- Ms. Douglas spoke on the current hours of operations and the restrictions on other businesses who work within similar restrictions.

Beginning at **1:18 PM** a Public Hearing was held to consider an application for a variance from the requirement that medical cannabis establishments not be within 1,000 feet of a residence. Application for variance submitted by GLP Custer; DBA Greenlight LLC Application For Variance Of Butte County Ordinance # 2021-02; Second Amended Ordinance To Regulate Medical Cannabis within Butte County.

- Nathan Chicoine spoke in favor of the variance as a representative of GLP Custer, LLC. Mr. Chicoine shared the timeline of approval and the previous ordinance of which the company was originally approved. Mr. Chicoine discussed permitted non-conforming use based on codified law SDCL11-2-26. GLP Custer LLC received some approvals from nearby residents and have provided the information to commissioners. Mr. Chicoine believes the location of the establishments would not have an overly burdensome on the residents while it would be overly burdensome for the establishment to move. Mr. Chicoine ended by asking commissioners to grant variances for both cultivation and manufacturing establishments based on the law.
- Erica Douglas stated that GLP LLC can move to comply with the variance.
- Bonnie Hayford Mathews shared that her property abuts the establishments. Ms. Mathews spoke on things she believes will affect her neighbors such as health in particular. She spoke of her husband's struggles with Parkinsons and shared a story about her mother and grandmother and their opposition to manufactured drugs, encouraging her to use only natural products.
- Paul Pierson spoke on the detrimental effects of having establishments close to their residence. Light Pollution, traffic flow, odor and proximity to children were negative impacts they have experienced. Mr. Pierson said while they are not saying they are for or against medical cannabis, they do not feel there is a need for a variance of an ordinance put in place to protect residents within 1000' feet.
- Christine Pierson spoke on the families in the area and the amount of children in the neighborhood. Ms. Pierson asked why commission would make an ordinance when they were just going to change it. Ms. Pierson said she would be extremely disappointed if a variance was granted without considering the families in the neighborhood. She ended by asking the commissioners to consider both sides and to put themselves in residents' shoes.
- Rex Lamphere started by saying while he isn't unopposed to medical cannabis business, he is concerned on the odor and wondered if there was any consideration on run off before initial approvals. Mr. Lamphere is concerned about run off and discharge that flows from the establishments. Mr. Lamphere is also concerned about the lighting.
- Sue Broadhurst requested that commissioners deny the variance and follow the law in place.
- Ms. Mathews believed some concerns regarding lighting have been resolved after the business first opened and the traffic flow is only workers and not customers. Ms. Mathews also stated that the security is adequate.
- Mike Green is a partner in GLP and has shares in dispensaries in the area. Mr. Green talked about his personal experience with cannabis and how it has helped

with past injuries. Mr. Green says the best way to keep marijuana out of the hands of criminals and children is to regulate it.

- Ms. Pierson reiterated that she was not here to deny the benefits of medical marijuana and asked that commissioners consider the reason for the 1000' distance and do what is right for those within that location.
- Travis Ismay started by saying that he had no confidence that the commissioners would listen to what he had to say. Mr. Ismay believes the commissioners are now in a deep hole due to their not researching. Mr. Ismay spoke on the commissioner's violation of first amendment rights, open meeting laws, and removal of citizens while putting up with cannabis supporters. Mr. Ismay ended by reading Luke 12:2-5.
- Oren Schultz says he grew up in Butte County on ranch near Newell. Mr. Schultz spoke on the medications he was taking and the effects of them before medical cannabis. Mr. Schultz said he can function as a human being as a result of taking medical cannabis. Mr. Schultz spoke on the revenue generated by medical cannabis and the benefits to those in pain.
- Ms. Douglas spoke about the laws in place for businesses. Variances should only be granted in extreme cases and the current circumstances are not extreme. Ms. Douglas ended by saying she was here to argue in favor of the law of the land.
- Mr. Mathews spoke about his history of cancer and Parkinsons. Mr. Mathews was concerned about taking medical cannabis away from him as a means to relieve his symptoms.

Beginning at 1:50 PM Public Comment

- Rose VanSickle said she was appalled that the commissioners made ordinances and have now decided that they don't want to follow them. She said she is concerned about her the safety of her son who walks everywhere.

Discussion was held regarding Redwater Cannabis Care Dispensary Application For Variance Of Butte County Second Amended Ordinance To Regulate Medical Cannabis Within Butte County # 2021-02 Section 2.A(1) Hours of Operation.

Commissioner Herman believed they should deny the variance saying they have some teeth on this topic saying the time was set and she believed they should stick with the original dates and times. SA McCartney confirmed the correct days and times in last two versions of the ordinance – Mon thru Fri from 7:00 AM - 7:00 PM. Commissioner Erk went thru the history of the hours of operation saying he was in favor of denying the variance as it was already increased once.

Motion Herman, Second by Walton to deny Redwater Cannabis Care Dispensary Application For Variance Of Butte County Second Amended Ordinance To Regulate Medical Cannabis Within Butte County # 2021-02 Section 2.A Hours of Operation. Vote Unanimous. Motion carried.

Discussion was held regarding GLP Custer; DBA Greenlight LLC Application For Variance Of Butte County Ordinance # 2021-02; Second Amended Ordinance To Regulate Medical Cannabis Within Butte County.

- Commissioner Erk questioned the timeline of GLP approvals and timing of building within 1000' of residents knowing that the revised ordinance was in process.

Motion Erk to deny GLP Custer; DBA Greenlight LLC Application For Variance Of Butte County Ordinance # 2021-02; Second Amended Ordinance To Regulate Medical Cannabis Within Butte County. Based on timeline of Second Amended Ordinance and the date of the state approval Commissioner Erk was against the approval of the variance. Motion died for lack of a second.

- Commissioner Ager asked Mr. Green about how the drainage is addressed based on Administrative Rules of SD. Mr. Green stated that the plan includes what establishments do with drainage and mentioned they do not have any large amount of water coming from the facility.
- Commissioner Ager stated that he is within a short distance of several establishments and has noticed a smell. Ager said he believes there are ways to mitigate the smells using air filtration and is asking all establishments to be good neighbors by installing these systems.
- Commissioner Ager spoke on the changes made to the second amended ordinance to try to mitigate some of the concerns and items mentioned by citizens and businesses. Ager went on to say that he did not approve the changes to punish existing businesses or go backwards but rather to apply to new businesses coming into Butte County.
- Commissioner Herman talked about the lack of support and opinions regarding the first draft of the ordinance.

Motion Ager, Second Herman to approve GLP Custer; DBA Greenlight LLC Application For Variance Of Butte County Ordinance # 2021-02 Section 2. B(1) Second Amended Ordinance To Regulate Medical Cannabis Within Butte County. Roll Call Erk - Nay, Herman - Aye, Walton - Aye, Ager - Aye, Harms - Aye. Motion carried.

Motion by Erk, Second by Ager to adjourn the meeting at 2:09 PM. Vote Unanimous. Motion Carried.

APPROVED BY THE COMMISSION:
Stanley Harms, Chairperson

ATTEST: Annie Capp, Butte County
Auditor