

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

Tuesday, May 23, 2023

THE BOARD OF BUTTE COUNTY BOARD OF ADJUSTMENTS CONVENED AT 2:03 P.M. on May 23, 2023. Commissioners present were Harms, Ager, and Erk. Absent: Walton, Herman

Motion Ager, Second Erk to approve the agenda. Vote Unanimous. Motion Carried.

Motion by Ager, Second by Erk to approve the Board of Adjustment Meeting from April 18th, 2023, with no changes. Vote Unanimous. Motion Carried.

Beginning at **2:05 p.m.** Public Hearing 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 Mike Kahler and Matthew Kinney of Center of Nation Cultivation and Manufacturing, LLC.

Public comments were called for:

- Shelly McCutchen requested that the commissioners not issue any variances. Ms. McCutchen has two marijuana establishments near her home on each side and shared her concerns with water shortages for the cultivation establishment. There are already serious water shortages at her home. Ms. McCutchen also mentioned the smell which they find atrocious. Finally, Ms. McCutchen shared concerns on the increase in crime Butte County is experiencing.
- Mary Pugh asked that the variance not be issued to the Center of Nation. The smell causes headaches and infiltrates their home, clothes, etc. They believe the value of their home has decreased because of marijuana establishments. Ms. Pugh said they wouldn't have purchased a home if they were aware an establishment would be close to their property. Ms. Pugh also questioned the approval of establishments in close proximity to residential homes and the lack of information provided to homeowners.
- Nic Thimmesch says that the smell keeps him and his family from enjoying the outdoors and he sometimes has to stop working outside. Mr. Thimmesch stated his daughter must take allergy pills but still has a reaction to the odor. Mr. Thimmesch mentioned that realtors would not list his property, if he were to sell, due to the proximity of the cultivation and manufacturing establishments.
- Travis Ismay said commissioners pushed the ordinance through too quickly and begged the commissioners to listen to him and other residents of Butte County. Mr. Ismay suggested that property values are in jeopardy and like others the smell of marijuana establishments limits his outdoor activities.
- Jane Thimmesch owns a house 369' from the Center of Nation Cultivation establishment. Ms. Thimmesch suggested she does not feel comfortable having her

grandkids and great grandkids over due to the proximity of establishment. Ms. Thimmesch is also concerned with current and future property values.

- Calvin Fickbohm suggested that commissioners reconsider a variance. Mr. Fickbohm mentioned the smell and that the variance was not intended for these situations.
- Ms. McCutchen was glad to hear from some of her neighbors and suggested that the public hearing be sent to a wider group of residents outside of the 1000' radius.
- Commissioner Ager responded to some of the water concerns. Mr. Ager requested information on air filtration systems and suggested that some exhaust and/or air filter systems be used to alleviate the smell. While not a requirement, establishments that want to be good neighbors should do this at a minimum.
- States Attorney McCartney mentioned that Butte County cannot regulate many of the issues brought up due to lack of zoning.

Discussion was held regarding Center of Nation Cultivation and Manufacturing, LLC application for Variance Of Butte County Ordinance # 2021-02 Section 2.B(1); Second Amended Ordinance To Regulate Medical Cannabis Within Butte County.

- Matt Kinney was available for comment on behalf of the Center of the Nation. Mr. Kinney mentioned the Center of the Nation does not use local water and said they will invest in air filtration to help control the smell. Mr. Kinney stated they had not heard of the odor problem, saying the smell comes from a terpene drip.
- There was some discussion on the reason for the variance, the difference between medical and recreational marijuana, and legislation that was passed or failed.
- Commissioner Ager discussed the possibility of a zoning ordinance mitigating some of the issues Butte County is currently having with medical marijuana.

Motion by Ager, Second by Erk to table Center of Nation Cultivation and Manufacturing, LLC Application For Variance Of Butte County Ordinance # 2021-02 Section 2. B(1) Second Amended Ordinance To Regulate Medical Cannabis Within Butte County until full commission board is present. Vote Unanimous. Motion Carried.

Motion by Erk , Second by Ager to adjourn the meeting at 2:52 p.m. Vote Unanimous. Motion Carried.

APPROVED BY THE COMMISSION:
Stan Harms, Chairperson

ATTEST: Annie Capp, BC Auditor