



# GOODHUE COUNTY MINNESOTA

TO EFFECTIVELY PROMOTE THE SAFETY, HEALTH, AND WELL-BEING OF OUR RESIDENTS

Goodhue County Board of Adjustment  
Justice Center-Jury Assembly Room  
454 West 6th St, Red Wing MN 55066

Monday, May 23, 2016  
5:30 PM

Call Meeting To Order

Approval Of Current Agenda

Approval Of Minutes From Previous Meeting

1. March\_28,\_2016\_BOA\_Minutes

Documents: [MINUTES\\_3\\_28\\_2016\\_DRAFT.PDF](#)

2. April\_25,\_2016\_BOA\_Minutes

Documents: [MINUTES\\_APRIL252016\\_BOA\\_DRAFT.PDF](#)

Conflic/Disclosure Of Interests

1. PUBLIC HEARING: James Maybeck -

Variance request from the General Regulations of the Bluff Land Protection, which requires a Setback from top or toe of the bluff to any structure in any district that shall be no less than thirty (30) feet. The request is to construct a new building for equipment storage within 5 feet from the Toe of the Bluff at 31351 Highway 58, Red Wing; part of the south ½ of sw ¼ of Section 18, Township 112, Range 14 that part of east of described line beginning north west corner of section 19 south 1,255 8/10 feet north 70 degrees east 764 feet north 1 degree East 748, in Hay Creek Township.

Documents: [BOA\\_PACKET\\_MAYBACH.PDF](#)

2. PUBLIC HEARING: William Beckman -

Variance request from the Front Yard Requirement in the General Regulation of the Urban Fringe District, which requires a minimum setback of sixty (60) feet from the right-of-way line of any public road or highway. The request is to construct a new storage building within 18 feet of right-of-way at 44733 County 48 Blvd, Zumbrota; part of the south half of the southeast quarter of Section 29, Township 110, and Range 15 in Zumbrota Township.

Documents: [BOA\\_PACKET\\_BECKMAN.PDF](#)

3. PUBLIC HEARING: Dean Murray -

Variance request from the Side Yard Requirement in the General Regulations of the Urban Fringe District, which requires each side yard to have a minimum width of thirty (30) feet. The request is an after the fact variance to permit an existing building within 11 of the side property line at 43798 172nd Way Zumbrota; North 300 feet of the east 340 feet of the southwest ¼ of the southwest ¼ of Section 24 Township 110, Range 16 in Minneola Township.

Documents: [BOA\\_PACKET\\_MURRAY.PDF](#)

Old Business

1. OLD BUSINESS: Howard Stenerson (Tabled At The April 25, 2016 BOA Meeting) –

. Variance request from Solar Energy System (SES) Regulations yard setback requirements to allow a ground-mounted utility scale Solar Energy System (SES) within the A2 Zoning District's required 60 foot

front yard setback, 30 foot side yard setback, and the Shoreland Overlay District 75 foot setback to an unnamed tributary at 29121 Wildwood Ln. and 28969 County 1 Blvd. in Wacouta Township.

Documents: [LUM\\_UPDATE\\_STENERSEN\\_VARIANCE\\_MAY\\_2016\\_BOA\\_MTG.PDF](#)

Anyone interested is invited to attend. Agenda items may be subject to change.

## **Goodhue County Land Use Management**

♦ Goodhue County Government Center ♦ 509 West Fifth Street ♦ Red Wing ♦ Minnesota ♦ 55066 ♦  
♦ Building ♦ Planning ♦ Zoning ♦ Telephone: 651/385-3104 ♦ Fax: 651/385-3106 ♦

**BOARD OF ADJUSTMENT  
GOODHUE COUNTY, MN  
MARCH 28, 2016 MEETING MINUTES**

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The meeting of the Goodhue County Board of Adjustment was called to order at 5:30 p.m. by Chair Benson in the Goodhue County Justice Center Jury Assembly Room in Red Wing, Minnesota.

**1. Roll Call**

Commissioners Present: Brandon Schafer, Howard Stenerson, Rich Ellingson, Richard Mallan,  
Commissioners Absent: Mike Hinsch, Robert Benson

Staff Present: Planner/Zoning Administrator Mike Wozniak, Zoning Assistant Benjamin Hoyt,  
and Zoning Assistant Casey MacCallum

**2. Chair appointment**

<sup>1</sup>The Board elected Richard Ellingsberg as temporary Chair. Motion Commissioner Mallan,  
second Commissioner Schaffer. Motion carried 4:0.

**3. Approval of Agenda**

<sup>2</sup>Motion by Commissioner Mallan, second by Commissioner Stenerson, to approve the March  
28, 2016 meeting agenda  
Motion carried 4:0.

**4. Approval of Minutes**

<sup>3</sup>Motion by Commissioner Shafer, second by Commissioner Stenerson, to approve the February  
26, 2016 minutes as amended  
Motion carried 4:0.

**5. Conflict of Interest/Disclosure:** None

**Public Hearing:**

**6. Lisa Marty Variance request:** to the density and driveway regulations to allow a dwelling on  
a parcel less than 35 acres (20 acres) in the A3 Urban Fringe district, and a variance to the  
County driveway standards.

The purpose of the variance request is to build a dwelling on Parcel 31.001.6700. Much of the  
property is in the bluff land and has marginal farmland. The property also has an easement that  
allows access to a private road (labeled as 290<sup>th</sup> on the Site Map) that connects to Hay Creek  
Trail (a Featherstone Township Road). A variance must be granted to the A3 (Urban Fringe) 35  
Acre minimum to build a dwelling on this property. The current driveway does not meet design  
standards for private roads of the Goodhue County Subdivision Controls Ordinance and  
therefore a variance must be granted to allow the current driveway to be used to access up to  
four dwellings, a variance from the drive way width standards, and a variance from the  
maximum incline of the requirement 19 from the 14 maximum.

*Zoning Administrator Mike Wozniak presented the staff report and summarized the request:*

- (1) the Applicant needs a variance from County standards and still needs a variance  
from Township standards;*
- (2) three options were provided;*
- (3) there is limited Agriculture in the area;*
- (4) it is unlikely that the City of Red Wing will expand and provide services to the area;  
and*
- (5) the staff Findings provide three options for both variances.*

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*Lisa Marty (Applicant) addressed the Townships probability to amend their ordinance, the driveway was constructed and has been used at the present incline since 1986, garbage and construction vehicles do not have problems on the driveway, and the bluffs imposes low density.*

Commissioner Stenerson clarified that the BOA is addressing variances to:

- (1) the lot size,
- (2) the driveway incline,
- (3) the driveway width, and
- (4) number of accessing using the driveway. Staff confirmed.

*Commissioner Mallan noted the rise of the driveway was unacceptable.*

Acting Chair Ellingsberg opened the Public Hearing

*Featherstone Township Chair Carl Bang addressed the Board with several concern:*

- (1) the townships primary concern is the parcel's lack of road frontage,
- (2) the Township is not inclined to amend their ordinance,
- (3) the slope of 14%,
- (4) though the driveway has worked for several years,
- (5) the Township and County were negligent when approving the driveway,
- (6) fire trucks have problems on similar steep driveways,
- (7) school busses have started to use private roads,
- (8) propane deliveries on driveway,
- (9) the Township is not interested in approving a variance, and
- (10) improvements should have been required during the 2010 transfer of ownership.

*Commissioner Stenerson asked Featherstone Township Chair Bang if the Township was interested in taking over the driveway and turn it into a township road. Chair Bang replied that the Township was not interested in the responsibility for the road.*

*Neighbor Amy Adams, who grew up on the driveway, informed the Board that she has never experienced any accidents on the road. Improving or moving the road to the left would exacerbate the incline of the driveway, and moving the road to the right would significantly impact wetlands. She also noted that only one person can use the road for access at a time.*

*Featherstone Township Clerk Gaye Larson has received calls against the approval of the variance. He also noted that the Township would not provide a variance, and have not allowed variances of this type or zoning amendments in the past.*

*Sharon Marty, the applicant's mother, provided background on the property: in 1972 Sharon bought the property from her parents, she has never gone into the ditch. She also noted the two parcels owned by the family have always been separate.*

*Dale Marty informed the Board that the driveway is drivable, and it's not as bad as it is being presented. Commissioner Stenerson and Dale discussed the topography of the driveway.*

*Susan Denis, a neighbor that accesses her house from the driveway, described the area in question and noted the drive is steep but drivable, and the top of the drive is wide enough to turn around. She also noted that students board the bus on Hay Creek Trail, and propane truck drivers have not mentioned any problems with the driveway.*

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*The applicant noted that 290<sup>th</sup> is a public road, and she doesn't want to have a negative impact on the Township.*

Acting Chair Ellingsberg asked three times for comments. After hearing none, Commissioner Stenerson motioned, seconded by Commissioner Schafer, to closed the Public Hearing.  
Motion carried 4:0

*Commissioner Stenerson commented that:*

- (1) lot size is historic and was not created by the applicant,*
- (2) the road is his main concern,*
- (3) the applicant is requesting a variance from regulations were created for fire and ambulance access,*
- (4) at some point there is a limit on the number of homes on an unimproved driveway,*
- (5) Zoning Administrator Mike Wozniak commented that the driveway could be upgraded to private road standards to meet code,*
- (6) meeting the criteria to support a variance for density just because it was made before the code doesn't meet the findings.*

*Zoning Administrator Wozniak commented that on a private road the people who use the road maintain it.*

*Commissioner Stenerson noted that the Township is not interested in maintaining the road.*

<sup>4</sup>Motion Commissioner Stenerson to deny both variances with the findings staff provided in Option 3 of the Staff Report.  
There was no second.

*Commissioner Mallan noted that if the County passed the variance the township would pass a variance to their requirements for the variances.*

Commissioner Mallan seconded Commissioner Stenerson's motion.

*Commissioner Schafer commented that the road width was difficult to pass; and the frontage nor the parcel size were problems for the County. Acting Chair Ellingsberg also agreed to passing the lot size variance.*

*The Applicant informed the Board that the road was 15 feet to 18 feet wide.*

*Commissioner Schafer inquired about the road widths requirements for private drives. Zoning Administrator Wazniak cited Section 8 of the Subdivision Ordinance: Subdivision Design Standards, Local Roads require 66' of right of way, and Private roads require 30' of right of way.*

Commissioner Schafer called to question the Motion from Commissioner Stenerson.  
Motion failed. 1:3 against.

*Zoning Administrator Wazniak clarified the procedural annotation that a failure for the motion to approve the variance results in a denial of the variance request. The Commissioners agreed.*

*Acting Chair Ellingsberg opened the floor for a motion to approve the density variance.*

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*Zoning Administrator Wozniak directed the Board to the findings to approve the density variance in the staff report.*

<sup>5</sup>Motion Commissioner Schafer to approve the variance from the lot density requirement for the parcel in question, amended to include staff's findings as provided in the packet. Motion carried 3:1 Commissioner Stenerson dissenting.

*Commissioner Stenerson inquired about a possible cul-da-sac for a solution. Zoning Administrator Wozniak explained that a Cul-da-sac would not solve the need for a variance.*

*There was a discussion between Zoning Administrator Wozniak and the Commissioners about several options like Cul-de-sac's, variances, maintenance and the platting process.*

- 7. Eric Otto Variance request:** to the setback requirements to allow a structure within the 30 foot setback from the bluff impact zone.

The purpose of the variance request is to build a dwelling on Parcel 37.008.0600. The property is zoned A2 (Agricultural) and the surrounding area is predominantly rural residential. The bluff lands and CAP-X limit the buildable area of the parcel.

*Zoning Administrator Mike Wozniak presented the staff report with the findings, conditions and summarized the request. Staff recommends approval.*

*Comments from Beau Kennedy (Goodhue County SWCD)  
October 2015*

*Note, if a variance is needed for house/shed within the bluff setback, I don't foresee any major issues. I would however avoid placement of structures within the bluff impact zone. The owner mentioned that a few feet of material will be cut off the top of the hill prior to construction. We discussed erosion and sediment control measures on site. If these practices are properly installed before, during and after construction, I do not see a major impact to the bluff.*

*March 2016*

*It does appear that the home will be placed slightly within the 30' setback from the top of bluff. It may be worth the landowner's time to adjust the plans a few feet to avoid bluff ordinance impacts. I'm not sure what the setbacks are for the property line to the south, but it appears that there is room to move the house and shed to the south 10-15 feet without a major issue. Erosion control measures and special attention to roof and yard drainage should be noted to prevent runoff during and after site development.*

*The Applicant stated the need for the variance is to build a house on the property that the family has owned for generations.*

*Commissioner Schafer noted the need for the variance is for the septic drain field, not any structure.*

*Commissioner Stenerson requested clarification on the topography, whether it was the top or toe of the bluff, and the location of the CAPX easement.*

Acting Chair Ellingsberg opened the Public Hearing. Acting Chair Ellingsberg asked three times for comments. After hearing none, Commissioner Schafer motioned, seconded by Commissioner Stenerson, to close the Public Hearing.

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Motion carried. 4:0

*Commissioner Stenerson inquired about complaints from the neighbors. The Applicant stated that there were none.*

<sup>6</sup>Motion by Commissioner Schafer, second by Commissioner Stenerson, to approve the request for the variance from the bluff impact zone setback with the findings and conditions as provided by staff.

Motion carried 3:0

- 8. Derek Dicke Variance request:** from the Setback and Density regulations to allow a building on parcel 26.009.0400.

The purpose of the variance request is to build a dwelling on a  $\frac{1}{4}$ ,  $\frac{1}{4}$  that already has a dwelling and the 1000ft feedlot setback requirement. The applicant intends to split the property from the main dwelling and feedlot, and the variance would apply to the newly created parcel. Section 9 of Belvidere Township has ten potential dwelling sites available, and the applicant has access to three. This building site requires two variances, and denial of either would render the lot undevelopable.

*Zoning Administrator Mike Wozniak presented the staff report. The Applicants preferred location, and purpose of the request, would limit the impact on agriculture, and past actions would support approval.*

*Zoning Assistant Ben Hoyt explained the odor offset implications.*

*Zoning Administrator Mike Wozniak presented the recommendations, findings, and conditions.*

*Commissioner Stenerson inquired about development rights and specifics on the setback encroachment. Zoning Administrator Mike Wozniak answered that the variance is for 300' to allow the house site to be placed within 700' of the feedlot.*

*The Applicant stated that the preferred development right transfer should be from the North East  $\frac{1}{4}$ - $\frac{1}{4}$ .*

Acting Chair Ellingsberg opened the Public Hearing. Acting Chair Ellingsberg asked three times for comments. After hearing none, Commissioner Schafer motioned, seconded by Commissioner Stenerson, to closed the Public Hearing.

Motion carried. 4:0

<sup>7</sup>Motion Commissioner Schafer, second Commissioner Mallan, to approve the variance with the amendment to add the Condition of development right transfer from the NE  $\frac{1}{4}$  -  $\frac{1}{4}$ .

Motion carried 4:0

Acting Chair Ellingsberg called for a short break.

- 9. David Bye/Jeff Dorman Set Back Variance:** to allow a dwelling on parcel 40.027.0200. The property has enough space to avoid the 1000 foot feedlot setback requirement, but the topography and field drainage patterns would make building difficult. The proposed variance would allow construction of a dwelling within 940' of a feedlot instead of the required 1000'. The feedlot in question is located on Tax Parcel #400261200 on property owned by Wayne R. Streiff and currently there are no animals on that property. A two-foot contour map (see GIS Site Map with 2-foot contours) clearly illustrates a circular shaped flatter portion of the site for the proposed dwelling location.

*Zoning Administrator Mike Wozniak presented the staff report and summarized the request.*

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*Commissioner Schafer stated that the State and County regulations nullifies the feed lot regulation if the feed lot has not had animals in the five years.*

Acting Chair Ellingsberg opened the Public Hearing.

*Brian Hoven asked about the need for the variance if the feed lot shouldn't be registered. Zoning Administrator Mike Wozniak explained that staff was informed that the feed lot was registered.*

Acting Chair Ellingsberg asked three times for comments. After hearing none, Commissioner Stenerson motioned, seconded by Commissioner Schafer, to close the Public Hearing.  
Motion carried 4:0

<sup>8</sup>Motion Commissioner Schafer to approve the request for variance as presented, seconded by Commissioner Stenerson.  
Motion carried 4:0

**10. Staff Update:** Comprehensive Plan, Ordinances, and next meeting.

*Zoning Administrator Mike Wozniak discussed the Comprehensive Plan survey, trends, and timeline; and that staff will prepare updates to several Ordinances for the Planning Commission to approve, which will affect the amount of variances. Zoning Assistant Ben Hoyt informed the Board that the next Board of Adjustment meeting will have 2 items: a solar energy system and a variance to the A3 lot size regulation.*

**11.<sup>9</sup>Adjourn:** Commissioner Schafer, second by Commissioner Mallan, to adjourn the Board of Adjustment at 8:00pm.

**Motion carried 3:0.**

Respectfully Submitted,

Casey MacCallum, Recording Secretary

MOTIONS

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<sup>1</sup> APPOINT temporary Chair Elingson. Motion carried 4:0.

<sup>2</sup> APPROVE the March 28, 2016 meeting agenda Motion carried 4:0.

<sup>3</sup> APPROVE the February 26, 2016 minutes as amended. Motion carried 4:0

<sup>4</sup> Motion Commissioner Stenerson to deny both variances with the findings staff provided in Option 3 of the Staff Report. There was no second.

<sup>5</sup> Motion Commissioner Schafer to approve the variance from the lot density requirement, amended to include staff's findings as provided in the packet. 3:1 (Commissioner Stenerson dissenting)

<sup>6</sup> Motion by Commissioner Schafer, second by Commissioner Stenerson, to approve the request for the variance from the bluff impact zone setback with the findings and conditions as provided by staff. Motion carried 4:0

<sup>7</sup> Motion Commissioner Schafer, second Commissioner Mallan, to approve the variance with the amendment to add the Condition of development right transfer. Motion carried 4:0

<sup>8</sup> Motion Commissioner Schafer to approve the request for variance as presented, seconded by Commissioner Stenerson. Motion carried 4:0

<sup>9</sup> Adjourn: Commissioner Schafer, second by Commissioner Mallan, to adjourn the Board of Adjustment at 8:00pm. Motion carried 4:0

**BOARD OF ADJUSTMENT  
GOODHUE COUNTY, MN  
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DRAFT**

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The meeting of the Goodhue County Board of Adjustment was called to order at 5:30 p.m. by Chair Benson in the Goodhue County Justice Center Jury Assembly Room in Red Wing, Minnesota.

**1. Roll Call**

Commissioners Present: Brandon Schafer, Howard Stenerson, Rich Ellingsberg, Richard Mallan, Mike Hinsch, Robert Benson

Commissioners Absent: None

Staff Present: Land Use Management (LUM) Director Lisa Hanni, Planner/Zoning Administrator Michael Wozniak, Zoning Assistant Kate Eynck, and Zoning Assistant Casey MacCallum

**2. Approval of Agenda**

<sup>1</sup>Motion by Commissioner Stenerson and seconded by Commissioner Ellingsberg to approve the April 25, 2016 meeting agenda. Motion carried 6:0.

**3. Approval of Minutes**

<sup>2</sup> March 28, 2016 minutes delayed until May 23, 2016.

**4. Conflict/Disclosure of Interest**

Howard Stenerson: His request for the Solar variances.

**5. PUBLIC HEARING: Eric LaCanne** – Variance request from A3 Urban Fringe District, GENERAL DISTRICT REGULATIONS, Lot Area to allow a parcel less than 35 acres (33.05 acres), to subdivide a 2 acre farm yard from the remaining estimated 31.05 tillable acreage at 3888 County 12 Blvd in Kenyon Township.

Eric LaCanne was present.

*Mike Wozniak presented the staff report, attachments, and summarized the request:*

Stenerson asked if “the condition for approval is that no future development shall happen on the parcel without the dwelling” might limit future development if the underlying zoning district (A3) were to change in the future.

Mike Wozniak said that any condition applied to the possible approval would be applied to the property even if the zoning district should change in the future.

*Chair Benson opened the Public Hearing for the Variance request.*

Bernie Overby, Kenyon Township Planning Commission member and Board of Supervisors member, said that this request had been reviewed by the township and approved.

**<sup>3</sup>After Chair Benson asked three times for further comments. After hearing none, it was moved by Commissioner Ellingsberg and seconded by Commissioner Mallan to close the public hearing.**

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**Motion carried 6:0**

**<sup>4</sup>Motion by Stenerson, Second by Schaffer, The Board Of Adjustment adopt the staff report into the record (dated April 25<sup>th</sup>, 2016); adopt the findings of fact; and based on the application, testimony, exhibits, and other evidence presented approve the variance request from Article 23, Sec. 5, Subd.1.3 to allow a parcel at 3888 County 12 Blvd. 36.010.0100 to be split off from the farm yard with the condition the resulting parcel is to be no less than 2 acres in size.**

**Motion carried 6:0**

*Commissioner Stenerson recuses himself from the following variance requests:*

**Howard Stenerson** – Variance request from Solar Energy System (SES Regulation yard setback requirement to allow a ground mounted utility scale Solar Energy System (SES) within the A2 Zoning District’s required 60 foot front yard setback, 30 foot side yard setback, and the Shoreland Overlay District 100 foot setback to an unnamed tributary at 29121 Wildwood Ln. and 28969 County 1 Blvd. in Wacouta Township.

Howard Stenerson, John Nevel with Ameresco and Julie Jorgensen with Green Mark were present.

Mike Wozniak presented the staff report and attachments, including a petition submitted by concerned neighbors that was supplied to the applicant and to the audience.

John Nevel with Ameresco and Julie Jorgensen with Green Mark presented information about themselves and the project including, that they are Solar Energy Experts who care about Minnesota, Solar Energy is a sustainable community choice, community solar garden law 2013 allows any Xcel Energy customer to subscribe, they want to be friendly neighbors: this site is planned to be a 5 megawatt project on an estimated 28 acres, it will produce enough energy to power about 750 homes, the solar panels will be 9 feet tall and tilt at a 30% angle, they will be removed after 30 years, there are local benefits like recognition as a progressive “green” township, positive press coverage, and environmentally friendly to the site and community, they plan to offer green screens and increase the quality of the land and have offered to possibly plant additional more mature trees as screening on neighboring properties to screen views.

Howard Stenerson presented additional clarification about the proposal, a history of wetland loss and degradation within Goodhue County, documents about “Wetland Restoration Techniques”, and stated that the Army Corps of Engineers have studies suggesting pole mounted Solar Energy Systems were “minimal harm” to Wetlands. Mr. Stenerson noted that the final engineering and wetland delineation cannot be completed until after this process and the project foot print has not been finalized. He is asking for 3 variances today:

1. A2 Zoning District’s required 60 foot front yard setback from Wildwood lane. This area would not have solar panels, but would have a new fence, planted vegetative screening (including larger trees), electrical connections lines would be knifed in the ground, and possibly include the placement of some system components (inverters, transformers, boxes, switchgear, etc.).
2. A2 Zoning District’s required 30 foot side yard setback from railroad property to the north. In this area they would like to include solar panels as close as possible to the

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- property line and are also planning a new fence, planted vegetative screening (including larger trees), electrical connections lines, and system components in this area.
3. Shoreland Overlay District 100 foot setback to an unnamed tributary. They would like to place solar panels right up to the open water, pending PAC decision regarding the requested change to Goodhue County zoning text for Shoreland: Current Goodhue County SES regulations do not allow Utility Scale SES in Shoreland Management Areas. If a SES Zoning Ordinance Text amendment were to be approved, the ordinance would need to conform to Shoreland Management Act and State Shoreland rules.

*Chair Benson opened the Public Hearing for the Variance request.*

Elaine and Robert Kleffman comments included: concern for the shoreland and wetlands in this area, and how this “opens a Pandora’s box” questioning the legitimacy of industrial solar projects within wetland and shoreland areas.

Alan Wulff said that he purchased property in this area because he liked the openness and the wildlife; the proposed project screening would be like living in a tunnel and he has concerns about the sun’s reflection off the panels.

Dee Safe comments included: concern for wildlife and a decreased safety of distracted drivers.

Jean and Dave Christopherson inquired about John Nevel with Ameresco and Julie Jorgensen with Green Mark’s experience with solar projects in Wetlands and the unique quality of this wetland. Their comments included: concerns for the shoreland and wetlands in this area ,scenic highway 61, property values, sand hill cranes, turtles, and other wetland wildlife

Brenda and Richard Collins comments included: concerns for the view shed of the proposed solar project from their property on Wildwood Lane as well as concerns for local deer, turkey, and other wildlife.

John Schueller, Wacouta Township Board Supervisor, stated that the Township has not received a formal application yet and what is not resolved in this meeting will have to be address at the Township along with the formal application.

**<sup>5</sup>After Chair Benson asked three times for comments. After hearing none, it was moved by Commissioner Ellingsberg and seconded by Commissioner Hinsch to close the public hearing. Motion carried 6:0**

Howard Stenerson presented additional clarification about the proposal, the only place that the electrical lines would be above ground would be over open water, boxes would be connection boxes and would are not included in the variance requested area, and stated that the concerns heard tonight were more about the CUP and not the variance requests.

*Commissioner Schafer questioned the exact nature of the hardship (see Article 19 Solar Energy System (SES) Regulations).*

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Howard Stenerson said that the soil type and screening views for the neighbors are the reasons for the variance requests.

Land Use Management Director Hanni clarified on the power point screen, the BOA is considering 3 variances:

1. Wildwood lane: to allow the SES infrastructure (lighting, fencing, utility lines) within the 60 foot setback.
2. Railroad (rear lot line): to allow the SES infrastructure (panels, landscaping, fencing, utility lines) within the 30 foot setback.
3. Shoreland setback: to allow the SES infrastructure (panels, landscaping, fencing, utility lines, within the 100 foot setback.

*Commissioner Ellingsberg asked for staff recommendations.*

*Commissioner Benson suggested that they reconvene after the special meeting of the planning advisory commission(PAC) immediately following the scheduled BOA.*

**6<sup>th</sup> Motion by Schaffer, seconded by Hinsch to recess the BOA meeting until the adjournment of the Planning Commission. Motion carried 6:0.**

The meeting of the Goodhue County Board of Adjustment was reconvened by Chair Benson in the Goodhue County Justice Center Jury Assembly Room in Red Wing, Minnesota after the PAC meeting.

**7<sup>th</sup> Motion by Benson, second by Mallan, to adopt the staff report into the record, adopt the findings of fact; and basing action on the application, testimony, exhibits, and other evidence presented: recommend the County Board deny the variance request from Solar Energy System (SES) Regulations number one (1), Wildwood lane: allowing the SES infrastructure (lighting, fencing, utility lines) within the A2 Zoning District's required 60 foot front yard setback at 29121 Wildwood Ln. and 28969 County 1 Blvd. in Wacouta Township.**

*There was discussion about the timeline and application in regards to the 60 day rule.*

*Stenerson requested that the Commission table the variance requests to May 23, 2016.*

**Motion withdrawn by Benson**

**8<sup>th</sup> Commissioner Schaffer motioned, second by Commissioner Hinsch, to table the request until the May 23, 2016 Board of Adjustment meeting. Motion carried 6:0.**

## **6. Staff Updates**

None

**9<sup>th</sup> Adjourn: Moved by Commissioner Hinsch, second by Commissioner Benson, to adjourn the April 25, 2016 Board of Adjustment meeting at 9:55 p.m. Motion carried 6:0.**

Respectfully Submitted,

Kate Eiyck Recording Secretary

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MOTIONS

<sup>1</sup> APPROVE the BOA meeting agenda. Motion carried 6:0.

<sup>2</sup> APPROVE the last month's BOA minutes. Motion carried 6:0.

<sup>3</sup> Motion to close the Public Hearing. Motion carried 6:0

<sup>4</sup> Motion by Stenerson, Second by Schaffer, The Board Of Adjustment adopt the staff report into the record (dated April 25th , 2016); adopt the findings of fact; and based on the application, testimony, exhibits, and other evidence presented **approve** the variance request from Article 23, Sec. 5, Subd.1.3 "Parcels with an existing dwelling as of June 5, 2012 which have 35 acres or more may be split provided the minimum lot size for the dwelling parcel must be at least 2 acres" so to allow the parcel at 3888 County 12 Blvd. 36.010.0100 to split off the farm yard no less than 2 acres.

Motion carried 6:0

<sup>5</sup> Motion to close the Public Hearing. Motion carried 9:0

<sup>6</sup> Motion to table the Text Amendment. carried 9:0

<sup>7</sup> Motion by Benson, second by Mallan, adopt the staff report into the record, adopt the findings of fact; and basing action on the application, testimony, exhibits, and other evidence presented: recommend the County Board deny the variance request from Solar Energy System (SES Regulation yard setback requirement to allow a ground mounted utility scale Solar Energy System (SES) within the A2 Zoning District's required 60 foot front yard setback, 30 foot side yard setback, and the Shoreland Overlay District 100 foot setback to an unnamed tributary at 29121 Wildwood Ln. and 28969 County 1 Blvd. in Wacouta Township.

There was discussion about the timeline and application in regards to the 60 day rule.

Stenerson requested that the Commission table the variance requests to May 23, 2016.

Motion **withdrawn** by Benson

<sup>8</sup> Commissioner Schaffer motioned, second by Commissioner Hinsch, to **table** the request until the May 23, 2016 Board of Adjustment meeting. Motion carried 6:0.

<sup>9</sup> Adjourn: Moved by Commissioner Hinsch, second by Commissioner Benson, to adjourn the April 25, 2016 Board of Adjustment meeting at 9:55 p.m. Motion carried 6:0.

# Goodhue County Land Use Management

Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066



Building | Planning | Zoning  
Telephone: 651.385.3104  
Fax: 651.385.3106

Environmental Health | Land Surveying | GIS  
Telephone: 651.385.3223  
Fax: 651.385.3098

**To:** Board of Adjustment  
**From:** Land Use Management  
**Date:** May 12, 2016

## **Application Information:**

Applicant: James Maybach  
Address of Zoning request: 31351 Highway 58, Red Wing MN 55066  
Zoning district: A2  
PIN: 34-019-0601  
Township Information: Hay Creek Township has not signed the application and has the following comments: none.

## **Attachments:**

Applicant Statement  
Supplemental Information  
MNDNR letter  
Site Map (Maybach)  
Goodhue County Zoning Ordinance: Articles 12, Section 4,  
Beau Kennedy (SWCD) email  
Site pictures with drawings (3)  
Site Map (LUM)

**Notice:** James Maybeck – Public Hearing/Variance request from Goodhue County Zoning Ordinance Article 12 (Bluffland Regulations), Section 4 (General Regulations), Subd. 2; that requires a Setback from top or toe of the bluff to any structure in any district that shall be no less than thirty (30) feet. The request is to construct a new building for equipment storage within 5 feet from the Toe of the Bluff at 31351 Highway 58, Red Wing; part of the south 1/2 of SW 1/4 of Section 18, Township 112, Range 14 that part of east of described line beginning north west corner of section 19 south 1,255 8/10 feet north 70 degrees east 764 feet north 1 degree East 748, in Hay Creek Township.

**Background:** The purpose of the variance request is to construct a new equipment storage building within 5 feet from the Toe of the Bluff at 31351 Highway 58, Red Wing; in Hay Creek Township. This new accessory building is replacing the existing structure that is beyond repair.

### **Findings of Fact:**

Before any such variance may be granted, the Board of Adjustment shall specify in their findings, the facts in each case. Variances shall only be permitted when:

- 1) They are in harmony with the general purposes and intent of the official control;  
**The intent of the Bluff Land Protection regulations is to “recognize the historic and economic values of the bluffs [... and to] set out to protect and preserve the sensitive physical features of the bluffs... and prevent erosion”.**

**As Mr. Kennedy stated in his email dated 4/8/16 “there is an area to the west of where Jim is proposing to build the shed that is open and not as steep; but I would not recommend placing material and/or structure in this area. It is a drainage that has proven to be flashy during rain events and could cause structural and erosion issues if the shed would be moved to the west.”**

**By placing the shed within the 30’ setback there would be less impact on the bluff and erosion than if the Applicant was held to the strict interpretation of the Code.**

- 2) The variances are consistent with the comprehensive plan;  
**This is not in conflict with the 2004 Comprehensive Plan. The project necessitating the need for the variance is a proposed equipment shed that is intended to replacing an outdated structure on the site with very limited buildable area.**
- 3) There are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner, not permitted by an official control. Economic considerations alone do not constitute practical difficulties.  
**The intent of the provision is to stabilize and protect the natural resource of Goodhue County Bluffs. Allowing the encroachment into the bluff set back will allow the property owner to avoid erosion given the constraints present on his site.**
- 4) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and  
**The Applicant is requesting to use the property for a typically permitted use (to build a shed) and requests the variance to the Bluff setback to avoid erosion that may be caused by flash flooding. The requested is due to the unique topography of the site.**
- 5) The variance, if granted, will not alter the essential character of the locality.  
**Building the shed will not alter the essential character of the locality.**
- 6) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

**There is no change of use.**

- 7) The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

**If the variance is approved than, in accordance with the provision and intent of the Goodhue County Zoning Code and Comprehensive plan the following Conditions should be applied:**

- 1. Conformance with the application submitted to Goodhue County Land Use Management Office dated April 19, 2016.**
- 2. No construction may begin until required building permits are obtained from Hay Creek Township and Goodhue County.**
- 3. The Applicant must grade a small diversion up from the current toe of slope. This diversion should be 4' to 6' wide and divert runoff to the north, away from the constructed shed pad.**
- 4. Seed and mulch within 7 days of final grading onsite (Goodhue SWCD mix or similar should be used).**

*The following should be edited to reflect any concerns raised at the **May 23, 2016** BOA meeting and public hearing:*

**Staff Recommendation:**

Staff recommends the Board of Adjustment adopt the staff report into the record (dated May 23, 2016); adopt the findings of fact; and based on the application, testimony, exhibits, and other evidence presented and **approve** the variance request from the General Regulations of the Bluff Land Protection, which requires a Setback from top or toe of the bluff to any structure in any district that shall be no less than thirty (30) feet. The request is to construct a new building for equipment storage within 5 feet from the Toe of the Bluff at 31351 Highway 58, Red Wing, MN,

Subject to the following conditions:

1. Conformance with the application submitted to Goodhue County Land Use Management Office dated April 19, 2016.
2. No construction may begin until required building permits are obtained from Hay Creek Township and Goodhue County.
3. The Applicant must grade a small diversion up from the current toe of slope. This diversion should be 4' to 6' wide and divert runoff to the north, away from the constructed shed pad.
4. Seed and mulch within 7 days of final grading onsite (Goodhue SWCD mix or similar should be used).

# Variance

*Application for play 23<sup>rd</sup> BOA  
4/18 - 4/25*

Application for Variance	
VARIANCE NUMBER: For Staff Use only	216-0030
\$350 RECEIPT#	15334
DATE	4/18/16

## 1. Owner/Applicant Information

PROPERTY OWNER'S NAME:  
*James Maybach*

PROPERTY OWNER'S ADDRESS:  
[Redacted]

TELEPHONE:  
[Redacted]

EMAIL:  
[Redacted]

APPLICANT OR AUTHORIZED AGENT'S NAME:

Same as Above

APPLICANT'S ADDRESS:  
*Same as above*

TELEPHONE:  
( )

EMAIL:

CONTACT FOR PROJECT INFORMATION:

Same as Above

ADDRESS:  
*Same as above*

TELEPHONE:  
( )

EMAIL:

## 2. Location and Classification

STREET ADDRESS OF PROJECT:  
*31351 Hwy 58 Red Wing, MN*

LEGAL DESCRIPTION:

ZIP CODE:  
*55066*

Attached

PID#: *1234.019.0600* ZONING DISTRICT: *A-2* LOT AREA (SQ FT): *1,563,804* LOT DIMENSIONS: *35.9ac.* STRUCTURE DIMENSIONS (if applicable): *30 x 54 x 12*

( Please check all that apply )

ADDITIONS TO BUILDING:

New Building on vacant land  Rear

New Addition to existing building  Front

Animal Building  Side

Storage building  Other Please clarify

PRESENT OR PREVIOUS USE:  
*None*

PROPOSED USE:  
*Equipment Storage*

BUILDING APPLICATION PERMIT NO.: (if filed)

DATE FILED:

TOWNSHIP: \_\_\_\_\_

By signing this form, the Township acknowledges being made aware of the request stated above. In no way does signing this application indicate the Township's official approval or denial of the variance request. Attached

TOWNSHIP OFFICAL'S PRINTED NAME AND TITLE \_\_\_\_\_ TOWNSHIP OFFICAL'S SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

## 3. Applicant's Affidavit

Under penalty of perjury the following declarations are made:

1. The undersigned is the owner or authorized agent of the owner of this property.
2. The information presented is true and correct to the best of my knowledge.
3. If I am unable to be present at the meeting where my request is decided, I agree to accept the Notice of Decision by certified USPS.
4. Other information or applications may be required.

Signature: *J. J. Maybach*

Date: *17 April 2016*

Print name: *James Maybach* owner or authorized agent (circle one)

**VARIANCE REQUEST  
FOR CONSTRUCTION OF POLE FRAME BUILDING  
ON MAYBACH PROPERTY**

**INTRODUCTION**

This request is for a variance to a Goodhue County Ordinance to allow the property owner to construct a 30' X 54' X 12' equipment storage building within the thirty-foot setback zone from the toe of a bluff.

The ordinance to which a variance is requested is Goodhue County Zoning Ordinance, Article 12 - Bluff Land Protection, Section 4, subd.2 – “Setback from the top or toe of the bluff to any structure in any district shall be no less than thirty (30) feet.”

**VARIANCE REQUESTED**

Construct a new building within five feet of the toe of a bluff.

**ANSWERS TO VARIANCE APPLICATION QUESTIONS:**

Q1) What are the special circumstances of the proposal site, which distinguish it from nearby properties with the same zoning?

A1) The property has a large amount of bluff lands and steep slopes outside of the bluffs, which severely limits its buildable area. A very small portion of the total area of the property has slopes less than 10%. Most of those shallower slope areas are located in forested areas and in a flood-prone portion of a central valley on the property. These locations are poor candidates for building sites due to potential erosion or flood aggravation problems.

Q2) Who or what created the circumstances?

A2) Existing topography results in very little buildable area.

Q3) What is the character of the area and how is request consistent with this character?

A3) The area is rural. The floor of the Hay Creek valley is immediately to the south of this property and holds scattered homes and actively farmed cropland. The west side of the property is bounded by Hay Creek and privately owned bluff lands. The north side of the property adjoins State of MN property that also contains bluffs. Property to the east is partially bluffs and partially active cropland. All of the Maybach property and adjoining properties are in the Richard J. Dorer Memorial Hardwood Forest.

The request for the variance will allow tree farm equipment to be stored out of sight and in a location that creates no detraction from the natural beauty of the area. It will be visible only from the air and from very few vantage points on the property. It will not be visible from any adjoining property owner's residence or driveway.

Q4) Describe how the rules in the zoning ordinance deprive you of rights commonly enjoyed by other properties in the same district.

A4) The restrictions in the Bluff Land Protection section prevent improvement of the character of the Maybach property by construction of a storage building that would allow inside storage for equipment. Most other properties in the district have some non-bluff land areas on which similar improvements can be made.

Q5) Indicate why the requested variance will not result in your receiving any special privileges that are denied to others in the same district.

A5) The requester is not aware of any similar requests denied in the same district.

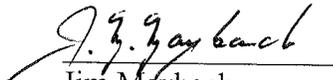
Q6) Is the proposed variance the minimum amount necessary to allow a reasonable use of the property?

A6) Yes. There is no less varying location for the proposed building.

Q7) Is the sole reason for the proposed variance based on a desire of the owner for financial gain or reduced financial hardship?

A7) No. The reason for the project is to provide storage space out of the weather for equipment used in the tree farm operation. The shelter will reduce the loss of functionality and value of the equipment that would otherwise be exposed to the elements.

See also supplemental information sheets (2).

  
Jim Maybach

17 April 2016  
Date

## **SUPPLEMENTAL INFORMATION FOR MAYBACH VARIANCE REQUEST**

### Proposed building location that requires a variance

The proposed building would be located in Parcel R 34.019.0600 at approximate GPS coordinates N 44 deg, 29 min, 54.9 sec; W92 deg, 32 min, 41.8 sec. See also annotated aerial view of portions of Maybach property showing the building location. The area of the parcel is approximately 35.9 acres

Contiguous parcels also owned by the Maybachs include R 34.019.1400; R 34.19.0500; R 34.019.0600, and R 34.018.0700.

Total area of all parcels owned is approximately 89 acres.

Legal descriptions of all parcels are quite lengthy but can be made available on request.

### Alternative locations for the proposed buildings?

Because of the steep slopes that populate the entire Maybach property there are no ideal locations for the building. All of the forested areas have steep slopes and good existing soil-holding growth that should not be disturbed. The least sloped portions of the property are in a central valley that is a seasonal flash flood area when it carries runoff following heavy precipitation events. A significant risk of increased flooding exists if a building, with its potential to dam up floating debris, were erected there. The proposed building location is where the shallowest slopes exist between the forested area and the flood area of the central valley. The building location is not prone to flooding. There are no more favorable locations than the one proposed.

### Steps that will be taken to mitigate potential damage to bluff

1) Construct a four to six foot wide water diversion upslope from the building to carry bluff runoff away to the north.

2) Seed and mulch disturbed areas within seven days of final grading. Use Goodhue SWCD waterway mix.

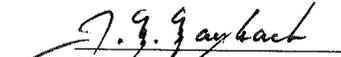
These steps will be completed before shed construction is begun.

### Proposed building uses

The building will be used to store tractors, including a rubber tire loader tractor and its three-point mounted equipment, as well as tracked equipment including a dozer, a loader, and an excavator. The equipment is owned by the landowner and is used to remove deadfalls in the surrounding woods, create and maintain water diversions on existing logging roads, skid logs out during harvesting, and to pile brush and invasive species plants in preparation for burning.

Nature and use of the land held by the Maybachs

The property is the site of their personal residence and is being managed for tree farm pursuits, which include development of harvestable timber, removal of invasive species, and enhancement of wildlife habitat. A copy of the letter from the MN Department of Natural Resources recording registration of a forest stewardship plan for the Maybach property is attached. All but about 35 acres of the land is forested. The forested areas typically have slopes in excess of 25%. The non-forested area is a central valley with side slopes of 10% to 30%. The central valley is a flowage way for a watershed on property owned by others to the north of the Maybach property. The valley flows with water during heavy rain events. A dry dam exists at the south end of the valley to catch sediment carried down during heavy rain events. The dam is designed to percolate captured water and to release water into Hay Creek only when the level overtops an elevated discharge pipe.

  
Jim Maybach

  
Date

# Minnesota Department of Natural Resources

500 Lafayette Road • St. Paul, MN • 55155-40\_\_



January 19, 2012

Mr. James Maybach  
[REDACTED]

Dear Mr. Maybach:

Thank you for your commitment to forest stewardship. We have received payment for your stewardship plan and your plan is now registered with the DNR. We're returning a copy of the registration form with your plan registration date. Registration insures that you will be sent updates, qualifies your property for various cost share programs, and your property is now eligible to be enrolled into one of the property tax programs available to Minnesota forest landowners. Your forester can help you with cost share projects and enrolling into one of the property tax programs – *just give them a call!* Your forester's contact information can be found on the front page of your stewardship plan.

We've enclosed a questionnaire to help us monitor and improve the quality of the service you received. We would appreciate your assistance in completing and returning it.

As a fellow steward of Minnesota's forest resources, I'm pleased that you have requested a Woodland Stewardship plan. Forests produce many benefits including habitat for plants and animals, recreation and aesthetic enjoyment, clean water, clean air, stable soil, and wood products. I wish you well as you undertake the activities that will provide the variety of benefits you desire.

Use your forest wisely, care for it, and enjoy it.

Sincerely,

*Andrea J. Grendel  
for Dave Epperly*

Dave Epperly, Director  
Division of Forestry  
(651) 259-5300

c/ Lake City Area Forestry  
Mike Wachholz, DNR Forestry

Enclosures

Customer # 28354  
 Invoice # 380895  
 Date fee received 1/13/2012

## Forest Stewardship Program's Registration form for sponsored and cash stewardship plans

This form is to be filled out and sent in by DNR PFM forester after the plan has been written and delivered to the landowner. Please send this form electronically to Tami Brue ([Tami.Brue@state.mn.us](mailto:Tami.Brue@state.mn.us)) so that an invoice can be sent and the plan can be registered.

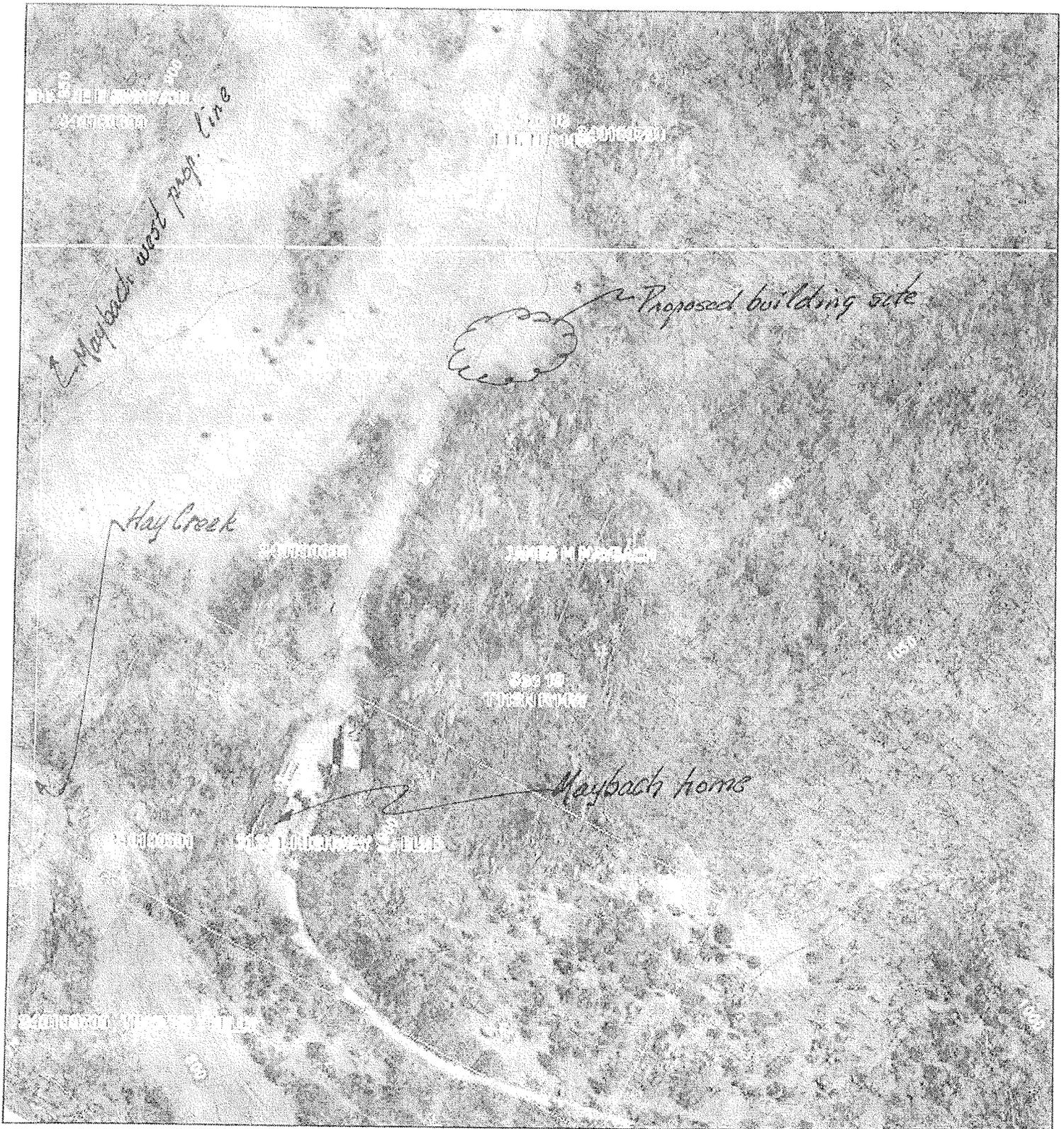
Landowner name	James Maybach
Landowner address	[REDACTED]
Driver's license number and state	[REDACTED]
Home telephone	[REDACTED]
County where woodland is located	Goodhue
Section-township-range	18/19-112-14
Date plan delivered to landowner	
Plan preparer name	Wachholz
Agency or company (mark one): DNR Forestry, Wildlife, or other	MN DNR
SWCD	
Private consultant	
Industry forester	
DNR RAN	334
Stewardship plan acres	87
Fee for plan writing*	\$445

\* See fee schedule

\*\* Only applies to cash plans - \$50 per plan

**Remind the landowner that they need to put the invoice number  
 in the memo field on their check.**

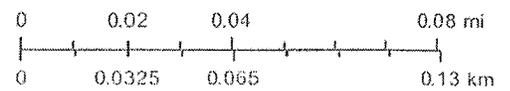
Questions and concerns should be directed to Andrew Arends ([Andrew.Arends@state.mn.us](mailto:Andrew.Arends@state.mn.us) / 651-259-5261) or Gary Michael ([Gary.Michael@state.mn.us](mailto:Gary.Michael@state.mn.us) / 507-333-2011, extension 221).



April 4, 2016

1:2,400

- 50ft Contour Intervals - brown
- Major Roads 2,400
- Roads 9,600
- Township or Other Roads
- Full Address
- PIN
- Full Name
- US Highway
- State Highway
- County Roads 2,400
- County Roads - Gravel
- County Roads - Paved



Goodhue County

## ARTICLE 12 BLUFF LAND PROTECTION

### SECTION 1. INTENT AND PURPOSE

Goodhue County recognizes the historic and economic values of the bluffs that line the many rivers and valleys of the County. These standards set out to protect and preserve the sensitive physical features of the bluffs by regulating development, preventing erosion and controlling the cutting of timber on the slopes and tops of the bluffs.

### SECTION 2. SCOPE

These standards shall regulate the setback of structures, sanitary waste treatment facilities and row crops from bluff impact zones to protect the existing and/or natural scenic values, significant historic sites, vegetation, soils, water and bedrock from disruption by man-made structures or facilities. These standards will also regulate alterations of the natural vegetation and topography.

- Subd. 1. **BLUFF.** A natural topographic feature such as a hill, cliff, or embankment having the following characteristics:
- A. The slope rises at least twenty-five (25) feet above the toe of the bluff; and
  - B. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the toe of the bluff averages thirty (30) percent or greater;
  - C. An area with an average slope of less than twenty (20) percent over a horizontal distance of fifty (50) feet shall not be considered part of the bluff.
- Subd. 2. **BLUFF IMPACT ZONE.** All of the land lying between the top of the bluff and the toe of the bluff.
- Subd. 3. **SIGNIFICANT HISTORIC SITE.** Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presented listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
- Subd. 4. **TOE OF THE BLUFF.** The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lowest end of the lowest fifty (50) foot segment that exceeds twenty (20) percent slope.
- Subd. 5. **TOP OF THE BLUFF.** The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the

slope is apparent, the top of the bluff shall be determined to be the highest end of the highest fifty (50) foot segment that exceeds twenty (20) percent slope.

- Subd. 6. **VISUALLY INCONSPICUOUS.** Difficult to be seen and not readily noticeable from any point on the river or valley during the time when the leaves are on the deciduous trees.

**SECTION 3. BOUNDARIES**

- Subd. 1. The bluff land protection area shall include all areas with the following soil types as determined by the Goodhue County Soil Survey:

- A. N634E - Massbach-Schapville complex, 18-35% slopes
- B. N598E - Winneshiek-Waucoma complex, 18-35% slopes
- C. N594E - Chelsea loamy sand, 12-35% slopes
- D. N553E - Frankville-Nasset-Mt. Carroll complex, 18-35% slopes
- E. N635E - Frankville-Nasset-Downs complex, 18-35% slopes
- F. N642E - Frankville-Nasset complex, Oneota formation, 18-35% slopes
- G. N609E - Hawick sandy loam, 18-45% slopes
- H. M516E - Wangs-Wagen Prairie complex, 18-35% slopes
- I. M537E - Meridian-Bassett complex, 18-35% slopes
- J. N526F - Gale-Oak Center complex, 18-45% slopes
- K. M540F - Frontenac-Bellechester complex, 18-45% slopes
- L. N639F - Frontenac-Lacrescent complex, 20-45% slopes
- M. N631E - Schapville silt loam, 18-35% slopes
- N. N580G - Brodale, very flaggy-Bellechester-Rock outcrop complex, 45-90% slopes
- O. N632G - Brodale, flaggy-Schapville complex, 18-80% slopes
- P. N638G - Brodale, flaggy-Bellechester complex, 30-70% slopes
- Q. N640G - Lacrescent, flaggy-Frontenac-Rock outcrop complex, 45-90% slopes
- R. N641F - Brodale channery loam, 20-45% slopes, flaggy
- S. N639G - Frontenac-Lacrescent complex, 30-70% slopes
- T. M539F - Bellechester loamy sand, 18-45% slopes

**SECTION 4. GENERAL REGULATIONS**

- Subd. 1. Developments and other land disturbing activities including: structures, accessory facilities (except stairways and landings), driveways, and parking areas shall not be placed within bluff impact zones.
- Subd. 2. Setback from top or toe of the bluff to any structure in any district shall be no less than thirty (30) feet.
- Subd. 3. The maximum height of any structure shall be twenty-five (25) feet from the highest natural grade touching foundation.
- Subd. 4. No person may begin a mining or quarrying activity or expand a mining or quarrying activity within three hundred (300) feet of the toe or top of a bluff without a conditional use permit.
- Subd. 5. Towers as defined in Article 17 (Wireless Communication Facilities) must be located

## MacCallum, Casey

---

**From:** Kennedy, Beau  
**Sent:** Friday, April 08, 2016 9:38 AM  
**To:** Wozniak, Michael  
**Cc:** MacCallum, Casey; maybach5378@gmail.com  
**Subject:** Maybach  
**Attachments:** site\_pics.pdf

Good morning Mike

I'm not sure who was in contact with Jim Maybach about a bluff setback issue, but he called me yesterday and I met with him this morning to go over his plans for replacing his existing shed and building a new shed north of his existing buildings.

We looked at the new shed location. A small pad was graded a few years back in preparation and seems to fit well next to the hillside. We determined that the toe of bluff is just outside of his shed stakes. (see attached). The slope is fairly gentle leading up to the identified toe and then is very steep to the top of bluff. The proposed shed is outside of the bluff impact zone, but within the 30' setback.

There is an area to the west of where Jim is proposing to build the shed that is open and not as steep; but I would not recommend placing material and/or structure in this area. It is a drainage way that has proven to be very flashy during rain events and could cause structural and erosion issues if the shed would be moved to the west.

I think that the impact to the bluff would be minimal if the following recommendations are implemented by Mr. Maybach:

- Grade a small diversion up gradient from the current toe of slope. This diversion should be 4-6' wide and divert runoff to the north, away from the constructed shed pad. The previous owner of the property implemented this practice near Mr. Maybach home and has proven to be effective.

- Seed and mulch within 7 days of final grading onsite. Goodhue SWCD water way mix or similar should be seeded (cool season component).

Shoot me a call if you have any questions.

Take care,

Beau Kennedy

**Goodhue SWCD**

651-923-5286

[bkennedy@goodhueswcd.org](mailto:bkennedy@goodhueswcd.org)

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Looking South



Approximate toe of bluff

8 feet

Proposed shed corners

Looking South

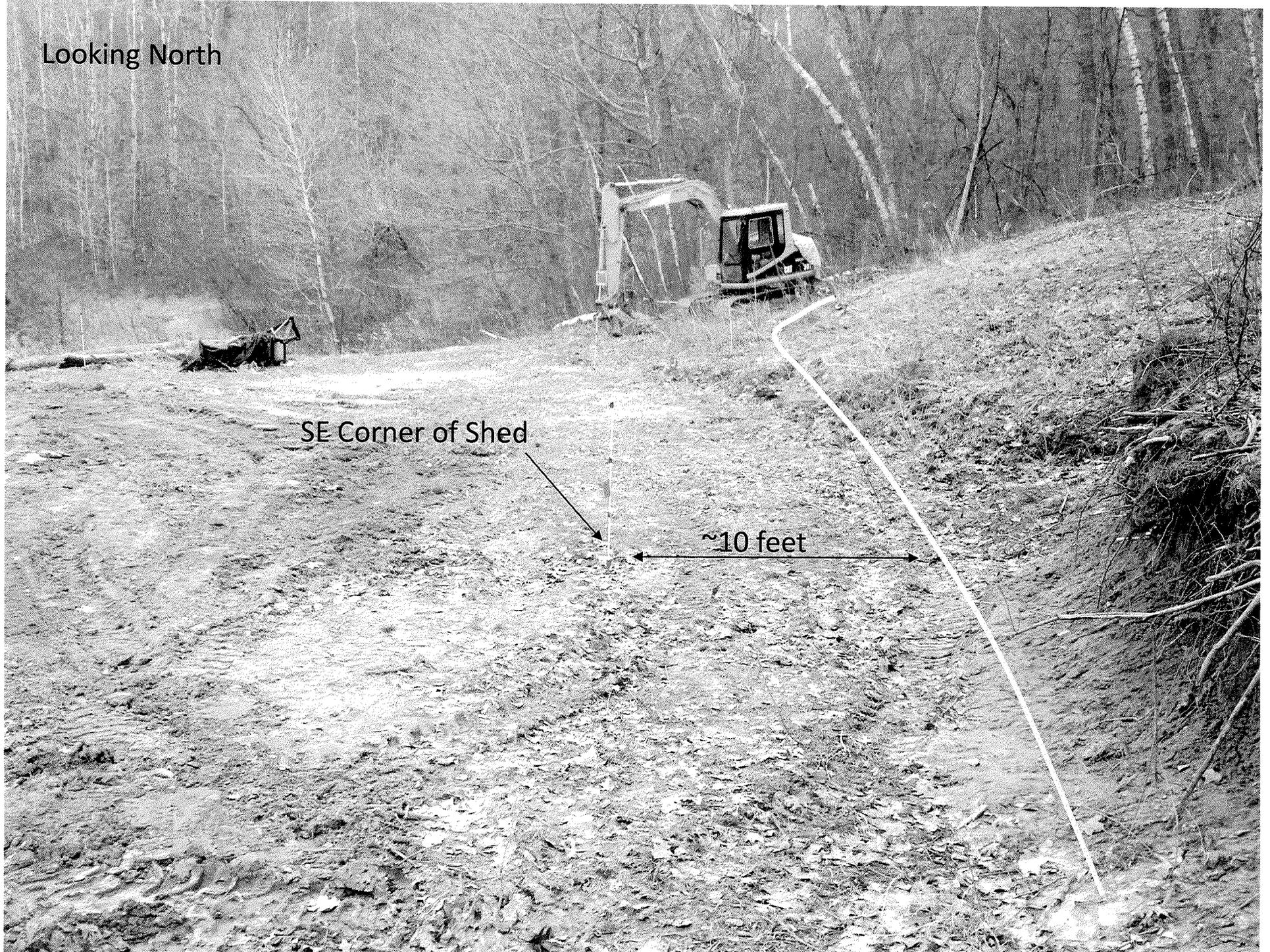
Toe Bluff

Shed location

Drainage Way

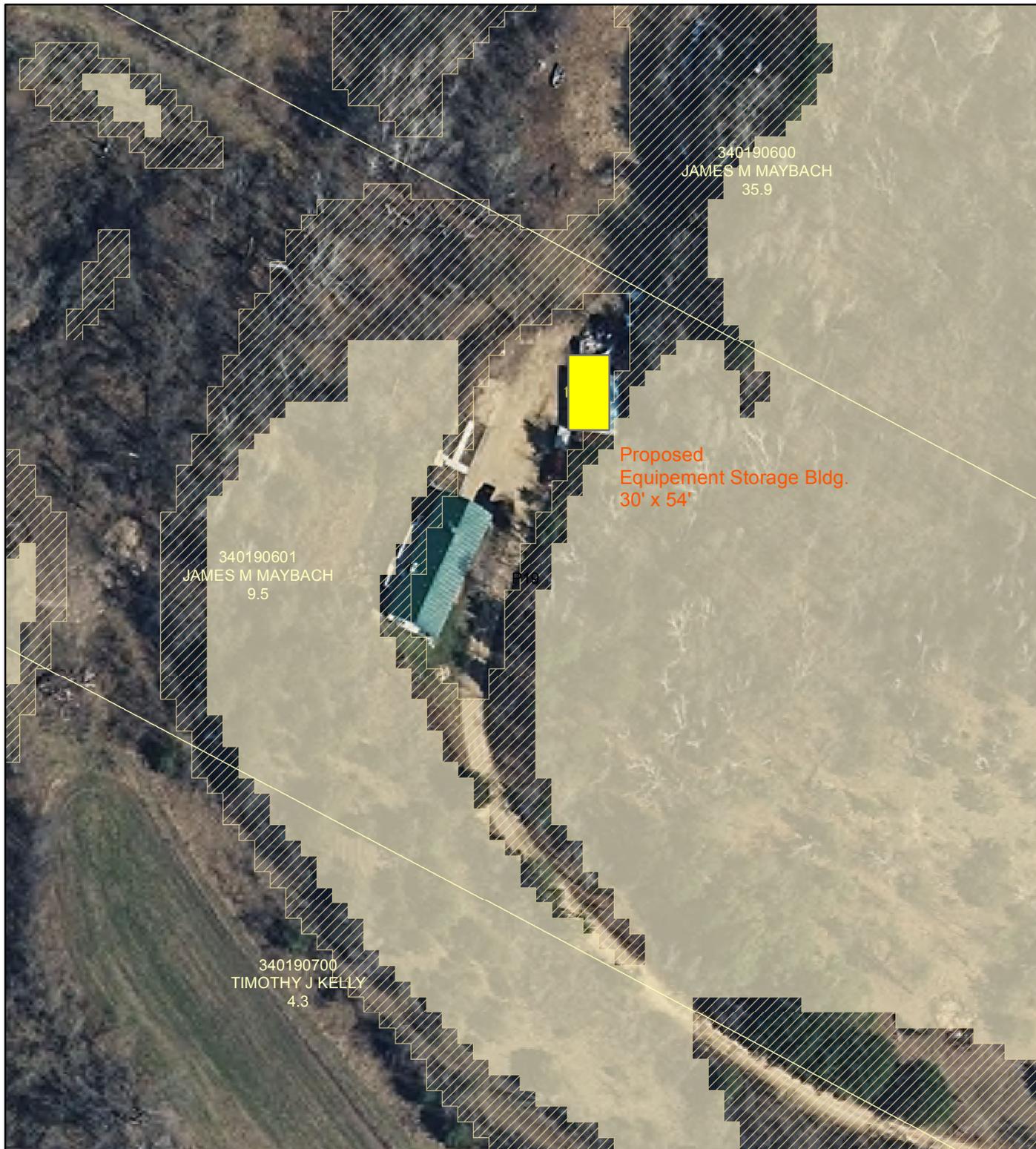


Looking North



SE Corner of Shed

~10 feet



PID # [REDACTED]  
 Zoning District: A2

Variance Request  
 to Build an  
 Equipment Storage Building  
 30' x 54'  
 within 5' from  
 Toe of Bluff

340190600  
 JAMES M MAYBACH  
 35.9

Proposed  
 Equipment Storage Bldg.  
 30' x 54'

340190601  
 JAMES M MAYBACH  
 9.5

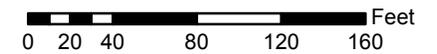
340190700  
 TIMOTHY J KELLY  
 4.3

**Legend**

- Road
- 2014 Feedlot parcel
- Tax Parcel
- Section Line
- Municipal Boundaries
- Dwelling Point

**Bluff Impact**

- % Slope**
- 20
- 30



DATA DISCLAIMER: Goodhue County assumes NO liability for the accuracy or completeness of this map OR responsibility for any associated direct, indirect, or consequential damages that may result from its use or misuse. Goodhue County Copyright 2015.

2014 Aerial Imagery

Map Created 2016 Land Use Management

# Goodhue County Land Use Management

Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066



Building | Planning | Zoning  
Telephone: 651.385.3104  
Fax: 651.385.3106

Environmental Health | Land Surveying | GIS  
Telephone: 651.385.3223  
Fax: 651.385.3098

**To:** Board of Adjustment  
**From:** Land Use Management  
**Date:** May 12, 2016

## **Application Information:**

Applicant: William Beckman  
Address of Zoning request: 44733 County 87 Blvd.  
Zoning district: A3  
PIN: 47-029-1101  
Township Information: Zumbrota Township has signed the application and has no comments.

## **Attachments:**

Site Map/survey  
Applicant Statement  
Goodhue County Zoning Ordinance: Articles 23, Section 5, Subdivision 2  
Other information:  
Township approval  
OSTP as built form  
Basic structure design  
County GIS Site Map (approximate proposed garage location)

**Notice:** **William Beckman** - Variance request from the Front Yard Requirement in the General Regulation of the Urban Fringe District, which requires a minimum setback of sixty (60) feet from the right-of-way line of any public road or highway. The request is to construct a new storage building within 18 feet of right-of-way at 44733 County 48 Blvd, Zumbrota; part of the south half of the southeast quarter of Section 29, Township 110, and Range 15 in Zumbrota Township.

**Background:** The purpose of this variance is to construct a garage on parcel 47.029.1101. Parcels under Article 23 Urban Fringe District, Section 5 General District Regulations, Subdivision 2.A1a are required to meet the Front yard setback of sixty (60) feet from the right-of-way line of any public road or highway. The Applicant requests to place the garage within 18 feet from the County 48 right-of-way which would be a 42 foot encroachment. The Applicant intends to sell the property after the garage building permit is approved.

The Applicant has provided an application, statement, a survey and plans with their statement (attached).

### **Findings of Fact:**

Before any such variance may be granted, the Board of Adjustment shall specify in their findings, the facts in each case. Variances shall only be permitted when:

- 1) they are in harmony with the general purposes and intent of the official control;  
**This property is east of the Forest Mills residential area. The structure will be close to County 48 Boulevard and visible for drivers entering the area. This road has approximately 400 cars per day.**
- 2) the variances are consistent with the comprehensive plan;  
**The Comprehensive Plan intends to keep the rural character of the County, and it is reasonable to have garages in the rural and residential areas.**
- 3) there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner, not permitted by an official control. Economic considerations alone do not constitute practical difficulties.  
**The construction of a garage is a reasonable and common use of residential properties within the A3 zone.**
- 4) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and  
**The 6.2 acre parcel is significantly covered in bluffs greater than 30% shoreland areas, and flood plain (see enclosed County GIS Site Map). The residence, drain field, septic and steep elevations cover much of the developable portion. Encroaching within the front yard setback would result in the least impact.**
- 5) The variance, if granted, will not alter the essential character of the locality.  
**The garage will be placed approximately 18 feet from the County 48 Boulevard right-of-way, which is approximately within 78 feet of the traveled centerline. Other residences in the vicinity have garages.**
- 6) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.  
**There is no use change.**
- 7) The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.  
**If the variance is approved in accordance with these provisions, staff recommends the variance be subject to the following conditions:**
  1. **Conformance with the application submitted to Goodhue County Land Use Management Office dated April 20, 2016.**
  2. **No construction may occur prior to obtaining the require building permit approvals from Zumbrota Township and Goodhue County.**

**3. That no part of the garage will be constructed closer than 18 feet.**

*The following should be edited to reflect any concerns raised at the May 23, 2016 BOA meeting and public hearing:*

**Staff Recommendation:**

Staff recommends the Board of Adjustment adopt the staff report into the record (dated May 23, 2016); adopt the findings of fact; and based on the application, testimony, exhibits, and other evidence presented: **approve** the variance request from the Front Yard Requirement in the General Regulation of the Urban Fringe District, which requires a minimum setback of sixty (60) feet from the right-of-way line of any public road or highway. The request is to construct a new storage building within 18 feet of right-of-way at 44733 County 48 Blvd, Zumbrota, MN.

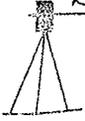
Subject to the following conditions:

1. Conformance with the application submitted to Goodhue County Land Use Management Office dated April 20, 2016.
2. No construction may occur prior to obtaining the require building permit approvals from Zumbrota Township and Goodhue County.
3. That no part of the garage will be constructed closer than 18 feet.

Proposed Building Location for:  
William Beckman

Web: samuelsonsurveying.com FAX: (507) 263-5114 EMAIL: rssurvey@frontiernet.net

# SAMUELSON SURVEYING INC.

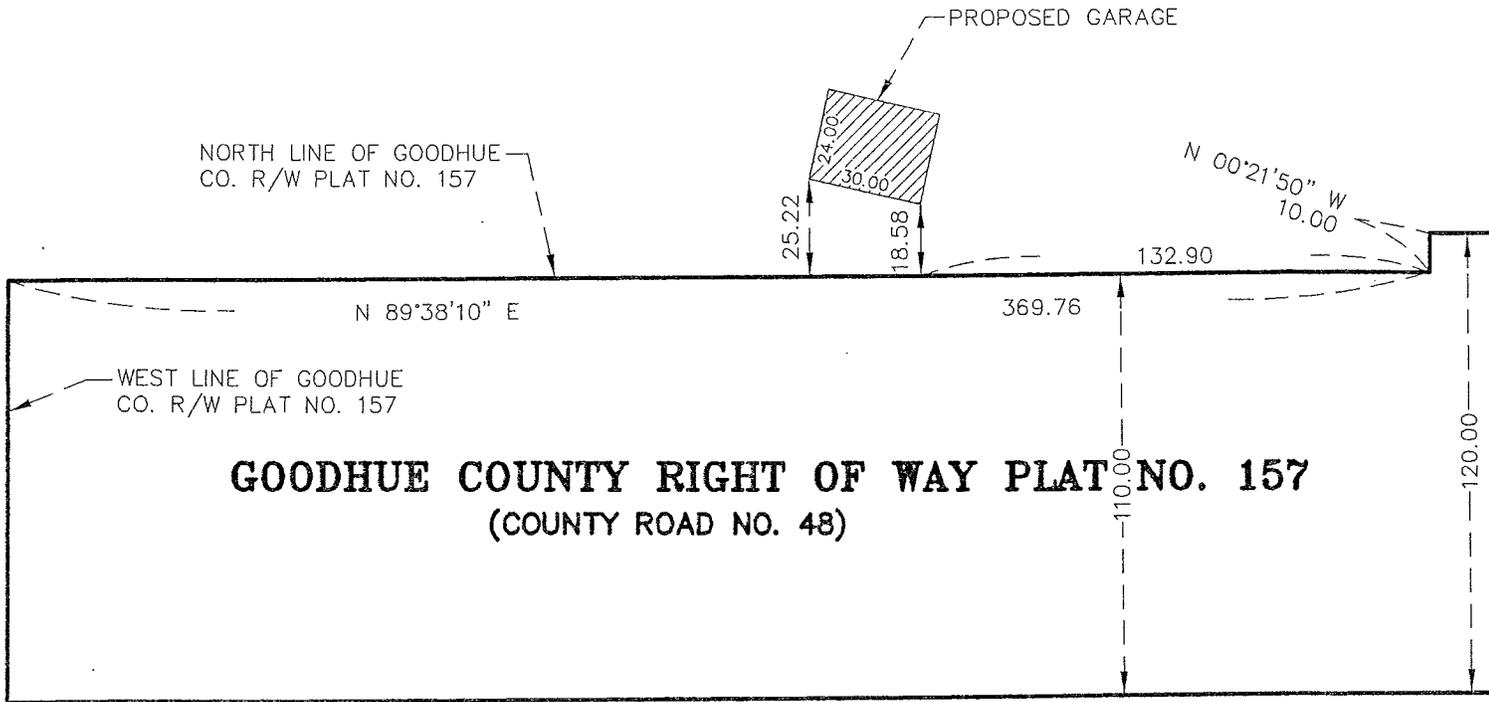


Cannon Falls Office  
1103 West Main Street  
Cannon Falls, MN. 55009  
Phone (507) 263-3274

Farmington Office  
300 Oak Street  
Farmington, MN. 55024  
Phone (651) 460-6660

## SURVEYORS CERTIFICATE

### WILLIAM BECKMAN PROPERTY PID 470291101



LOCATION: PART OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 110, RANGE 15, GOODHUE COUNTY, MINNESOTA.

HH  
4-12-16

### GRAPHIC SCALE



( IN FEET )

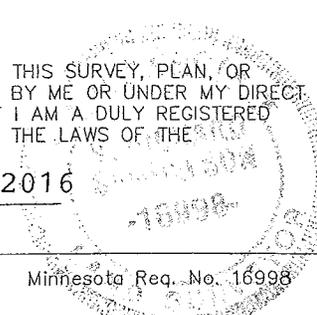
1 inch = 50 ft.

I HEREBY CERTIFY THAT THIS SURVEY, PLAN, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT I AM A DULY REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

DATE: April 7, 2016

*Richard Samuelson*

V. Richard Samuelson Minnesota Reg. No. 16998



AT 1  
4-12-10



Application for variance:

1. The proposed site for a garage is the only reasonable level portion of the property that will not interfere with other property uses. Another level area is not usable for this building because it is the location of the septic drainage field. Building over the drain field would not be advised. Other reasonably level areas may be subject to periodic flooding from the Zumbro river to the West. Other portions of the property have bluffs which would prohibit garage placement.
2. The potential sale of the property is dependent upon obtaining a building permit. The property would be of reduced value to the buyer if a garage/storage building were not available.
3. The property is rural/residential as is most of the neighboring properties. Other properties have additional structures in place, and said properties have less or no bluff conditions with which to deal.
4. The required setback from the highway property does not allow adequate area to have the garage function normally. The full setback would not allow access to the proposed building with vehicles. The proposed site would allow functionality and full access. The roadside of the structure would be a clean surface. The intention is to build the garage using the same building outline as in the house and garden shed.
5. The requested variance would not result in any special privileges for the property owner as the garage would be a functional addition and investment in the property. A well designed and built garage will add value and utility to the property.
6. The requested variance is the minimum to make the proposed garage utilitarian. A garage of smaller dimension could be built, but then would lack some degree of utility as it may not be large enough to house vehicles, and work accouterments.
7. The proposed variance is not for increasing value of the property, but rather making the property fit the requirements of a potential new owner. This individual has business interests that require some space to store/house vehicles used in his business. Having these vehicles housed will contribute to their usefulness as well as keep the property more orderly.

Project Summary (Attach a separate sheet if more space is needed)

Please state which section(s) of the Ordinance from which you are requesting a variance.

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**Variance Findings**

Pursuant to Goodhue County Zoning Ordinance Article 5, before approving a variance application, the Board of Adjustment needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding. The Board of Adjustment may grant a variance only if the variance request complies with each and every one of these findings in full. The responsibility for completing the variance questionnaire rests solely with the applicant. If the description of how the project meets all of the criteria are not fully supported with written information and appropriate drawings or pictures, the Board may find the information insufficient and the criteria are not satisfied.

Please state how the project is consistent or inconsistent with each policy. Each statement should refer to specific circumstances or conditions applicable to the property. Each policy must have a response. IF A GIVEN POLICY DOES NOT APPLY TO YOUR PROJECT, EXPLAIN WHY IT DOES NOT.

1. What are the special circumstances of the proposal site which distinguish it from nearby properties with the same zoning? (relating to size, shape, topography, location, surroundings and features of the subject property).

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2. Who or What created the circumstances?

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3. What is the character of the area (ie- rural, residential, agricultural, commercial, etc. ) and how is the request consistent with this character?

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4. Describe how the rules in the zoning ordinance deprive you of rights commonly enjoyed by other properties in the same zoning district.

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5. Indicate why the requested variance will not result in your receiving any special privileges that are denied by the zoning ordinance to others in the same zoning district.

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6. Is the proposed variance the minimum amount necessary to allow a reasonable use of the property? Please, explain.

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7. Is the sole reason for the proposed variance based on a desire of the owner, occupant, or applicant for increased financial gain or reduced financial hardship? Please explain.

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- Subd. 22. Non-Agricultural uses/activities associated with an agri-tourism ((as defined in Article 10).
- Subd. 23. Direct marketing of produce in a Farm Market/On-farm market/roadside stand in a retail structure that exceeds 2400 square feet in area (see Article 11, Section 29).
- Subd. 24. Farm Wineries including Tasting Rooms in buildings exceeding 10,000 square feet (see Article 11, Section 28).

**SECTION 4. ACCESSORY STRUCTURES AND USES**

Accessory structures and uses customarily incidental to any of the above permitted uses shall be permitted when located on the same property. Refer to Article 11, Section 5 for further regulations on Accessory Structures. Accessory uses in the A-1 District shall include Agricultural Related Uses as defined in Article 10 of this ordinance subject to performance standards set forth in Article 11 of this Ordinance.

**SECTION 5. GENERAL DISTRICT REGULATIONS**

Any lot in the A-3, Urban Fringe District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

Subd. 1. Lot Area.

- A. There shall be a minimum lot size of thirty-five (35) acres per principal building or use when not served by a public or centralized sewage collection and treatment system.
- B. Lot area shall meet the requirements in Article 24, Section 5, Subd. 1.B if served by a municipal sewage treatment system.
- C. Parcels with an existing dwelling as of June 5, 2012 which have 35 acres or more may be split provided the minimum lot size for the dwelling parcel must be at least 2 acres. All other requirements listed in Subdivisions 2, 3 and 4 of this Section would apply. Further development of dwellings on a parcel from which a dwelling site has been split shall be prohibited until such time as the Zone District Classification is changed.

Subd. 2. Yard Requirements.

- A. Every permitted, conditionally permitted or accessory building shall meet the following yard requirements:
  - 1. Front Yard.
    - a. There shall be a minimum setback of sixty (60) feet from the right-of-way line of any public road or highway.
    - b. In the event any building is located on a lot at the intersection of two (2) or more roads or highways, such lot shall have a front yard abutting each such road or highway.

## ARTICLE 23 A-3, URBAN FRINGE DISTRICT

### **SECTION 1. PURPOSE**

The intent of the A-3 District is to provide for urban expansion in close proximity to existing incorporated urban centers within Goodhue County in accordance with the Comprehensive Plan by conserving land for farming and other open space land uses for a period of time until urban services become available.

It is the intent that urban development be deferred in such areas until an orderly transition from farm to urban uses shall be achieved by either the annexation of areas adjacent to the incorporated limits of existing urban centers or the extension of public or other centralized sewage collection and treatment systems.

It is intended that the status of all areas in this district be reviewed, jointly, by the appropriate planning bodies who shall determine whether there should be a transfer of all or any part of such area to some other appropriate land use, or to indicate any changes in the existing Land Use Plan for the particular political entity or change in the Capital Program of the community affecting this district.

### **SECTION 2. PERMITTED USES**

- Subd. 1. Single family dwellings.
- Subd. 2. A second farm dwelling.
- Subd. 3. Any agriculture operation including tree farms.
- Subd. 4. Direct marketing of produce in a Farm Market/On-farm market/roadside stand in a retail structure not to exceed 2400 square feet.
- Subd. 5. Plant nurseries and sales.
- Subd. 6. Home occupations as regulated in Article 11 of this Ordinance.
- Subd. 7. Accessory structures and uses customarily incidental to any of the above permitted uses when located on the same property.
- Subd. 8. Wind Energy conversion Systems in accordance with Article 18 of this ordinance.
- Subd. 9. Farm Wineries including Tasting Rooms in buildings up to 10,000 square feet subject to approval of a zoning permit by the Zoning Administrator (see Article 11, Section 28).

### **SECTION 3. CONDITIONAL USES AND INTERIM USES**

In the A-3, Urban Fringe District, the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of Article 4 of this Ordinance.

To whom it concerns:

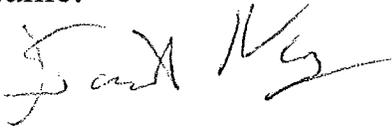
Dear Sir/Madam:

I understand that an application for a building permit has been applied for at the 44733 County 48 Bulivard home.

I am aware of the proposed building site and have no objections to the proposed building.

Thank you for your consideration,

Name:



date:

4-5-16

Name:



date:

04-07-2016

RECEIVED SEP 11 2015

UNIVERSITY OF MINNESOTA

OSTP As-Built Form



Owner: Bill Beckman Parcel Number: 470291101

Street/City/Zip Code: 44733 Co. 48 BLVD Zumbrota

Lot: \_\_\_\_\_ Section: \_\_\_\_\_ Township: \_\_\_\_\_ N Range: \_\_\_\_\_ W

Installation Date: 9-1-15 Installer: Hofschulte Backhoe & Septic License Number: 0366

Is the system in Shoreland, serving a MDH facility or in a Wellhead Protection area?  YES  NO

Number of Bedrooms/ Flow Rate: 3 TYPE II / 300 #/gpd Septic Tanks, No & Size: 1/1000 #/gal

Pump Tank Size: 600 gal Tank Manufacturer: WEISER Model # 1600 CASHON COMBO

Date of Manufacture: \_\_\_\_\_ Maximum Burial Depth: 7'

Pump Size: 410 hp 55 gpm 10' ft of TDH Floats properly set?  YES  NO

Soil Treatment Area:

TYPE I  TYPE II  TYPE III  TYPE IV  TYPE V  
 TRENCH  BED  MOUND  AT-GRADE  WARRANTIED  OTHER: \_\_\_\_\_

Limiting Layer/Depth: West = 43" first 62" Rockbed Size: \_\_\_\_\_

Depth from Surface: 7-26" Adsorption width: \_\_\_\_\_

Rock or Slat depth: \_\_\_\_\_ Sand depth: \_\_\_\_\_

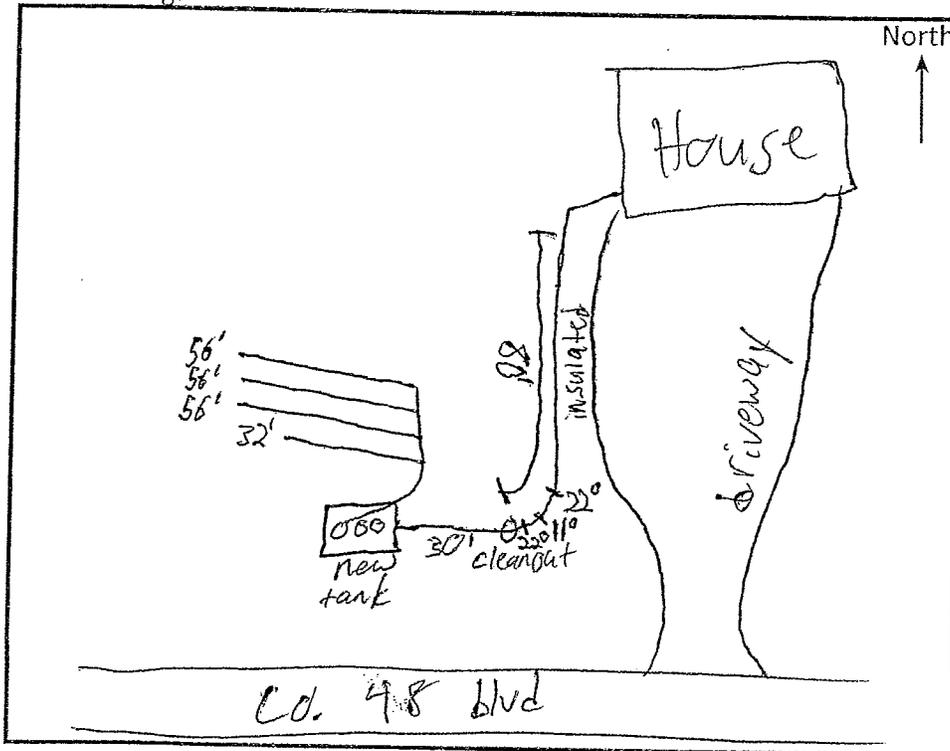
Diameter of Gravelless: \_\_\_\_\_ (under mound)

Trench Width: 3 ft

Bottom Square Feet Area: 600 ft<sup>2</sup>

Design Variances: \_\_\_\_\_

Site Drawing:

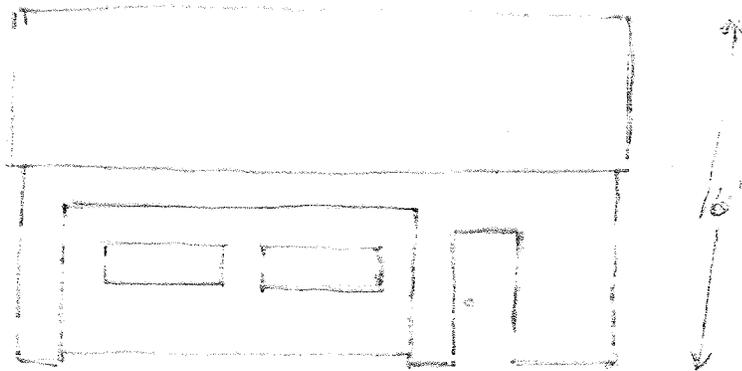
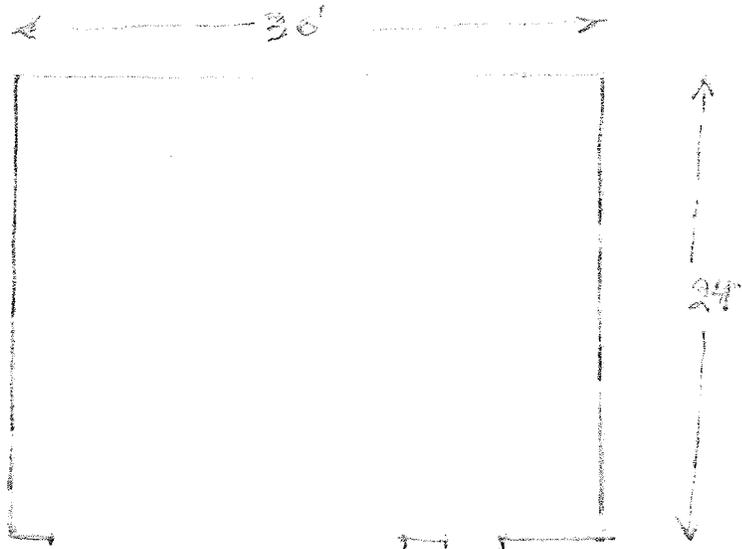


Items to be Identified:

1. Septic, holding and pump tanks, piping, and soil system configuration. Label bed or trench width and length or rockbed size, absorption width and final dimensions. Indicate alarm location.
2. Show all setbacks from tank and soil system
  - a. Property boundaries
  - b. Buildings
  - c. Wells
  - d. Water bodies
  - e. Road right-of-way
3. Improvements - present and future.
4. Benchmark location and distance of tank and soil system from benchmark
5. Replacement site
6. Abandoned system

Reverse Side  
→

24'x30'  
DETACHED  
GARAGE



44733 COUNTY 48 BLYD  
ZUMBROTA MN 55992

□ = 1'

# Goodhue County Land Use Management

Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066



Building | Planning | Zoning  
Telephone: 651.385.3104  
Fax: 651.385.3106

Environmental Health | Land Surveying | GIS  
Telephone: 651.385.3223  
Fax: 651.385.3098

**To:** Board of Adjustment  
**From:** Land Use Management  
**Date:** May 23, 2016

## **Application Information:**

Applicant: Dean Murray  
Address of Zoning request: 43798 172<sup>nd</sup> Ave. Way, Zumbrota  
Zoning district: A3  
PIN: 38-024-1701  
Township Information: Minneola Township has passed a variance from their 30 foot setback and has no additional comments.

## **Attachments:**

Applicant Statement  
Site Map  
Goodhue County Zoning Ordinance: Articles 23, Section 5, Subdivision 2  
Other information: none.

**Notice:** Public Hearing/Variance request from the Side Yard Requirement in the General Regulations of the Urban Fringe District (A3), which requires each side yard to have a minimum width of thirty (30) feet. The request is an after the fact variance to permit an existing building within 11 of the side property line at 43798 172<sup>nd</sup> Way Zumbrota; North 300 feet of the east 340 feet of the southwest 1/4 of the southwest 1/4 of Section 24 Township 110, Range 16 in Minneola Township.

**Background:** The purpose of this variance is to allow a preexisting accessory structure on parcel 38.024.1701 within the side yard setback. Parcels under Article 23 Urban Fringe District (A3), Section 5 General District Regulations, Subdivision 2.A3a, requires to meet the Side yard setback of thirty (30) feet. The Applicant's barn is within 11 feet of north property line.

## **Findings of Fact:**

Before any such variance may be granted, the Board of Adjustment shall specify in their findings, the facts in each case. Variances shall only be permitted when:

- 1) they are in harmony with the general purposes and intent of the official control;  
**The side yard setback provides spacing between buildings and a sense of the natural environment. The barn and house are surrounded by woods and the closest residence is approximately 730' away.**
- 2) the variances are consistent with the comprehensive plan;

**The variance is not in conflict with the 2004 Comprehensive Plan.**

- 3) there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner, not permitted by an official control. Economic considerations alone do not constitute practical difficulties.

**Barns, garages, and sheds are a typically reasonable uses allowed in the County.**

- 4) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and

**The Applicant consulted with a surveyor and constructed the barn 42 feet from what the Applicant thought was the lot line, 12 further than what would have been required. The building permit (attached) was approved by Goodhue County zoning.**

- 5) the variance, if granted, will not alter the essential character of the locality.

**The building is already built and will not change the character of the locality.**

- 6) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

**There is no use change.**

- 7) The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

**If the variance is approved, staff recommend the following conditions:**

1. Conformance with the application submitted to Goodhue County Land Use Management Office dated April 22, 2016.
2. Any future expansion or alteration of the subject accessory structure may not extend closer towards the northerly lot line.
3. This variance for setback encroachment shall not be used as a basis for determining the required yard setback from the northerly lot line for any additional structures.

*The following should be edited to reflect any concerns raised at the May 23, 2016 BOA meeting and public hearing:*

**Staff Recommendation:**

Staff recommends the Board of Adjustment adopt the staff report into the record (dated May 12, 2016); adopt the findings of fact; and based on the application, testimony, exhibits, and other evidence presented: **approve** the variance request from the Side Yard Requirement in the General Regulations of the Urban Fringe District, which requires each side yard to have a minimum width of thirty (30) feet. The request is an after the

fact variance to permit an existing building within 11 of the side (north) property line at 43798 172<sup>nd</sup> Way Zumbrota, MN.

Subject to the following conditions:

1. Conformance with the application submitted to Goodhue County Land Use Management Office dated April 22, 2016.
2. Any future expansion or alteration of the subject accessory structure may not extend closer towards the northerly lot line.
3. This variance for setback encroachment shall not be used as a basis for determining the required yard setback from the northerly lot line for any additional structures.

## Summary for a Variance Request

Dean Murray, 43798 172<sup>nd</sup> Ave Way Zumbrota, MN 55992  
Cell Phone: 507-272-8624 e-mail: [Cervidseeker@gmail.com](mailto:Cervidseeker@gmail.com)  
Parcel #: 380241701 2.34 acres Minneola Township  
Section 24, Township 110, Range 016, SW quarter of the SW quarter  
Zoning District A3

To Whom it may concern,

I am requesting a variance to the 30 foot rule as described in Article 23, Section 5, subdivision 2 of the Minnesota statues regarding land use.

Explanation:

In 1988 when I purchased the land-locked property there 3 physical boundaries already laid out. My north and east property boundaries consisted of a barbed-wire fence that had been installed around 1920. My west boundary abutted the old North Western Railroad bed.

Before buying I visited with the surveying office of Johnson and Scofield in Red Wing to ask about the need for a survey. They explained that they had done a survey of that area for four of my neighbors to the east. They showed me a survey map and explained that the land I was looking at was clearly laid out. They explained that they thought a survey of my property really was not necessary since the boundaries were very clear. With that conversation in mind I assumed that the fence lines were accurate. See the red line on **page 4** of the attachment.

In 1998 I constructed a barn near my north property line. Prior to building, I measured to the fence and found it to be 42 feet, well within the 30 foot set-back rule.

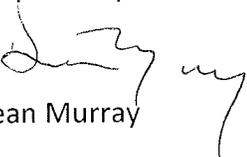
About 4 weeks ago a licensed surveyor pounded some stakes into the ground to accurately depict the actual property line. I realize now that the fence was erected on the neighbor's property and the north end of my barn sits only 11 feet off the property line and not 42 as I had thought. (see the yellow line on page 6)

The images on **page 5** of the attachment shows remnants of the fence line (that still exist today) that is buried deep in a large oak tree. That tree is north and west of my barn.

I met with the Minneola Township board on Tuesday, April 12 to request their approval to move ahead with the variance. The board voted unanimously to support the variance. Bill Budensiek signed my application for a variance.

Being granted this variance will have no positive or negative impact on either me or my neighbor.

Respectfully submitted,

  
Dean Murray

Project Summary (Attach a separate sheet if more space is needed)

Please state which section(s) of the Ordinance from which you are requesting a variance.

Article 23, Section 5, Subdivision 2

#### Variance Findings

Pursuant to Goodhue County Zoning Ordinance Article 5, before approving a variance application, the Board of Adjustment needs to find that the facts presented are such to establish the findings stated below. In the space below and on separate paper, if necessary, please present facts sufficient to establish each finding. The Board of Adjustment may grant a variance only if the variance request complies with each and every one of these findings in full. The responsibility for completing the variance questionnaire rests solely with the applicant. If the description of how the project meets all of the criteria are not fully supported with written information and appropriate drawings or pictures, the Board may find the information insufficient and the criteria are not satisfied.

Please state how the project is consistent or inconsistent with each policy. Each statement should refer to specific circumstances or conditions applicable to the property. Each policy must have a response. IF A GIVEN POLICY DOES NOT APPLY TO YOUR PROJECT, EXPLAIN WHY IT DOES NOT.

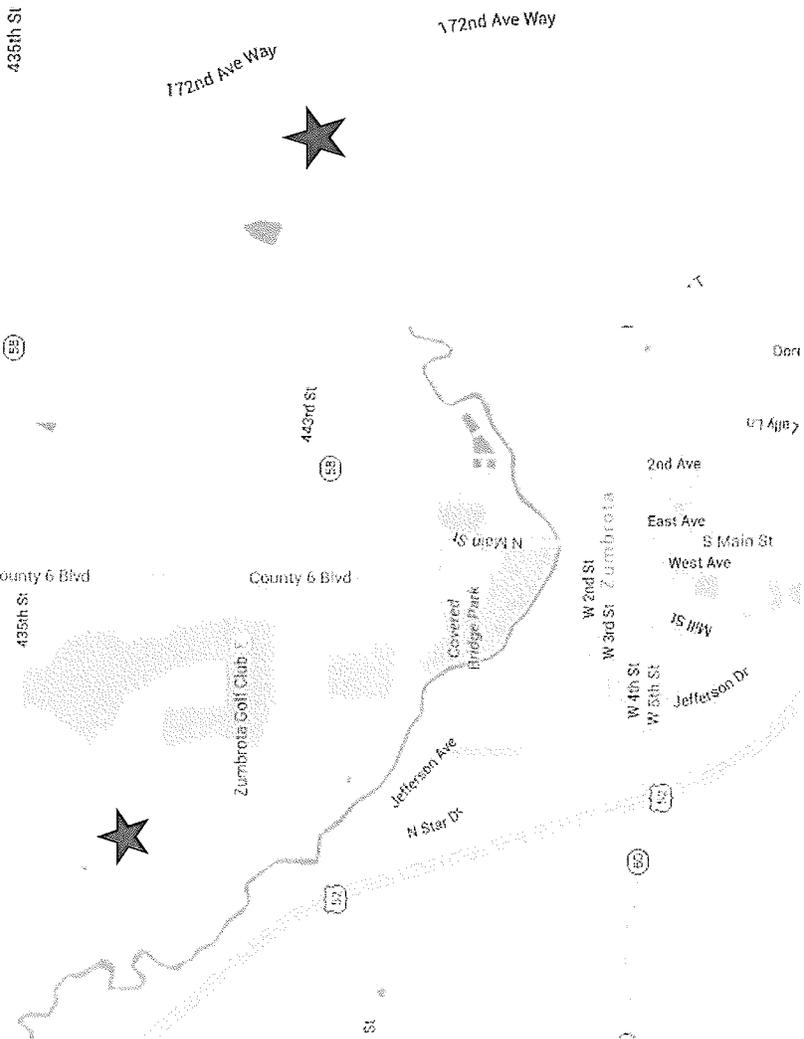
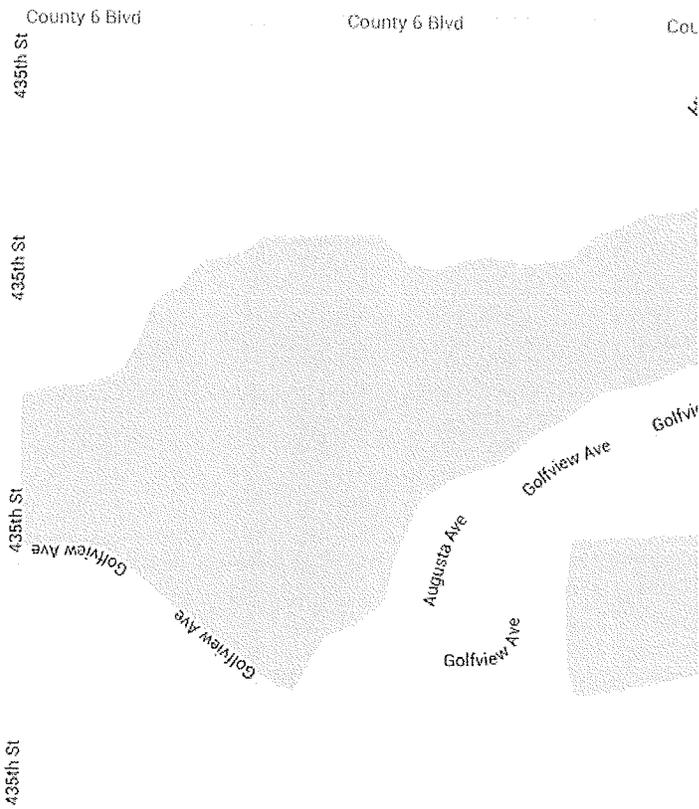
1. What are the special circumstances of the proposal site which distinguish it from nearby properties with the same zoning? (relating to size, shape, topography, location, surroundings and features of the subject property).  
Other than the barbed-wire fenceline separating my property from that of my neighbor, there really are no special circumstances. We share the same general topography and wooded surroundings with some open spaces. I have been maintaining the fenceline by mowing, planting trees and clearing exotic brush from encroaching and removing deadfalls.
2. Who or What created the circumstances?  
A previous owner installed a barbed-wire fence what they thought was the north boundary of the property. I assumed that the fenceline accurately marked that boundary.
3. What is the character of the area (ie- rural, residential, agricultural, commercial, etc. ) and how is the request consistent with this character?  
The area is rural, wooded with some open spaces. A variance to the rule will not change the character, appearance or use of the area.
4. Describe how the rules in the zoning ordinance deprive you of rights commonly enjoyed by other properties in the same zoning district.  
If the variance is not granted, this will create a financial hardship since I will be asked to tear the barn down or relocate it.
5. Indicate why the requested variance will not result in your receiving any special privileges that are denied by the zoning ordinance to others in the same zoning district.  
This involves no special privileges or special access; but simply clarifies a compliance issue with regards to the set-back rule.
6. Is the proposed variance the minimum amount necessary to allow a reasonable use of the property? Please, explain.  
This request for a variance is the minimum needed in order for the location of my barn to be considered compliant.
7. Is the sole reason for the proposed variance based on a desire of the owner, occupant, or applicant for increased financial gain or reduced financial hardship? Please explain.  
Obtaining the requested variance will have absolutely no financial impact on me or my my affected neighbor.

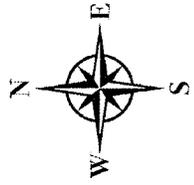
Request for a variance to  
the 30 foot setback rule

April 22nd, 2016

## Purchased in 1988

County	Goodhue
Township	Minneola
Parcel Number	380241701
Deeded Acres	2.34
Primary Tax Payer	Dean R Murray
Secondary Tax Payer	Naomi Kvittem
Mailing Address:	Dean R Murray 43798 172nd Ave Way Zumbrota, MN 55992 USA
PDF Name:	Minneola TWP-R
Class:	Residential
Map Area:	MINNEOLA TWP-R
Tax District:	MINNEOLA 2805
Zoning:	Not Applicable
Subdivision:	[NONE]
Sec-Twp-Rng:	24-110-016
Lot-Block:	-
Brief Legal Description:	N300FT OF E340FT OF SW1/4 OF SW1/4 SEC 24 110 16





3





Photo of fence in tree

Existing Fence-line

42' to the barn

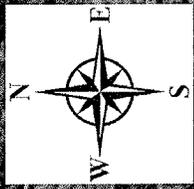
83' to the house

375'

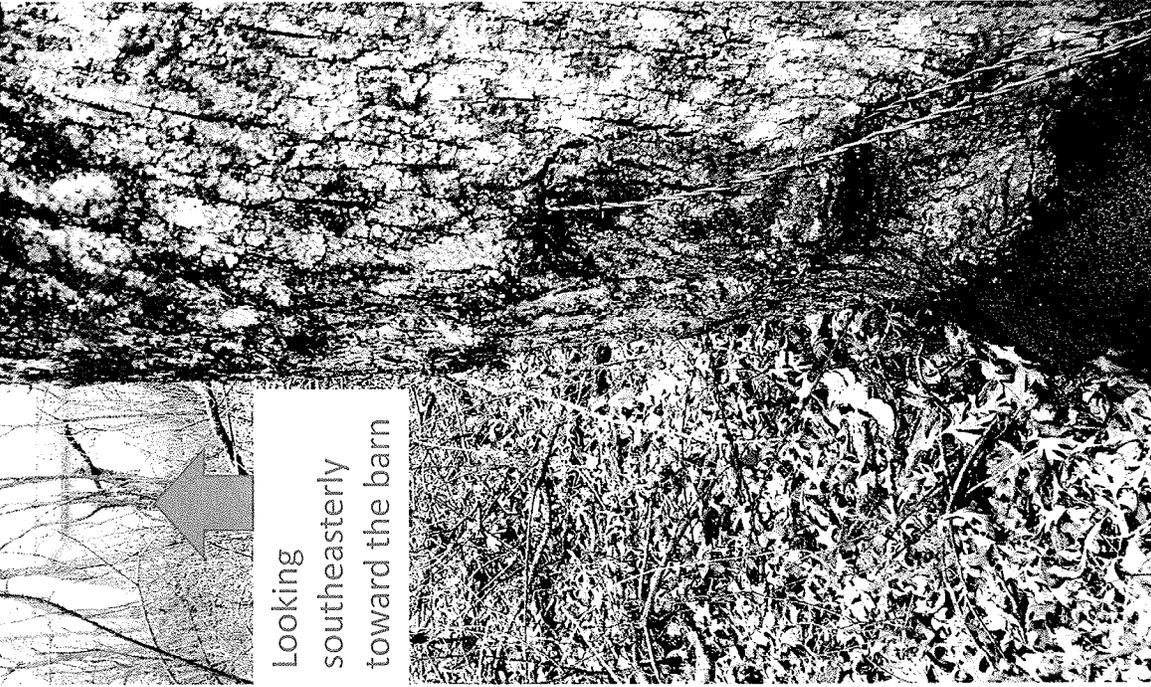
144'

house

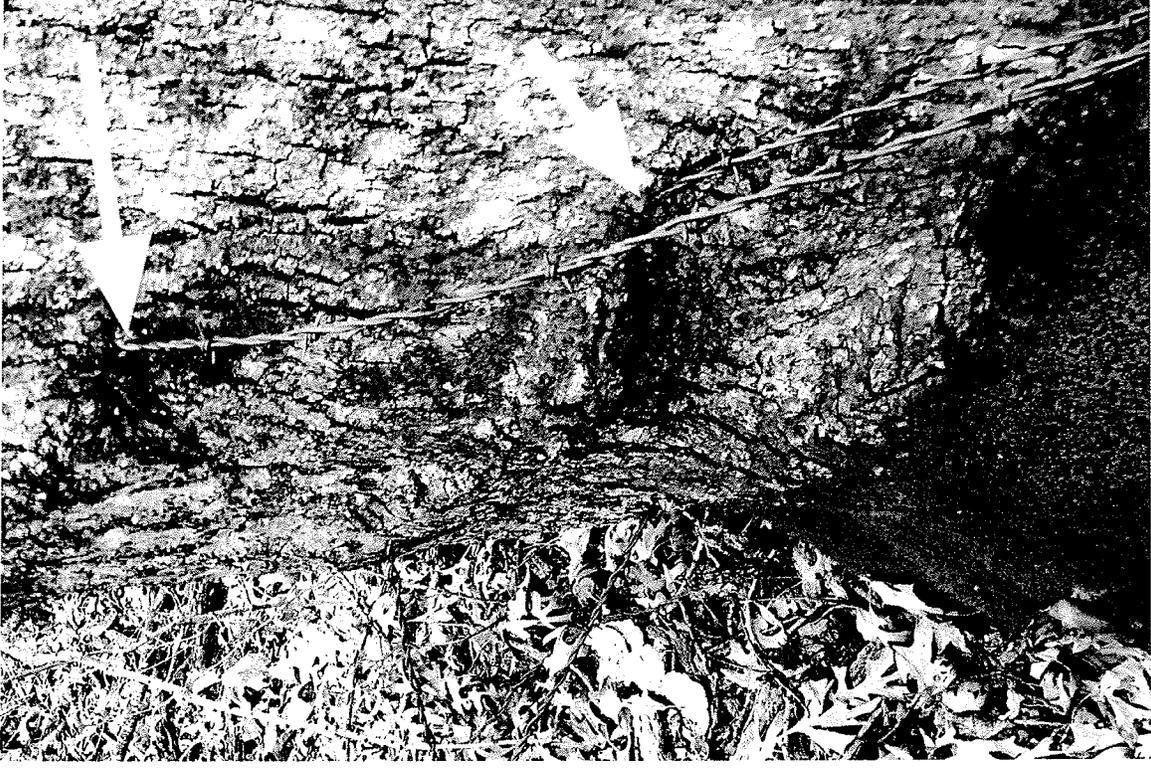
barn



4



Looking  
southeasterly  
toward the barn



Looking  
East-Southeast

5



Existing Fence-line

photo

42

83

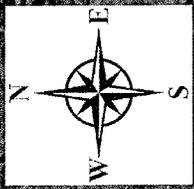
11

57

375

144

6



ACTUAL  
PROPERTY  
LINE  
(yellow)

## **ARTICLE 23 A-3, URBAN FRINGE DISTRICT**

### **SECTION 1. PURPOSE**

The intent of the A-3 District is to provide for urban expansion in close proximity to existing incorporated urban centers within Goodhue County in accordance with the Comprehensive Plan by conserving land for farming and other open space land uses for a period of time until urban services become available.

It is the intent that urban development be deferred in such areas until an orderly transition from farm to urban uses shall be achieved by either the annexation of areas adjacent to the incorporated limits of existing urban centers or the extension of public or other centralized sewage collection and treatment systems.

It is intended that the status of all areas in this district be reviewed, jointly, by the appropriate planning bodies who shall determine whether there should be a transfer of all or any part of such area to some other appropriate land use, or to indicate any changes in the existing Land Use Plan for the particular political entity or change in the Capital Program of the community affecting this district.

### **SECTION 2. PERMITTED USES**

- Subd. 1. Single family dwellings.
- Subd. 2. A second farm dwelling.
- Subd. 3. Any agriculture operation including tree farms.
- Subd. 4. Direct marketing of produce in a Farm Market/On-farm market/roadside stand in a retail structure not to exceed 2400 square feet.
- Subd. 5. Plant nurseries and sales.
- Subd. 6. Home occupations as regulated in Article 11 of this Ordinance.
- Subd. 7. Accessory structures and uses customarily incidental to any of the above permitted uses when located on the same property.
- Subd. 8. Wind Energy conversion Systems in accordance with Article 18 of this ordinance.
- Subd. 9. Farm Wineries including Tasting Rooms in buildings up to 10,000 square feet subject to approval of a zoning permit by the Zoning Administrator (see Article 11, Section 28).

### **SECTION 3. CONDITIONAL USES AND INTERIM USES**

In the A-3, Urban Fringe District, the following uses may be allowed subject to obtaining a conditional use permit in accordance with the provisions of Article 4 of this Ordinance.

- Subd. 22. Non-Agricultural uses/activities associated with an agri-tourism ((as defined in Article 10).
- Subd. 23. Direct marketing of produce in a Farm Market/On-farm market/roadside stand in a retail structure that exceeds 2400 square feet in area (see Article 11, Section 29).
- Subd. 24. Farm Wineries including Tasting Rooms in buildings exceeding 10,000 square feet (see Article 11, Section 28).

**SECTION 4. ACCESSORY STRUCTURES AND USES**

Accessory structures and uses customarily incidental to any of the above permitted uses shall be permitted when located on the same property. Refer to Article 11, Section 5 for further regulations on Accessory Structures. Accessory uses in the A-1 District shall include Agricultural Related Uses as defined in Article 10 of this ordinance subject to performance standards set forth in Article 11 of this Ordinance.

**SECTION 5. GENERAL DISTRICT REGULATIONS**

Any lot in the A-3, Urban Fringe District on which any permitted or conditionally permitted use is erected shall meet the following minimum standards:

Subd. 1. Lot Area.

- A. There shall be a minimum lot size of thirty-five (35) acres per principal building or use when not served by a public or centralized sewage collection and treatment system.
- B. Lot area shall meet the requirements in Article 24, Section 5, Subd. 1.B if served by a municipal sewage treatment system.
- C. Parcels with an existing dwelling as of June 5, 2012 which have 35 acres or more may be split provided the minimum lot size for the dwelling parcel must be at least 2 acres. All other requirements listed in Subdivisions 2, 3 and 4 of this Section would apply. Further development of dwellings on a parcel from which a dwelling site has been split shall be prohibited until such time as the Zone District Classification is changed.

Subd. 2. Yard Requirements.

- A. Every permitted, conditionally permitted or accessory building shall meet the following yard requirements:
  - 1. Front Yard.
    - a. There shall be a minimum setback of sixty (60) feet from the right-of-way line of any public road or highway.
    - b. In the event any building is located on a lot at the intersection of two (2) or more roads or highways, such lot shall have a front yard abutting each such road or highway.

2. Side Yard.

- a. Every building shall have two (2) side yards. Each side yard shall have a minimum width of thirty (30) feet. However, livestock buildings shall be subject to a side yard setback of one hundred (100) feet.

3. Rear Yard.

- a. Every building shall have a rear yard. The rear yard shall have a minimum depth of thirty (30) feet. However, livestock buildings shall be subject to a side yard setback of one hundred (100) feet.

Subd. 3. Public Road Frontage or Road Access Easements Standards:

- A. Each Lot shall include a minimum 33 feet of frontage on a public road right-of-way line extending to the building line. As an alternative a single lot that does not front on a public road may be permitted upon recording (with the Goodhue County Recorder) of a driveway access easement that is a minimum of 33 feet in width and has been determined to be acceptable by the Goodhue County Land Use Management Department.
- B. Two lots that do not front on a public road may be permitted upon recording (with the Goodhue County Recorder) of a shared driveway access easement that is a minimum of 66 feet in width and has been determined to be acceptable by the Goodhue County Land Use Management.
- C. Access for three (3) or more lots shall meet the requirements for public roads in Goodhue County Subdivision Ordinance.

Subd. 4. Bluff Impact Zone. For any use or structure in the A-3 District, the setback from the bluff impact zone shall be no less than thirty (30) feet.

Subd. 5. Height Requirements. Every permitted, conditionally permitted or accessory building shall meet the following height requirements:

- A. All permitted or conditionally permitted principal buildings shall not exceed thirty-five (35) feet in height.
- B. Accessory buildings shall comply with regulations set forth in Article 11 of this Ordinance.

**SECTION 6. GENERAL REGULATIONS**

Subd. 1. No new animal feedlots shall be established and expanding feedlots shall not exceed one hundred (100) animal units.

Subd. 2. Each permanent dwelling shall be sited on a separately surveyed or described parcel.

## ZONING/BUILDING PERMIT TOWNSHIP APPLICATION FORM

Application No. 98-0032  
Tax Parcel No. 38-024-1700

Site Address: SAME

Applicant's Name <u>DEAN MURRAY</u>		Authorized Agent (if applicable)	
Mailing Address <u>43798 17LAVE WAY ZOMBOTA</u>		City <u>MINN</u>	Zip <u>55992</u>
Day Phone <u>507-732-4016</u>		Evening Phone	Fire Number of Project Location <u>43798</u>
Lot(s), Block, Subdivision Name	Lot	Block	Section <u>24</u>
			Township <u>110</u>
			Range <u>16</u>
			Qtr/Qtr <u>NW 1/4 SW 1/4</u>
Contractor's Name <u>DEAN MURRAY</u>		Contractor's Phone Number <u>507-732-4016</u>	
		Contractor License No.	

### PROJECT INFORMATION

Type of Project	Structure Type	Proposed Use	Structure Dimensions	Lot Dimensional Data	Zoning District
<input checked="" type="checkbox"/> New Construction	<input type="checkbox"/> Residence <input type="checkbox"/> Deck	<input type="checkbox"/> Single Family	Length (ft)= <u>40.0</u>	Area in acres:= <u>30.0</u>	(check all that apply)
<input type="checkbox"/> Addition	<input type="checkbox"/> Garage <input type="checkbox"/> Office	<input type="checkbox"/> Multiple Family	Width (ft)= <u>30.0</u>	Road Setback= <u>1/4 mile</u>	<input type="checkbox"/> Agricultural A-1 A-2 A-3
<input type="checkbox"/> Relocation	<input checked="" type="checkbox"/> Ag Bldg <input type="checkbox"/> Boathouse	<input checked="" type="checkbox"/> Agricultural	Height (ft)= <u>16.0</u>	Side lot Setback=	<input type="checkbox"/> Residential
<input type="checkbox"/> Repair	<input type="checkbox"/> Warehouse	<input type="checkbox"/> Public	Total Sq Ft=	Rear Setback=	<input type="checkbox"/> Business B-1 B-2
<input type="checkbox"/> Foundation Only	<input type="checkbox"/> Other	<input type="checkbox"/> Commercial	Lake/Stream Setback=		<input type="checkbox"/> Industrial
<input type="checkbox"/> Roofing		<input type="checkbox"/> Industrial			<input type="checkbox"/> Shoreland (*)
<input type="checkbox"/> Other		<input type="checkbox"/> Other			<input type="checkbox"/> Wild & Scenic River
Township Fee \$ <u>5,00</u>		Construction Cost \$ <u>7500.00</u>		<input type="checkbox"/> Flood Fringe	
				<input type="checkbox"/> Floodway	
				<input type="checkbox"/> General Flood Plain	
				<input type="checkbox"/> Other	

1. Itemization of County Fees:		<b>County Zoning Office Use Only</b>		New Address	
General Fee	<u>5,00</u>	Construction Cost	<u>\$ 7500.00</u>		
Plan Check Fee	<u>-</u>	Receipt #	<u>6271</u>	Zoning Initials	OEM Initials
State Surcharge	<u>-</u>	Date	<u>3-17-98</u>	Date	Date
Total County Fee	<u>5,00</u>			Auditor Initials	Assessor Initials
2. Administrative Summary for Building, Sewage System, Well, and Shoreland Alteration Permits.				Date	Date
a. Dates of Inspection(s):					
b. Certificate of Occupancy (Zoning Compliance) issued on:					

I hereby certify that all data contained herein as well as all supporting data are true and correct to the best of my knowledge:

Dean Murray \_\_\_\_\_ Date 3/7/98  
Property Owner/Agent

I Harry Hadden acting on behalf of the Township of Minneola in capacity of

Clerk hereby certify that the above described project has been approved by the Township Board on 3-7-98

and that the structure and use will meet all Township Codes and Ordinances if constructed as indicated.

# Goodhue County Land Use Management

Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066



Building | Planning | Zoning  
Telephone: 651.385.3104  
Fax: 651.385.3106

Environmental Health | Land Surveying | GIS  
Telephone: 651.385.3223  
Fax: 651.385.3098

**May 13, 2016**

**To:** Board of Adjustment  
**From:** Land Use Management  
**Meeting Date:** May 23, 2016

## Update

### **Application Information:**

**Applicant:** Howard Stenerson  
**Address of Zoning request:** 29121 Wildwood Lane and 28969 County 1 Blvd Red Wing, MN 55066  
**Zoning District:** A2  
PID43.135.0200 and 43.136.0380, in Wacouta Township.  
**Township Information:**

**Background:** The purpose of the variance is to install a Utility Scale Solar Energy System (SES) on 43.136.0380 and 43.135.0200. The property is zoned A2 and there is a State of Minnesota Public Water tributary running along the north lot line on the east parcel. There are several residential dwellings to the south across Wildwood Road and along the north side of Highway 61.

The Applicant is requesting to install a solar photovoltaic panels and associated infrastructure that would be part of a utility scale solar energy system (SES) project and up to the lot line, which requires a variance from Article 22 - A2 Agricultural District - setbacks and Article 31 – Shoreland Regulation – Shoreland Impact Zone primary structure setback. In reference, this also requires a variance from Article 19 – Solar Energy System Regulations – conformance to zoning district setbacks.

The Applicant has stated that the purpose of the variance is “1) to allow the placement of the solar panels, wire and related equipment up to the property line along the Highway 61 side. Property line variance of 30’ rear yard setback in A2 and 100’ to ordinary high water mark in shoreland overlay district (subject to Article 19 allowing solar construction in Shoreland) with the exception that drainage ditch will not be filled or altered. 2) To allow the placement of solar panels, wire and related equipment up to the townships road right-of-way on Wildwood Lane. The number of feet of variance would vary depending on road location to property.”

**County Board Actions:** *On May 3, 2016, the Goodhue County Board of Commissioners approved proposed amendments to the County Zoning Ordinance that list Utility Scale Solar Energy Systems as a use that may*

**be permitted by Interim Use Permit within the County's Wetland's and Shoreland Zones. Further, the County Board acted to approve Mr. Stenersen's Interim Use Permit Application for the proposed Utility Scale Solar Energy System.**

**Following the April 25<sup>th</sup> Board of Adjustment Meeting Land Use Management Department Staff informed the Applicant that site fencing, underground electric lines and landscaping components of the project would not be subject to yard setback requirements. Solar panels and supporting posts or frames would be considered structures and therefore subject to yard setback requirements.**

**Mr. Stenersen was asked to have a site map prepared that accurately reflects where solar panels are being proposed to be located on his property. This map (to be presented at the May 23, 2016 – BOA meeting) will allow the Board of Adjustment to better visualize those areas on the site that would be subject to the variance request.**

**Requested Variances:**

**Variance Request to the 30 side yard setback:** The Applicant has requested that the Board Of Adjustment approve a variance request from the A2 District 30' side yard setback requirements from CP Railroad for a ground-mounted utility scale Solar Energy System (SES) located on PID43.135.0200 and 43.136.0380, Part of the SE ¼ of Sec 35, T-113, R-014 and Part of the W ½ of SW 14 in Sec 36, T-113, R-014 in Wacouta Township.

*Following presentation of a site map and explanation of the this request from the applicant at the May 23, 2016 – BOA Meeting – Land Use Management Staff will be available to answer questions and offer recommendations for findings of fact to support the decision of the BOA.*

**Variance request to the 60' front yard setback:** The applicant has requested a variance from the A2 Districts 60' front yard setback requirements from Wildwood Drive for a ground-mounted utility scale Solar Energy System (SES) located on PID43.135.0200 and 43.136.0380, Part of the SE ¼ of Sec 35, T-113, R-014 and Part of the W ½ of SW 14 in Sec 36, T-113, R-014 in Wacouta Township.

*Following presentation of a site map and explanation of the this request from the applicant at the May 23, 2016 – BOA Meeting – Land Use Management Staff will be available to answer questions and offer recommendations for findings of fact to support the decision of the BOA.*

**Variance request to the shoreland setback:** The Applicant has requested a variance from Non-sewered structure setback requirements from a State of Minnesota Public Water (Tributary) to allow a ground-mounted utility scale Solar Energy System (SES) within the Shoreland Overlay District 100 foot setback to an unnamed tributary located on PID43.135.0200 and 43.136.0380, Part of the SE ¼ of Sec 35, T-113, R-014 and Part of the W ½ of SW 14 in Sec 36, T-113, R-014 in Wacouta Township.

Regarding this Variance request Land Use Management Staff would offer the following recommendation and associated finding of fact:

“To effectively promote the safety, health, and well-being of our residents”

Staff recommends the Board Of Adjustment adopt the staff report into the record (dated April 25<sup>th</sup>, 2016); adopt the findings of fact; and based on the application, testimony, exhibits, and other evidence presented deny the variance request from Non-sewered structure setback requirements from a State of Minnesota Public Water (Tributary) to allow a ground-mounted utility scale Solar Energy System (SES) within the Shoreland Overlay District 100 foot setback to an unnamed tributary located on PID43.135.0200 and 43.136.0380, Part of the SE ¼ of Sec 35, T-113, R-014 and Part of the W ½ of SW 14 in Sec 36, T-113, R-014 in Wacouta Township.

**Findings of Fact for Article 31 – Shoreland Regulation – Shoreland Impact Zone primary structure setback:** Before any such variance may be granted, the Board of Adjustment shall specify in their findings, the facts in each case. Variances shall only be permitted when:

- 1) They are in harmony with the general purposes and intent of the official control; **Setbacks from Public Waters in Shoreland Areas serve numerous purposes including management of water quality, aesthetics and provision of wildlife habitat. The Minnesota Department of Natural Resources does not support this requested Shoreland setback variance from the public water located on the applicant's property**
- 2) The variances are consistent with the comprehensive plan; **The 2004 Comprehensive Plan could be considered to positively address solar energy land uses in a few citations.**  
*Element 1: Land Use, Urban Expansion, and Growth Zones*  
*GOAL 1: ENVIRONMENTAL SYSTEMS In order to maintain healthy communities interdependent environmental systems must be protected. Policy 1. New or expanding land uses shall take into account the environmental impact of the proposed project, by referring to such information as the Natural Resource Inventory, the Geological Atlas, two foot contours, and other available datasets and outline mitigation strategies if necessary. 2. New or expanding land uses shall also take into account the cumulative environmental impact of surrounding development.*  
*Element 3: Conservation, Water, Sustainable Development*  
*GOAL 2: CLEAN WATER NOW AND INTO THE FUTURE Ensure clean water now and for the future of Goodhue County. Policy 5. Identify critical areas for recharge, sink holes and fault lines and protect these areas from land uses that could adversely affect water quality.*  
*GOAL 6: PROTECT FLOOD PRONE AREAS Protect flood prone areas from inappropriate development and excessive or accelerated shore land degradation. Policy 3. Encroachments into watercourses or floodplains which would reduce their water carrying ability below natural capacity shall not be allowed.*  
*GOAL 7: THE PRESERVATION OF NATIVE PLANT AN ANIMAL COMMUNITIES Policy 1. New and expanded land uses shall use the Natural Resources Inventory and other Rare and Endangered Species data to determine if the project is negatively impacting native plant or animal communities. 2. Protect sensitive natural areas from human disturbance.*

- 3) There are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner, not permitted by an official control. Economic considerations alone do not constitute practical difficulties.

**If allowed within the 100' shoreland structural setback. Placing the SES within the shoreland 100' structural setback may be detrimental to the tributary.**

- 4) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and  
**Many properties located in rural Goodhue County are subject to Shoreland Regulations due to the presence of "public waters". Only a portion of the Applicant's property is impacted by the required Shoreland setback from the public water.**
- 5) The variance, if granted, will not alter the essential character of the locality.  
**Constructing a portion of the Utility Scale Solar Energy System with the 100' Shoreland Setback from the public water would represent a significant change.**
- 6) No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.  
**Solar Energy Systems are permitted in A2 and may be allowed by Interim Use within the Shoreland Overlay District. The County Board approved the Applicant's Interim Use Permit; however the Applicant's proposed Utility Scale Solar Energy System is subject to the 100' setback from the Ordinary High Water Line of the Tributary.**
- 7) The board of adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.  
**Staff has no recommendation for conditions to this variance.**

*The following should be edited to reflect any concerns raised at the May, 2016 BOA meeting and public hearing:*