

**BOARD OF ADJUSTMENT
GOODHUE COUNTY, MN
April 25, 2016 MEETING MINUTES**

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 Eiyneck, and Zoning Assistant Casey MacCallum

2. Approval of Agenda

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

3. Approval of Minutes

² 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.

³After 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.

Motion carried 6:0

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⁴Motion 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 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 property line and are also planning a new fence, planted vegetative screening

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(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.

⁵After 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).

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

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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.

⁶Motion 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.

⁷Motion 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: 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 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

⁹Adjourn: 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 Eiyndck Recording Secretary

MOTIONS