



GOODHUE COUNTY MINNESOTA

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

Goodhue County Board of Adjustment
Government Center- Board Room
509 West 5th St, Red Wing MN 55066

Call Meeting To Order

Approval Of Current Agenda

Approval Of Previous Month's Meeting Minutes

1. July 29, 2019 DRAFT BOA Meeting Minutes

Documents:

[MINUTES_JULY_BOA_DRAFT.PDF](#)

Conflict/Disclosure Of Interests

PUBLIC HEARING: Request To Amend Variance To Minimum Lot Size Standards

Request for Variance amendment, submitted by Scott Berg, to A3 Zoning District dimensional standards to establish two parcels less than 35 acres in area and remove an existing condition requiring the property be platted after the split. Parcel 40.035.0300. TBD 165th Avenue, Pine Island, MN 55963. Part of the NE ¼ and the NW ¼ of the NE ¼ of Sect 35 Twp 109 Range 16 in Roscoe Township. A3 Zoned District.

Documents:

[BOAPACKET_BERG.PDF](#)

Staff Updates

Other-Discussion

Adjourn

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
JULY 29th, 2019 MEETING MINUTES
DRAFT**

The meeting of the Goodhue County Board of Adjustment was called to order at 5:30 PM by Chair Ellingsberg in the Goodhue County Government Center Court Room in Red Wing, MN.

Roll Call

Commissioners Present: Darwin Fox, Rich Ellingsberg, Kristin Toegel, Robert Benson, Dan Knott

Staff Present: Land Use Management Director Lisa Hanni, Zoning Assistant Ryan Bechel, and Zoning Assistant Samantha Pierret

1. Approval of Agenda

¹Motion by **Fox**, and seconded by **Benson** to approve the meeting agenda

Motion carried 5:0

2. Approval of Minutes

²Motion by **Benson** and seconded by **Toegel** to approve the previous month's meeting minutes.

Commissioner Knott noted two errors in the June meeting minutes.

Motion carried 5:0 to approve the amended June BOA meeting minutes.

3. Conflict of Interest/Disclosure

There were no reported conflicts of interest.

4. Public Hearings:

PUBLIC HEARING: Request for Variance to Bluff Land Protection Standards

After-the-fact variance request, submitted by David Lorentz, to Bluff Land Protection standards prohibiting grading, excavating, and filling within a Bluff Impact Zone to allow a driveway access established on slopes exceeding 30 percent to remain. Parcel 31.018.0901. TBD County 6 BLVD, Red Wing, MN 55066. Part of the SE ¼ of NW ¼, N ½ of SE 1/4, and N ½ of SW ¼ of Sect 18 Twp 112 R15 in Featherstone Township. A2 Zoned District.

Bechel presented the staff report, attachments and a letter from a neighboring property owner received after the preparation of the staff report (Attachment A).

Commissioner Knott asked for clarification on the contour intervals on the map provided by staff.

Bechel stated the contour intervals in red were at ten feet and the white were at two feet.

Commissioner Knott commented that the letter from the neighboring property owner was not provided in the packet provided to the Board.

Bechel confirmed that the letter was not in the packet provided to the Board.

Commissioner Knott questioned whether the second variance had been applied for relating to the driveway grading requirements.

Bechel stated the second variance has not been applied for.

David Lorentz (owner of the property) gave a statement regarding the application and the history of his property. He stated that they have lived at and paid taxes at this property for 45 years. He noted they have worked hard to improve and maintain the land. He was awarded Woodland Manager of the Year for Goodhue and Wabasha Counties for his efforts to fight invasive species. Ten years ago he sold 100 acres to Lon Schueth including 18 acres of native plant restoration. He noted the land was not inherited as a family

**BOARD OF ADJUSTMENT
GOODHUE COUNTY, MN
JULY 29th, 2019 MEETING MINUTES
DRAFT**

farm but they purchased the land and worked on the land as an investment for their retirement. At this stage, they are shocked and disappointed to learn that they cannot sell their land, as the County has designated their land with strict regulations which significantly decreased the value.

Mr. Lorentz stated that when they listed the land for sale, they did not know that the Bluff Protection Region existed in the area. Because of this, they are not able to sell their land as expected. Mr. Lorentz mentioned that Surveyor David Rapp and Attorney Jim Burkhardt have spent over five thousand dollars to adhere to Land Use Management rules. Mr. Lorentz explained that Lon Schueth was adamant that he would not allow hunters down his driveway, even though the Lorentzes had allowed Mr. Schueth to use the driveway in the past.

Mr. Lorentz commented that the statements by Land Use Management about using the existing driveway are false. He added that they [the Lorentzes] had no way to use the existing driveway even though the new property owner, Ed Illa, had agreed to grant a 33-foot easement for access across his property upon purchasing the existing dwelling. Mr. Lorentz noted that because Mr. Schueth would not allow an easement across his property, the easement granted by Mr. Illa does not mean anything.

Mr. Lorentz continued, saying that there was an existing 25 foot easement across the Schueth property and the Lorentzes wanted it to be increased to 33 feet to conform to LUM rules. Mr. Schueth would not grant the extra 8 feet unless there was an agreement signed that the access would not be used for the back 80 acres (the property in question). Mr. Lorentz stated an agreement was not reached regarding the easement.

Mr. Lorentz added that there are at least 4 old driveways along County Road 6 and Land Use Management makes the argument that it [the driveway in question] does not correspond with the use. Mr. Lorentz noted that only Land Use Management can grant building permits therefore, even if the slope of the driveway was at 14%, a buyer could not build a structure without their [LUM] permission. The reason for the 50% grade of the driveway installed, per his contractor, was that the "bluff" was created when the County re-did County Road 6. Mr. Lorentz stated that the "bluff" was not created by nature and according to county standards it must be a naturally occurring bluff.

Mr. Lorentz stated that a minimal amount of grading was done. He explained that there was a layer of 6 inch rock put down and since that was installed there have been 8 inches of rain with no erosion. David stated that Beau Kennedy from Goodhue County Soil and Water Conservation District came out and that Beau's report is in the packet provided to the Board.

Mr. Lorentz stated that the comments from Dicke Farms surprised him. Mr. Lorentz and Jim Dicke had a conversation Monday morning [July 29th] in which Mr. Dicke had stated that they [the Lorentzes and their buyer] could use his [Mr. Dicke's] access off of County 6. Mr. Lorentz added that Mr. Dicke wants hunters to come as there are too many deer and turkeys and Mr. Dicke hopes the hunters have kids. Mr. Lorentz noted that Mr. Dicke had said he was gun-shy about signing anything. Mr. Lorentz stated that there was an agreement in the works in which he [Mr. Lorentz] would give Mr. Dicke the right to farm 3.5 acres of cropland and the access to Emmett Pearson's property, which the County completely sealed off. Mr. Lorentz added that there is no access to Mr. Pearson's farm without crossing the 200 foot strip of Lorentz property. When they [the County] re-did County Road 6 and put in the Bluffland regulations, Mr. Pearson could no longer get to his property without crossing the Lorentz property. Mr. Lorentz noted that the agreement [with Mr. Dicke] has leverage for both parties as he [Mr. Lorentz] wants convenient access to his property and Mr. Dicke wants the cropland and access to Mr. Pearson's parcels. Mr. Lorentz added that there is mutual respect for each other and the land between himself and Mr. Dicke.

Mr. Lorentz continued by stating that the "field road" [driveway] would not be needed and would be used minimally. He noted that the realtor had strongly suggested he [Mr. Lorentz] have this access onto County Road 6 in case of a disagreement with Mr. Dicke. He added that the "road" [driveway] was located to line up with 305th Street per Greg Isakson [Goodhue County Public Works Director]. Mr. Lorentz added that in the packet a map for "protective streams" was included and not a map about "Blufflands". According to the map provided, Mr. Lorentz believes that his property barely touches a restricted area. He added that they put the

**BOARD OF ADJUSTMENT
GOODHUE COUNTY, MN
JULY 29th, 2019 MEETING MINUTES
DRAFT**

road where Greg Isakson wanted it. Mr. Lorentz noted that he was not blaming Mr. Isakson and acknowledged that he [David] knew what he was doing.

Mr. Lorentz commented that every time he went to the Land Use Management office, staff had spoken about a “driveway”. David added that there’s no way this is “driveway” accessible. Mr. Lorentz stated that if the new buyer wanted to build a home, they would know they cannot and it is Land Use Management’s role to control that. Mr. Lorentz again added that he was surprised by the letter from Mr. Dicke but he was unsure who owns that property as some maps say Dicke Farms Partnership and some say Jim Dicke. Mr. Lorentz stated he had thought Jim Dicke had kept the land for himself so he could build a house there someday. David added that he had a conversation with Jim Dicke this morning [July 29th]. David concluded by stating Jim Dicke says some things and then Micah Dicke says something else.

Commissioner Knott asked about the discussions with the neighbors to negotiate an easement or land swap for access and the applicant’s statement that negotiations were unsuccessful.

Mr. Lorentz stated he was unsuccessful in obtaining access from neighboring property owners as some neighbors had stated that there was no way they would allow access.

Commissioner Knott questioned when these conversations took place.

Mr. Lorentz stated they had been in the past six months, since Ed Illa had become interested in buying the existing house.

Commissioner Knott asked for confirmation that it was this year [2019].

Mr. Lorentz confirmed these conversations took place this year [2019].

Commissioner Knott questioned when the other 50 acres was sold off.

Mr. Lorentz stated it was prior to June 6 [2019] and prior to beginning to put in the new “road”.

Commissioner Knott questioned if during conversations with neighbors, Land Use Management staff’s issues regarding the access had come up.

Mr. Lorentz stated the access issues did not come up. He noted that Jim Dicke also does not know his land is in Bluffland. Mr. Lorentz would like to know if local farmers were informed that these regulations were put in place. Mr. Lorentz again stated he thinks that the map provided in the packet is “stream regulations” and the Bluff regulations go up farther than this map shows. Mr. Lorentz continued by adding that at the end of the new “field road” there is a wash where the Dickes have cleared the area of brush nicely but without permission because no one knows that you need permission. Mr. Lorentz stated that he was not aware that he needed permission to sell his property. He had access to County Road 6 but now it is considered Bluff Land.

Commissioner Toegel asked if Mitch Banks was the realtor.

Mr. Lorentz confirmed that Mitch Banks is the realtor.

Chair Ellingsburg stated that in the packet provided there is a reference to the bluff ordinance from 1998.

Commissioner Knott noted it was last amended in 2017.

Mr. Lorentz stated he did not read that ordinance prior to selling property to the Dickes.

Commissioner Knott questioned if one of the maps provided showed the previous access through the Dicke property.

Mr. Lorentz confirmed that the provided map showed the access over the Dicke property. He added that Jim Burkhardt said it was a 25 feet wide easement with 48 foot wide easement across the Dickes’ property, which would have been enough to conform to regulations. Mr. Lorentz stated he has negotiated with Mr. Illa and a 33 foot wide easement had been agreed to. The holdup was Lon Schueth not allowing widening of the easement on the Schueth property.

**BOARD OF ADJUSTMENT
GOODHUE COUNTY, MN
JULY 29th, 2019 MEETING MINUTES
DRAFT**

Commissioner Knott questioned whether the issue with Mr. Schueth was the width of the easement or allowing the hunters to use the access.

Mr. Lorentz stated that Mr. Schueth would not increase the easement to 33 feet unless a contract were drawn up which stated that the easement was not to serve the hunting land.

Peggy Lorentz referenced a letter from Goodhue County Land Use Management stating if the existing driveway had been used as an easement to the hunting land parcel, the easement across Mr. Schueth's property would have to be 66 feet wide to be legal and Mr. Schueth did not want to agree to a 66 foot easement. She added that a 66 foot wide easement is required to serve three parcels.

Chair Ellingsberg opened the Public Hearing.

Mike Siebenaler stated that he was at the property the night before the meeting and drove his pickup truck up the driveway and back down. He added that if you know what the road entails then you can drive a 4 wheel drive vehicle up and down the driveway.

Peggy Lorentz asked what the letter from the Dickes' stated which had been read by Bechel during the staff report.

Bechel re-read the letter from Dicke Farms Partnership.

Mr. Lorentz questioned who signed the letter.

Bechel indicated that Jim [Dicke] wrote the letter.

Peggy Lorentz stated it was a shock to them that Jim Dicke would write that letter. David Lorentz stated that he does not believe Jim Dicke wrote that letter.

Bechel stated the letter came to staff last week.

Peggy Lorentz stated that she has personally heard the conversations between David Lorentz and Jim Dicke and the conversations have been the same over the past months. She said she would be surprised if Mr. Dicke had changed his mind and wrote the letter and then changed his mind again prior to their conversation earlier that day [July 29th]. She added that there was also an anonymous phone call to the prospective buyer warning the buyer that if he purchased that property he would be asking for trouble.

³ After Chair Ellingsberg asked three times for comments it was moved by Benson and seconded by Knott to close the public hearing.

Motion carried 5:0

Hanni commented that when Mr. Lorentz says that he denies Land Use Management spoke to him about access, staff had actually been working with him for months prior to the installation of the driveway. Hanni referenced the survey from Rapp Surveying which is dated March 2019. She stated that staff repeatedly told Mr. Lorentz that he could not build a driveway on the Bluff Land and he built one anyway.

Bechel clarified that there was discussion on the 66 foot wide easement requirement which was brought about by the possibility of another dwelling being constructed. He noted that staff had said if they wanted to use the existing driveway for another house the easement would have to be increased to 66 feet.

Chair Ellingsberg questioned if this were just hunting land, could the easement be 33 feet.

Bechel confirmed the 33 foot easement would be allowed for hunting land and that the reason Mr. Lorentz was able to split the property originally was because there was "access" per the subdivision ordinance to the new parcel that met easement requirements.

**BOARD OF ADJUSTMENT
GOODHUE COUNTY, MN
JULY 29th, 2019 MEETING MINUTES
DRAFT**

Hanni noted that staff has been back and forth with the applicant with several ideas for access and staff always said that a driveway cannot be put there. She referenced a photo provided in the packets of the installed driveway. She noted that the County did not create that bluff as Public Works only works in their Right-of-Way.

Commissioner Fox commented on a site visit he attended with staff and that the driveway was put in without erosion control and it was clearly put on a bluff. He stated that if a dwelling were up there, emergency services could never make it up the driveway. Commissioner Fox added that the applicant would need another variance for the driveway besides the one for Bluff Land excavation. He noted that if there were any ice on the driveway when driving down, it would be very dangerous. He finished by saying the driveway was just put in without permission because no one would approve that type of grade.

Bechel clarified that an access drive permit was granted by Goodhue County Public Works for work in the Right-of-Way and that the work [in the Right-of-Way] was checked and is okay. He added that this variance is for work done on the private property.

Hanni reiterated that Mr. Lorentz did not plan his splits to allow access for this parcel which is why staff says he “created the situation”.

David Lorentz spoke again saying most of what staff said is fairly basically true. He called Mr. Siebenaler up to the microphone and asked Mr. Siebenaler if it was ever stated to him that a house could be built on the property.

Mr. Siebenaler stated that he was buying the property for recreation for hunting. He was told there are 2 buildable lots but that he would need a variance and an engineer to design the access.

David Lorentz stated he has not been withholding information and that the buyer is aware he cannot build a dwelling there.

Mr. Siebenaler stated that there are 2 buildable lots and an engineer must stamp off on approval. Right now he wants to use it for recreation but maybe in the future he would hire an engineer.

Mr. Lorentz stated that the easement requirement is definitely 66 feet wide for more houses and for hunting land it can be 33 feet wide. Mr. Lorentz commented that he wants [this classified as] a “field road” access and they [Land Use Management] want [this classified as] a “driveway”. He concluded by stating that if Mr. Siebenaler wants to construct a house 20 years from now on the property he [Mr. Lorentz] has no stake in it.

Hanni asked if Mr. Lorentz put the driveway in on the property.

David stated he did put in the “field road”.

Hanni asked if staff told him not to do that.

Mr. Lorentz confirmed that staff told him not to put in a “driveway”. He commented on staff calling it a “driveway” which insinuates there will be a house there. Mr. Lorentz clarified that no house is going in and no emergency vehicles will need to get there.

Commissioner Fox disagreed with Mr. Lorentz’s statement, stating that if an accident were to occur on the property, emergency services will need to access that property and they cannot use the driveway as constructed. He added that there is no difference between a “driveway” and a “field road” as there isn’t a difference there definition wise and a 50% grade for a driveway is too much.

Bechel stated the County does not have a definition for “field road” versus “driveway”. He reminded everyone this is a hearing for a variance to grading in the Bluff Land not a driveway variance.

**BOARD OF ADJUSTMENT
GOODHUE COUNTY, MN
JULY 29th, 2019 MEETING MINUTES
DRAFT**

Mr. Lorentz stated that staff said he had to work with Goodhue County Soil and Water Conservation District. He noted that they have done this and SWCD recommendations were implemented as they included 3 inches of field rock and minimal grading was done.

Commissioner Toegel asked that if the buyer were only buying this for hunting land, could Mr. Lorentz go back to the neighbors to negotiate the 33 foot wide easement since a driveway to a building site will not be built.

Mr. Lorentz stated that Mr. Schueth does not want any additional driveway on the property.

Commissioner Toegel asked why Mr. Lorentz put in the driveway after hearing his answers to Hanni's questions.

Mr. Lorentz stated that he was backed up against the wall and that there is a severe difference between a "field road" and a "driveway". Mr. Lorentz then questioned what would be done to ensure Mr. Pearson has access to his property.

Commissioner Knott asked when Mr. Pearson bought those parcels.

Mr. Lorentz stated that he cannot remember when Mr. Pearson purchased his property. He added that Jim Dicke was giving Mr. Pearson access without Mr. Lorentz's permission. He explained that he had tried to get ahold of Mr. Pearson to resolve the access issues but Mr. Pearson does not respond. Mr. Lorentz had wanted to see if they could work together but Mr. Pearson does not want to speak to him.

Commissioner Knott questioned whether Mr. Pearson could even get access to his property using the new road.

Mr. Lorentz agreed that Mr. Pearson could not use the new access for farm equipment and that Mr. Pearson would have to use the Dickes' access. Mr. Lorentz commented that after hearing the letter Bechel read, no one has access now. Mr. Lorentz again stated he does not believe Jim Dicke wrote this letter.

⁴Motion by Commissioner Fox, seconded by Commissioner Knott, for the Board of Adjustment to:

- adopt the staff report into the record;
- adopt the findings of fact;
- accept the application, testimony, exhibits, and other evidence presented into the record; and

DENY the after-the-fact variance request, submitted by David Lorentz, to Bluff Land Protection standards prohibiting grading, excavating, and filling within a Bluff Impact Zone to allow a driveway access established on slopes exceeding 30 percent to remain.

Motion carried 5:0

PUBLIC HEARING: Request for Variance to Minimum Setback Standards

Request for Variance, submitted by Dale Banitt (authorized agent) and Ricka Kohnstamm (owner), to A2 Zoning District standards to construct a dwelling addition less than 60 feet from the Wells Creek Trail Right-of-Way. Parcel 26.018.0300. 36111 Wells Creek Trail, Goodhue, MN 55027. Part of the NW ¼ of the NW ¼ of Section 18 Twp 111 R14 in Belvidere Township. A2 Zoned District.

Pierret presented the staff report and attachments.

Dale Banitt stated that the addition will be 16 feet wide.

Pierret clarified that the 8 foot addition was in addition to an existing 8 foot wide porch which would be replaced thereby creating a total of 16 feet of new space.

**BOARD OF ADJUSTMENT
GOODHUE COUNTY, MN
JULY 29th, 2019 MEETING MINUTES
DRAFT**

Commissioner Fox commented that during a site visit with staff he noted the road is narrow and with the existing trees snowplowing should not be an issue. Because the home was built nonconforming, the addition is a perfect fit for the property.

Chair Ellingsberg opened the Public Hearing.

No one from the public spoke in favor or against the request.

⁵After Chair Ellingsberg asked three times for comments it was moved by Fox and seconded by Benson to close the public hearing.

Motion carried 5:0

⁶Motion by Commissioner Benson, seconded by Commissioner Toegel, for the Board of Adjustment to:

- adopt the staff report into the record;
- adopt the findings of fact;
- accept the application, testimony, exhibits, and other evidence presented into the record; and

APPROVE the request for variance, submitted by Dale Banitt (authorized agent) on behalf of Ricka Kohnstamm (owner) to A2 Zoning District standards to allow construction of a dwelling addition 20 feet from the Wells Creek Trail Right-of-Way.

Motion carried 5:0

5. Other-Discussion

There was no additional discussion.

6. Adjourn

⁷Motion by Benson seconded by Fox to adjourn the Board of Adjustment meeting at 6:26PM.

Motion carried 5:0

Respectfully submitted,

Zoning Assistant, Samantha Pierret

MOTIONS

¹ APPROVE the meeting agenda. Motion carried 5:0

² APPROVE the previous meeting's minutes. Motion carried 5:0

³ Close the Public Hearing. Motion carried 5:0

⁴ DENY the after-the-fact variance request, submitted by David Lorentz, to Bluff Land Protection standards prohibiting grading, excavating, and filling within a Bluff Impact Zone to allow a driveway access established on slopes exceeding 30 percent to remain. Motion carried 5:0

⁵ Close the Public Hearing. Motion carried 5:0

⁶ APPROVE the variance request to allow a dwelling addition to be constructed 20 feet from the Wells Creek Trail Right-of-Way. Motion carried 5:0

⁷ ADJOURN. Motion carried 5:0

Goodhue County Land Use Management

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

Lisa M. Hanni, L.S. Director

Building | Planning | Zoning
Telephone: 651.385.3104
Fax: 651.385.3106



County Surveyor / Recorder

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

To: Board of Adjustment
From: Land Use Management
Meeting Date: September 23, 2019
Report date: September 13, 2019

PUBLIC HEARING: Request to Amend Variance to Minimum Lot Size Standards

Request for Variance amendment, submitted by Scott Berg, to A3 Zoning District dimensional standards to establish two parcels less than 35 acres in area and remove an existing condition requiring the property be platted after the split.

Application Information:

Applicant: Scott Berg

Address of zoning request: TBD 165th Avenue, Pine Island, MN 55963

Parcel: 40.035.0300

Abbreviated Legal Description: Part of the NE ¼ and the NW ¼ of the NE ¼ of Sect 35 Twp 109 Range 16 in Roscoe Township

Township Information: Todd Greseth, Roscoe Township Supervisor signed the Berg Variance Application on April 24, 2019. No comments were offered.

Zoning District: A3 (Urban Fringe District)

Attachments and Links:

Approved Variance (DOC# 655909)

May 2019 Application

Site Maps

Draft Survey

May 20, 2019 BOA staff report

May 20, 2019 BOA meeting minutes

Goodhue County Zoning Ordinance: <http://www.co.goodhue.mn.us/DocumentCenter/View/2428>

Background:

The Applicant, Scott Berg, is in the process of acquiring land from his parents (Gerald Berg; current landowners) with the intent of building a home on the property. The Berg's own three contiguous parcels (PID 40.026.1600, 35-acres; PID 40.026.1800, 35-acres; 40.035.0300, 49.23 acres) in sections 24 and 35 of Pine Island Township. All three parcels are zoned A3 (Urban Fringe District) requiring a minimum parcel size of 35 acres.

In May of this year, the Applicant received a variance from the Goodhue County Board of Adjustment allowing him to split the properties resulting in the creation of a 27-acre parcel in section 35, a 47-acre parcel between sections 26 and 35, and a 33-acre parcel in section 26. The northerly most parcel (PID 40.026.1600) was not considered for subdivision with the previous variance request. As a condition of the variance approval, the 47-acres lying between sections 26 and 35 was required to be combined via plat to create a single conforming parcel on which the Applicant intended to build a home.

The only way to combine property across a section line is through either a "formal" or "administrative" platting process. Because there exists undedicated road Right-of-Way bordering the west side of the property (165th AVE), a formal plat is required by the Goodhue County Subdivision Controls Ordinance. The Applicants initiated the platting process but determined the cost and time

commitments too burdensome to their construction goals.

As an alternative to platting, LUM staff suggested the Applicant combine the 2 existing parcels (totaling 78 acres) in section 26 (PID 40.026.1600 and 40.026.1800) and reconfigure the property into 2 conforming parcels each having more than 35-acres. This split could be completed with a simple “metes-and-bounds” survey subject to administrative subdivision review. The Applicant completed the split earlier this month.

The 49.23-acre parcel in section 35 contains a mix of tillable Ag land and fallow pasture area. The Applicant would like to purchase the approximately 22-acres of pasture land from his parents immediately south of the section line in section 35. Mr. Berg’s parents wish to retain the income-producing tillable farmland on the remainder of the property for the time being. The Applicant anticipates he would likely acquire this property as well in the future.

Although a variance was approved to allow a split creating a parcel less than 35-acres in section 35, the condition placed on the approval required the remainder of the property be platted and combined with the property north of the section line (thereby creating a single non-conforming parcel in section 35). The Applicant is requesting to amend the original variance approval to remove the condition requiring platting to allow the creation of two less than 35-acre parcels in section 35.

Approval of the proposed amendment would revoke and replace the existing variance approval thereby preventing the creation of any non-conforming parcels in section 26. The Applicant understands that if the variance is approved, the two non-conforming parcels created in section 35 will not be eligible dwelling sites in the future.

Variance Standards:

Variances shall only be permitted when they are in harmony with the general purposes and intent of the Goodhue County Zoning Ordinance and when consistent with the adopted comprehensive plan. Variances may be granted when the applicant establishes “practical difficulties” exist in complying with the existing official controls. Practical difficulties mean the applicant proposes to use the property in a reasonable manner not permitted by an official control, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

Existing Findings of Fact:

1) Harmony with the general purposes and intent of the official control:

- The purpose of the A3 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 times until urban services become available. The County is not aware of any imminent plans of the City of Pine Island to annex land for urban development in Sections 26 or 35 of Roscoe Township. Because no change in the current land uses on the subject property is anticipated, the proposed variance would not appear to be in conflict with the purpose and intent of the A3 district.

2) The variances request is consistent with the adopted Comprehensive Plan:

- The Comprehensive Plan prioritizes agricultural land uses over dwellings to protect farmland and decrease conflict between residential and agricultural uses. The proposed variance is not likely to impact any agricultural use of the land since the proposed subdivision of land that the variance would facilitate would result in one less potential dwelling site. The land owner’s intent is to continue to farm the tillable land as cropland. Any impacts on the potential for future urbanization would be no greater than what would be allowable if the variance was not granted.

- 3) **There are “practical difficulties” in complying with the official control (the applicant proposes to use the property in a reasonable manner not permitted by an official control, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality):**
- The A3 Urban Fringe District is intended to limit building activity that would present an obstacle to future urbanization. The 35-acre parcel size minimum for any principal building or use of property is intended to limit the density of additional dwellings or other development in the District. The proposed subdivision of land is not intended to increase residential density or to allow a dwelling to be built on less than 35 acres.
 - The desire to split the tillable land from the non-tillable pasture land is a reasonable use of property in the A3 district.
 - Practical difficulty exists in that the 35-acre parcel requirement presents an obstacle to allowing the subject property to be managed in a rational and economic manner for continued agricultural use. In addition, the 35 parcel size presents an obstacle to succession planning related to the landholdings of the Berg Family.
- 4) **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.**
- The subject property would continue to be used for agricultural purposes and no additional dwelling sites would be allowed under the current zoning classification.

Staff Recommendation:

- adopt the staff report into the record;
- adopt the findings of fact;
- accept the application, testimony, exhibits, and other evidence presented into the record; and

APPROVE the request for variance amendment, submitted by Scott Berg, to A3 Zoning District dimensional standards to establish two parcels less than 35 acres in area and remove the existing condition requiring the property be platted after the split. Variance Z19-0019 (DOC #655909) shall be revoked and replaced.

Subject to the following:

- ~~1. The proposed reconfiguration of Parcel #40.026.1800 and #40.035.0300 shall be subject to subdivision (platting) requirements set forth in the Goodhue County Subdivision Controls Ordinance.~~
- 1. No resulting parcels less than 35 acres shall be eligible as a dwelling under provisions of the A-3 (Urban Fringe) District.

Certified, Filed, and or Recorded on:

June 25, 2019 11:35 AM

Signed:  DeputyLISA M HANNI
GOODHUE COUNTY RECORDER

Fee Amount: \$46.00

**STATE OF MINNESOTA
COUNTY OF GOODHUE****BOARD OF ADJUSTMENT
VARIANCE PROCEEDINGS
FILE NO. 19-0019**

In the matter of:

A request for a variance to A3 District dimensional standards to establish two parcels less than 35 acres in area. Parcels 40.035.0300 and 40.026.1800. TBD 165th Avenue. Part of NE ¼ of NE ¼ of Sect 35 Twp 109 Range 16 in Roscoe Township and part of the S ½ of SE ¼ of Sect 26 Twp 109 Range 16 in Roscoe Township. A3 zoned district.

The above-entitled matter came to be heard before the Goodhue County Board of Adjustment on the 20th day of May, 2019.

Applicant: Scott Berg**Address of zoning request:** TBD 165th Avenue, Pine Island, MN 55963.**Zoning District:** A3 (Urban Fringe District)**PID** 40.035.0300 and 40.026.1800. Part of NE ¼ of NE ¼ of Sect 35 Twp 109 Range 16 in Roscoe Township and part of the S ½ of SE ¼ of Sect 26 Twp 109 Range 16 in Roscoe Township. (Doc #608467)**IT IS ORDERED: THE GOODHUE COUNTY BOARD OF ADJUSTMENT**

- adopts the staff report into the record;
- adopts the findings of fact;
- accepts the application, testimony, exhibits, and other evidence presented into the record; and

APPROVES the request for variance to the A3 (Urban Fringe) District dimensional standards to establish two parcels less than 35 acres in area.

Subject to the following conditions:

1. The proposed reconfiguration of Parcel #40.026.1800 and #40.035.0300 shall be subject to subdivision (platting) requirements set forth in the Goodhue County Subdivision Controls Ordinance.
2. No resulting parcels less than 35 acres shall be eligible as a dwelling under provisions of the A3 (Urban Fringe) District.

Rights granted by the variance expire one year from the date of approval if not exercised; variance expiration date: 5/20/2020.

Date signed: _____

6/24/19

Rich Ellingsberg, Chair

Goodhue County Board of Adjustment

STATE OF MINNESOTA)

) ss.

LAND USE MANAGEMENT DEPARTMENT

COUNTY OF GOODHUE)

I, Michael Wozniak, AICP, Planner/Zoning Administrator for Goodhue County, do hereby certify that I have compared the foregoing copy and Order **APPROVING** this variance with the original record thereof preserved in my office, and have found the same to be correct and true transcript of the whole thereof.

Dated this 30th day of May, 2019.



Planner/Zoning Administrator, Goodhue County

Drafted by:
Goodhue County Land Use Management Department
509 West Fifth Street
Red Wing MN 55066

(SEAL)

EXHIBIT "A"

40-026-1600

The South Half of the Northwest Quarter of the Southeast Quarter (S1/2 NW1/4 SE1/4) of Section Twenty Six (26), Township One Hundred Nine (109), Range Sixteen (16), Goodhue County, Minnesota; AND

40-025-0300

The North 10 (N10) Acres of the Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4) and the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section Thirty Five (35), Township One Hundred Nine (109), Range Sixteen (16), Goodhue County, Minnesota, LESS a tract of land is Section 25, Township 109 North, Range 16 West, Goodhue County, Minnesota, described as follows: Commencing at a point 1058.8 feet North (and on the N-S 1/4 line) of the southwest corner of the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section 35, Township 109 North, Range 16 West, (and on the bearing of North 0 degrees 00 minutes East) thence northeasterly on a bearing of North 47 degrees 20 minutes east for a distance of 241.7 feet, thence northeasterly on a bearing of North 27 degrees 05 minutes east a distance of 115.0 feet (to the E-W section line) thence westerly along said Section line for a distance of 227.2 feet (to the N-S 1/4 line) thence South along said 1/4 line for a distance of 266.6 feet and to the point of commencement; AND

40-026-1400

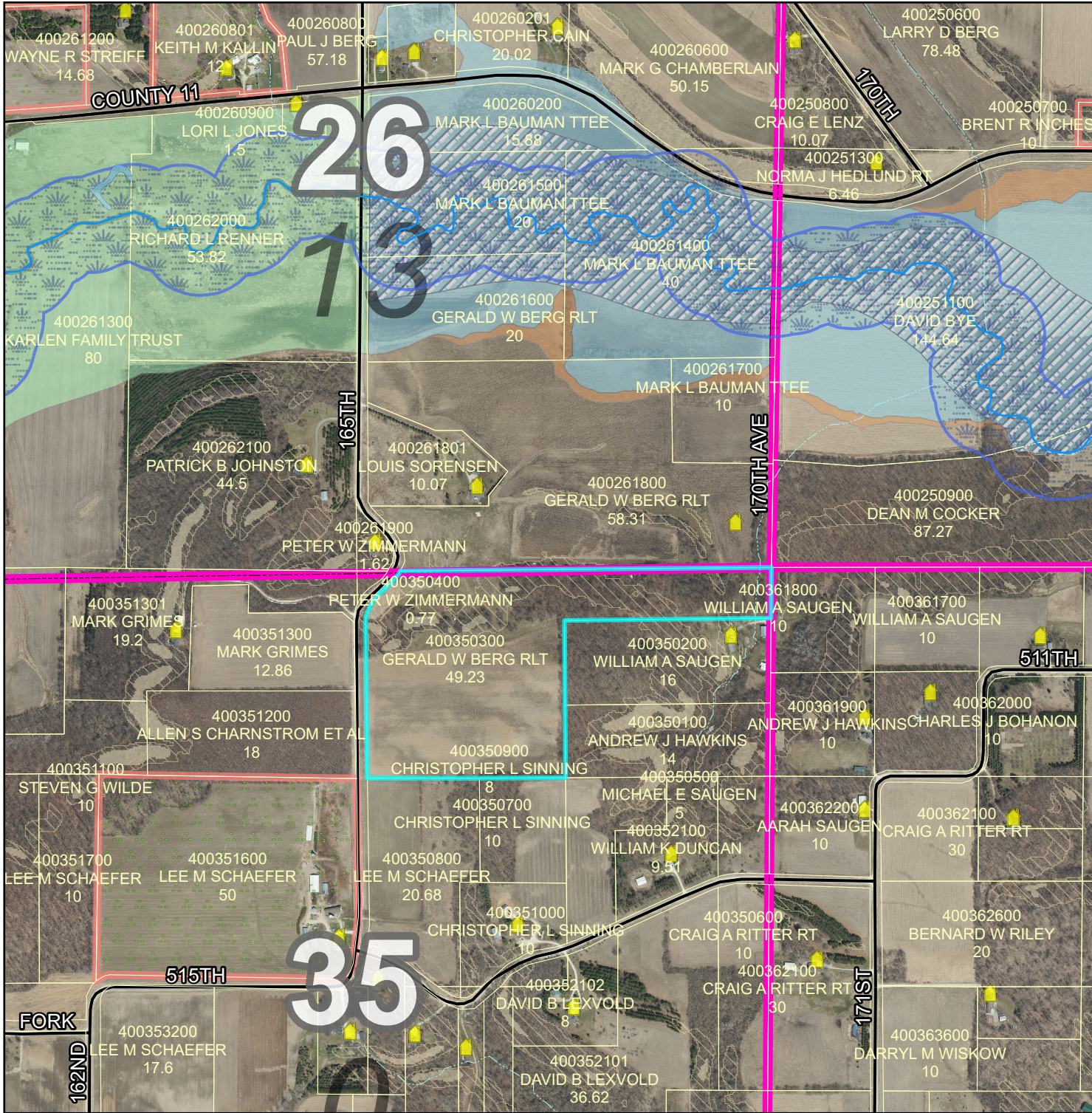
The South Half of the Southeast Quarter (S1/2 SE1/4) of Section Twenty Six (26), Township One Hundred Nine (109), Range Sixteen (16), Goodhue County, Minnesota, EXCEPT THE FOLLOWING DESCRIBED PARCELS:

The Northeast Quarter of the Southeast Quarter of the Southeast Quarter (NE1/4 SE1/4 SE1/4) of Section Twenty Six (26), Township One Hundred Nine (109), Range Sixteen (16), Goodhue County, Minnesota;

AND EXCEPT that part of Section Twenty Six (26) described as follows: Commencing at a point 1325.4 feet North (an on the N-S 1/4 line) of the southwest corner of the Northwest Quarter of Northeast Quarter (NW1/4 NE1/4) of Section Thirty Five (35), Township One Hundred Nine (109) North, Range Sixteen (16) West, (and on a bearing of North 0 degrees 00 minutes East), thence easterly along the E-W section line for a distance of 227.2 feet, thence northeasterly on a bearing of North 27 degrees 05 minute east for a distance of 82.1 feet, thence Northwesterly on a bearing of North 27 degrees 47 minutes West for a distance of 221.0 feet, thence Northeasterly on a bearing of North 53 degrees 34 minutes West for a distance of 197.0 feet (to the N-S 1/4 line) thence southerly along said 1/4 line for a distance of 390.9 feet and to the point of commencement;

AND EXCEPT that part of the Southwest Quarter of the Southeast Quarter of Section 26, Township 109 North, Range 16 West, Goodhue County, Minnesota, described as follows: Commencing at the southwest corner of the Southeast Quarter of said Section 26; thence North 00 degrees 00 minutes 00 seconds East, assumed bearing, along the west line of said Southeast Quarter, 395.79 feet for a point of beginning; thence continue North 00 degrees 00 minutes 00 seconds East, along said west line, 674.21 feet; thence South 67 degrees 29 minutes 28 seconds East, 519.49 feet; thence North 90 degrees 00 minutes 00 seconds East, 165.41 feet; thence South 48 degrees 38 minutes 33 seconds East, 388.75 feet; thence South 38 degrees 22 minutes 55 seconds West, 195.06 feet; thence South 00 degrees 00 minutes 00 seconds East, 65.56 feet; thence North 90 degrees 00 minutes 00 seconds West, 816.00 feet to the point of beginning.

MAP 02: VICINITY MAP



BOARD OF ADJUSTMENT

Public Hearing
September 23, 2019

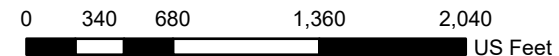
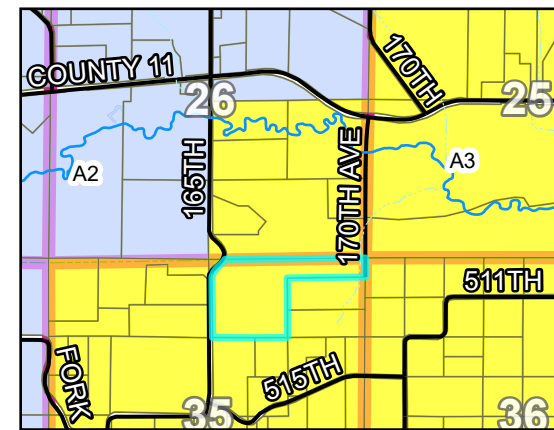
Scott Berg
A3 Zoned District

Parcel 40.035.0300
Part of the NE ¼ and
NW ¼ of the NE ¼ of
Sect 35 Twp 109 Range 16
in Roscoe Township

Variance Amendment to A3
Minimum Lot size standards

Legend

- | | | | |
|--|----------------------------|--|------------------------------|
| | Intermittent Streams | | Bluff Impact Zones (% slope) |
| | Protected Streams | | 30 |
| | Lakes & Other Water Bodies | | 2% Annual Chance |
| | Shoreland | | A |
| | Historic Districts | | AE |
| | Parcels | | AO |
| | Registered Feedlots | | X |
| | Dwellings | | |
| | Municipalities | | |



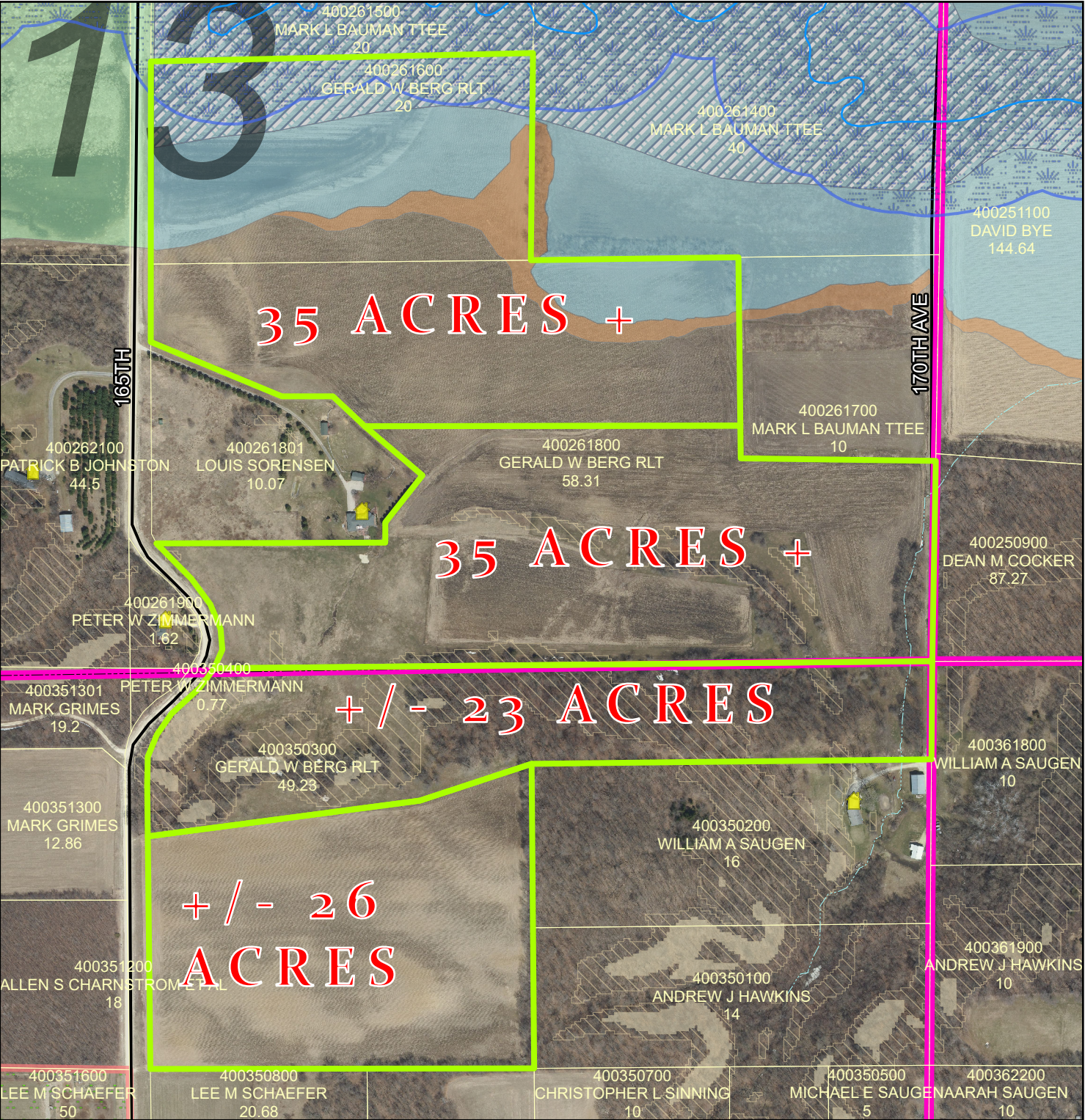
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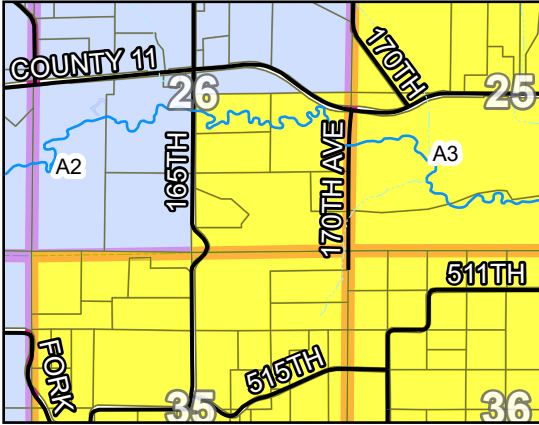
SITE PLAN

State the use of the property. Show the size, shape and location of structures with distance to property lines and location of ALL wells and septic systems.



Legend

- Intermittent Streams
- Protected Streams
- Lakes & Other Water Bodies
- Shoreland
- Historic Districts
- Parcels
- Registered Feedlots
- Dwellings
- Municipalities
- Bluff Impact Zones (% slope)
 - 20
 - 30
- FEMA Flood Zones
 - 2% Annual Chance
 - A
 - AE
 - AO
 - X



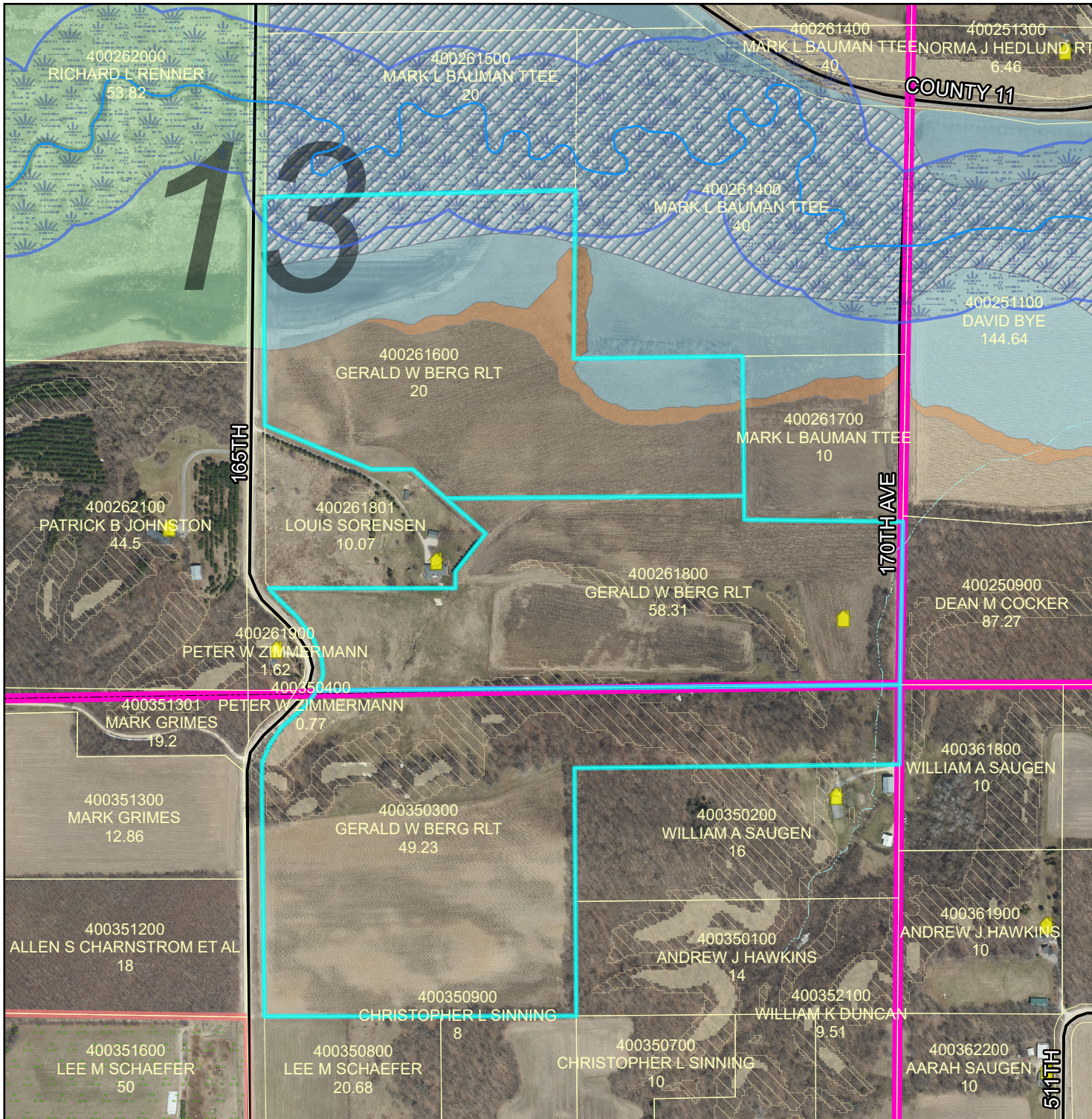
0 175 350 700 1,050 US Feet

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MAP 01: PROPERTY OVERVIEW



BOARD OF ADJUSTMENT

Public Hearing
September 23, 2019

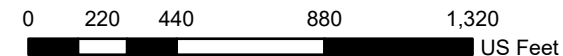
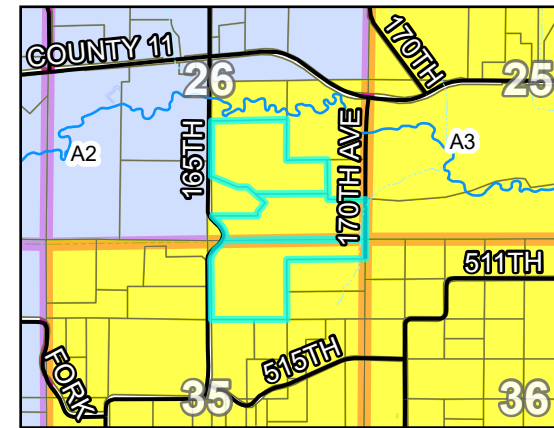
Scott Berg
A3 Zoned District

Parcel 40.035.0300
Part of the NE ¼ and
NW ¼ of the NE ¼ of
Sect 35 Twp 109 Range 16
in Roscoe Township

Variance Amendment to A3
Minimum Lot size standards

Legend

| | | | |
|--|----------------------------|--|------------------------------|
| | Intermittent Streams | | Bluff Impact Zones (% slope) |
| | Protected Streams | | 30 |
| | Lakes & Other Water Bodies | | |
| | Shoreland | | |
| | Historic Districts | | |
| | Parcels | | |
| | Registered Feedlots | | |
| | Dwellings | | |
| | Municipalities | | |
| | | | FEMA Flood Zones |
| | | | 2% Annual Chance |
| | | | A |
| | | | AE |
| | | | AO |
| | | | X |



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Goodhue County Land Use Management

May 20, 2019 BOA STAFF REPORT

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

Lisa M. Hanni, L.S. Director

County Surveyor / Recorder

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
Meeting Date: May 20, 2019
Report date: May 10, 2019

PUBLIC HEARING: Request for Variance to Minimum Lot Size Standards

Request for Variance, submitted by Scott Berg, to the A3 Zoning District dimensional standards to establish two parcels less than 35 acres in area. Parcels 40.035.0300 and 40.026.1800. TBD 165th Avenue. Part of NE ¼ of NE ¼ of Sect 35 Twp 109 Range 16 in Roscoe Township and part of the S ½ of SE ¼ of Sect 26 Twp 109 Range 16 in Roscoe Township. A3 Zoned District.

Application Information:

Applicant: Scott Berg (authorized agent).
Address of zoning request: TBD 165th Avenue, Pine Island, MN 55963
Parcels: 40.035.0300 and 40.026.1800
Abbreviated Legal Description: Part of NE ¼ of NE ¼ of Sect 35 Twp 109 Range 16 in Roscoe Township and part of the S ½ of SE ¼ of Sect 26 Twp 109 Range 16 in Roscoe Township
Information: Todd Greseth, Roscoe Township Supervisor signed the Berg Variance Application on April 24, 2019. No comments were offered.
Zoning District: A3 (Urban Fringe District)

Attachments and Links:

Application
Site Map
Goodhue County Zoning Ordinance:
<http://www.co.goodhue.mn.us/DocumentCenter/View/2428>

Background:

Scott Berg has made application for a variance to the 35-acre minimum lot area requirement set forth in Article 23 of the Goodhue County Zoning Ordinance. The variance is requested to allow Parcels 40.035.0300 and 40.026.1800 to be reconfigured through a platting process. The proposed subdivision (Plat) would reconfigure the two existing tax parcels into three parcels. Specific acreage of each parcel resulting from the proposed subdivision will be determined through the platting process.

Scott Berg is intending to acquire from his parents @47 acres including @25 acres from Parcel 40.026.1800 and @22 acres from Parcel 40.035.0300. The @25 acres and @22 acres would be combined through platting (because the respective acreages are located in different Sections) resulting in a Parcel of @47 acres. The proposed subdivision would also create @33 acre and @27 acre parcels located north and south of the proposed @47 acre parcel.

Mr. Berg has indicated that it is the intent of his parents (current property owners) to lease the @33 acre and @27 acre parcels for continued agricultural use as these portions of the two existing parcels include the best tillable land. Scott has stated that he may eventually acquire all of the subject property. He intends to construct an agricultural building on the @47 parcel that would be established through the platting process and may at some point in the future construct

a dwelling. The @47 acres that Scott would initially acquire includes portions of the two existing parcels that are less desirable for use as cropland including some bluffs and generally steeper slopes.

Granting of the requested variance in order to allow the two existing parcels to be reconfigured as proposed would help facilitate reasonable use of the property for both Scott and his parents and would help facilitate rational succession planning.

No use of the subject property that would not otherwise be permitted within the A-3 District would be allowed by granting of the requested variance.

Variance Standards:

Variations shall only be permitted when they are in harmony with the general purposes and intent of the Goodhue County Zoning Ordinance and when consistent with the adopted comprehensive plan. Variations may be granted when the applicant establishes “practical difficulties” exist in complying with the existing official controls. Practical difficulties mean the applicant proposes to use the property in a reasonable manner not permitted by an official control, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

Draft Findings of Fact:

- 1) **Harmony with the general purposes and intent of the official control:**
 - The purpose of the A3 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. The County is not aware of any imminent plans of the City of Pine Island to annex land for urban development in Sections 26 or 35 of Roscoe Township. Because no change in the current land uses on the subject property is anticipated, the proposed variance would not appear to be in conflict with the purpose and intent of the A3 district.
- 2) **The variances request is consistent with the adopted Comprehensive Plan:**
 - The Comprehensive Plan prioritizes agricultural land uses over dwellings to protect farmland and decrease conflict between residential and agricultural uses. The proposed variance is not likely to impact any agricultural use of the land since the proposed subdivision of land that the variance would facilitate would result in one less potential dwelling site. Plus the land owner’s intent is to continue to lease the better tillable land as cropland. Any impacts on the potential for future urbanization would be no greater than what would be allowable if the variance was not granted.
- 3) **There are “practical difficulties” in complying with the official control (the applicant proposes to use the property in a reasonable manner not permitted by an official control, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality):**
 - The A3 Urban Fringe District is intended to limit building activity that would present an obstacle to future urbanization. The 35-acre parcel size minimum for any principal building or use of property is intended to limit the density of additional dwellings or other development in the District. The proposed subdivision of land is not intended to increase residential density or to allow a dwelling to be built on less than 35 acres. The 35-acre parcel size minimum can be very limiting for a property owner attempting to reconfigure property boundaries for non-development reasons. The variance needed for the Applicant’s proposal to reconfigure the existing two parcels resulting in two parcels

of less than 35 acres would allow for a “reasonable use of land.” Practical difficulty exists in that the 35 acre parcel requirement presents an obstacle to allowing the subject property to be managed in rational and economic manner for continued agricultural use. In addition, the 35 parcel size presents an obstacle to succession planning related to the land holdings of the Berg Family.

- 4) **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.**
 - The subject property would continue to be used for agricultural purposes and no additional dwelling sites would be allowed under the current zoning classification.

The draft Findings of Fact shall be amended to reflect concerns conveyed at the Board of Adjustment meeting and public hearing.

The Board should specify the facts and reasons that are the basis of the Board's determination. In granting a variance, the Board of Adjustment may impose conditions directly related to, and bearing a rough proportionality with, the impact(s) created by the variance.

Staff Recommendation:

- adopt the staff report into the record;
- adopt the findings of fact;
- accept the application, testimony, exhibits, and other evidence presented into the record; and

APPROVE the request for variance to the A3 (Urban Fringe) Zone 35-acre minimum lot area requirement to allow Parcel #40.026.1800 (@49 acres) and #40.035.0300 (@58 acres) to be reconfigured in a manner that would result in three parcels of approximately 33 acres, 47 acres and 27 acres subject to the following:

1. The proposed reconfiguration of Parcel #40.026.1800 and #40.035.0300 shall be subject to subdivision (platting) requirements set forth in the Goodhue County Subdivision Controls Ordinance.
2. No resulting parcels less than 35 acres shall be eligible as a dwelling under provisions of the A-3 (Urban Fringe) District.

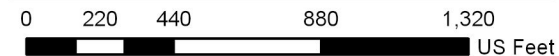
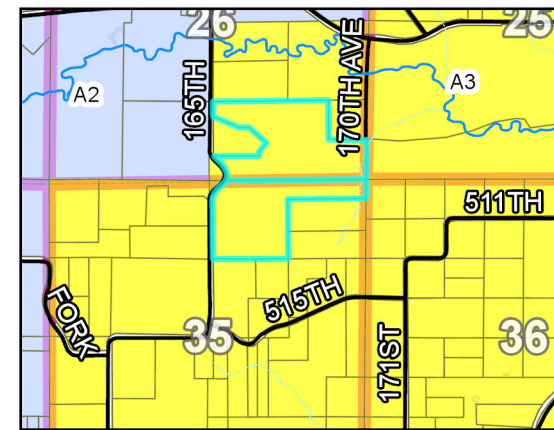
Part of NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Sect 35 Twp 109 Range 16 in Roscoe Township and part of the S $\frac{1}{2}$ of SE $\frac{1}{4}$ of Sect 26 Twp 109 Range 16 in Roscoe Township. A3 Zoned District.

Public Hearing
 May 20, 2019
 Scott Berg
 A3 Zoned District
 Parcels 40.026.1800 & 40.035.0300
 Part of NE 1/4 of NE 1/4 of Sect 35 Twp 109
 Range 16 and part of the S 1/2 of
 SE 1/4 of Sect 26 Twp 109
 Range 16 in Roscoe Township.

Variance request to A3 District
 dimensional standards to establish
 two parcels less than
 35 acres in area.

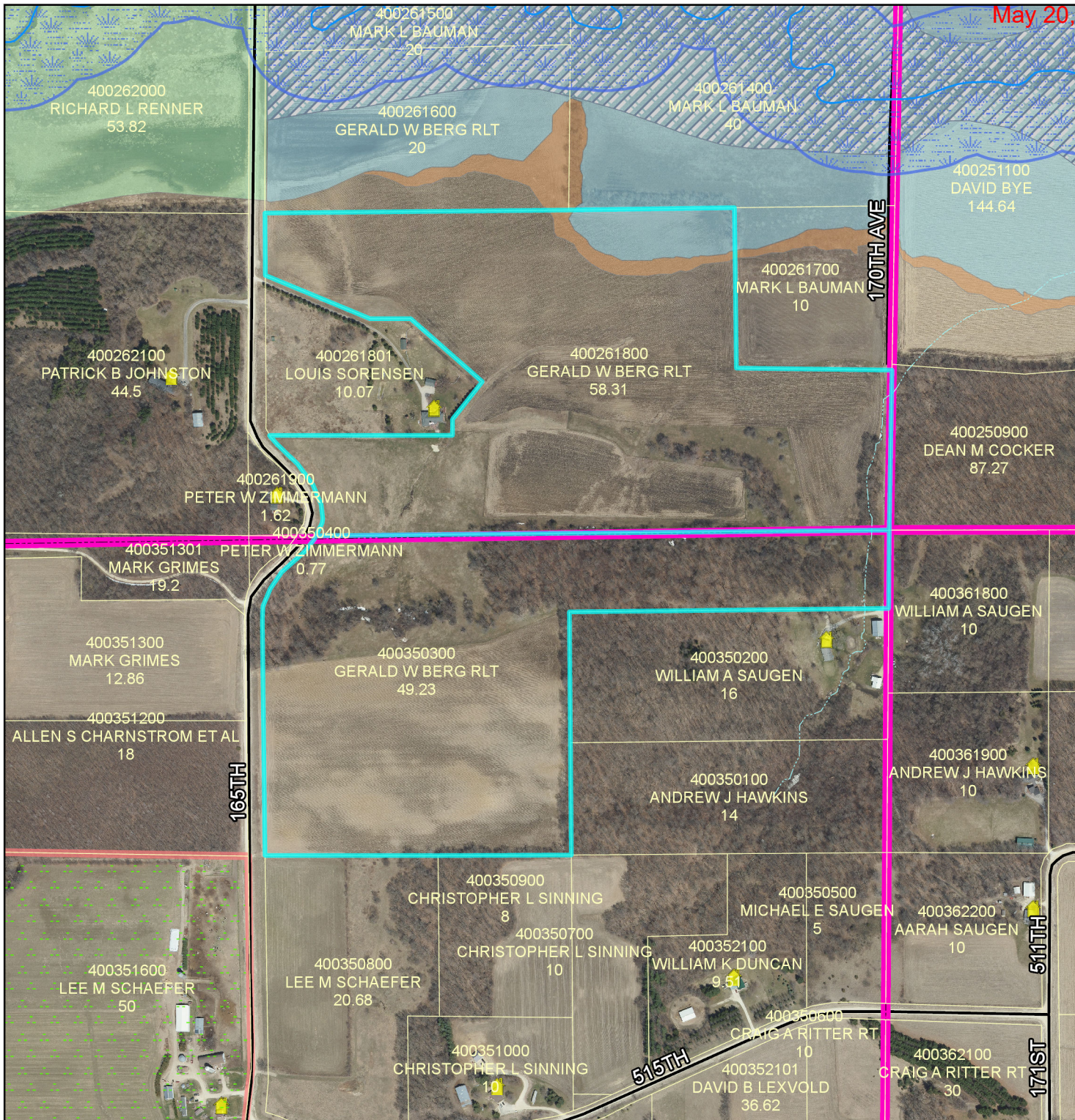
Legend

- | | | | |
|--|----------------------------|--|------------------------------|
| | Intermittent Streams | | Bluff Impact Zones (% slope) |
| | Protected Streams | | 30 |
| | Lakes & Other Water Bodies | | FEMA Flood Zones |
| | Shoreland | | A |
| | Historic Districts | | AE |
| | Parcels | | AO |
| | Registered Feedlots | | X |
| | Dwellings | | |
| | Municipalities | | |



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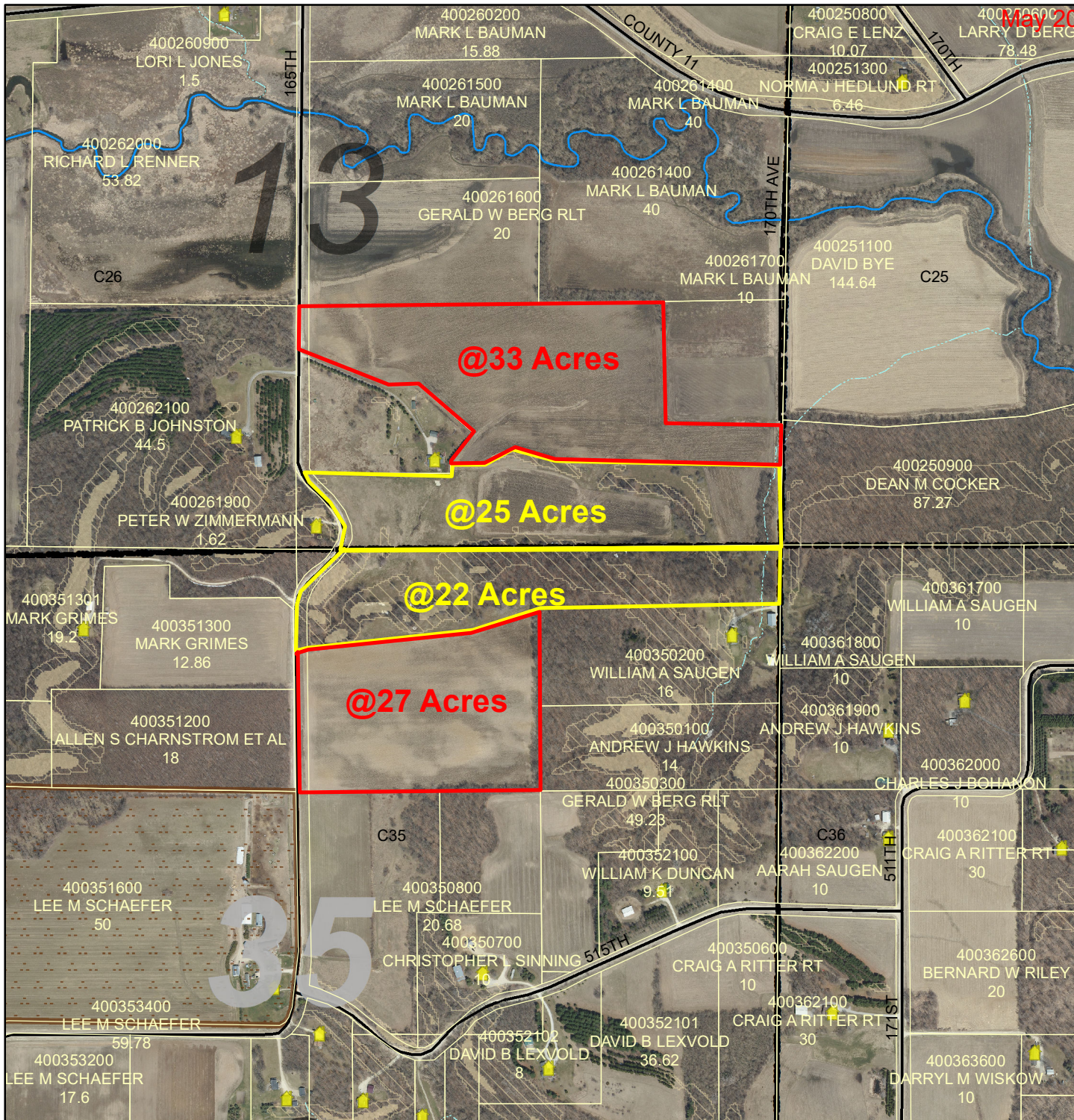


Scott Berg Variance Request
 to allow a Subdivision of Land
 to reconfigure Parcel 40.0261800
 and Parcel 40.035.0300
 Resulting in three parcels

@25 Acres plus @22 Acres
 would be combined to @47 acres >35 Acre Minimum

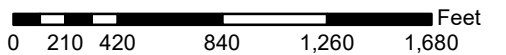
@33 Acres Tilled Land <35 Acre Minimum
 @27 Acres Tilled Land <35 Acre Minimum

exact acreages of resulting parcel to be
 established by Administrative Plat



Legend

- Tax Parcel
- Section Line
- Road
- 2014 Feedlot parcel
- Municipal Boundaries
- Dwelling Point
- % Slope**
- 20
- 30
- Stream Center Line**
- STATUS**
- Intermittent
- Protected



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2018 Aerial Imagery

RECEIVED

APPLICATION FOR

Variance

Land Use Management

APR 24 2019

| | |
|--------------------|--------------------|
| For Staff Use only | |
| VARIANCE NUMBER: | 219.0019 |
| \$350 RECEIPT# | 16722 DATE 4-24-19 |

| | |
|---|--------------------|
| SITE ADDRESS, CITY, AND STATE 170 th Avenue Way | ZIP CODE: 55963 |
|---|--------------------|

| | | | | |
|--------------------|--|--|--|--|
| LEGAL DESCRIPTION: | | | | |
| Attached | | | | |

| | | | | |
|---------------------------------|------------------------|----------------------------|-----------------|--|
| PID#: 70-035-0300/40-026-120 | ZONING DISTRICT: A3 | LOT AREA (SF/ACRES): 50 | LOT DIMENSIONS: | STRUCTURE DIMENSIONS (if applicable): 56' x 64' |
|---------------------------------|------------------------|----------------------------|-----------------|--|

| | |
|---|--|
| APPLICANT OR AUTHORIZED AGENT'S NAME: Scott Berg | |
|---|--|

| | |
|--|------------|
| APPLICANT'S ADDRESS: 24721 555 th St. West Concord, MN. 55985 | TELEPHONE: |
| | EMAIL: |

| | |
|---|--|
| PROPERTY OWNER'S NAME: Same as Above Gerald Berg | |
|---|--|

| | |
|---|------------|
| PROPERTY OWNER'S ADDRESS: 13010 New Haven Rd. NW Pine Island, MN. 55963 | TELEPHONE: |
| | EMAIL: |

| | |
|--|--|
| CONTACT FOR PROJECT INFORMATION: Same as Above Scott Berg | |
|--|--|

| | |
|----------|------------|
| ADDRESS: | TELEPHONE: |
| | EMAIL: |

| | |
|---|---|
| VARIANCE REQUESTED TO: (check all that apply) <input type="checkbox"/> Road Right-Of-Way Setbacks <input type="checkbox"/> % Lot Coverage <input type="checkbox"/> Property Line Setbacks <input type="checkbox"/> Bluff Setbacks <input type="checkbox"/> Height Limits <input type="checkbox"/> Shoreland Setbacks <input type="checkbox"/> Lot Width &/or Area <input checked="" type="checkbox"/> Other (specify) <input type="checkbox"/> Subdivision Regulations Change from 2 building sites to 2 | CURRENT OR PREVIOUS USE: Pasture & 8 1/2 Acres tillable |
| | PROPOSED USE: Pasture, 7 1/2 Acres tillable, 1 acre build |
| | BUILDING APPLICATION PERMIT NO. (if filed) |
| | DATE FILED: |

| | | |
|---|--|-----------------------------------|
| TOWNSHIP SIGNATURE: By signing this form, the Township acknowledges they are aware of the Applicant's variance request. In no way does signing this application indicate the Township's position on the variance request. | | Attached <input type="checkbox"/> |
|---|--|-----------------------------------|

| | | |
|--|--|------------------|
| TOWNSHIP OFFICIAL'S SIGNATURE: Todd Greseph | TOWNSHIP OFFICIAL'S PRINTED NAME AND TITLE: Todd Greseph Supervisor | DATE: 4-24-19 |
|--|--|------------------|

- By signing below, the applicant acknowledges:
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 hearing where my request is acted upon, I agree to accept the Notice of Decision via mail.
 4. Additional information or applications may be required

Applicant's Signature: Scott Berg Date: 4-24-19

Print name: Scott Berg (owner or authorized agent)

REQUEST SUMMARY

Please cite the Ordinance Article(s) and Section(s) you are requesting a variance from:

Article: _____ Section: 35 Name: Gerald Berg

Article: _____ Section: 26 Name: Gerald Berg

SUPPORTING INFORMATION & JUSTIFICATION

You, or your agent, bear the burden of providing information to convince the Board to rule in your favor. Please provide answers to the following questions in the spaces below or in an attached document. You may also attach any additional supporting documentation you desire the board to review.

Discuss your current use of the property and the reason for your variance request:

Pasture of about 42 Acres
Tillable of about 8 1/2 Acres
107 Acres are in 2 sections & remaining in each section 25 Acres / 33 Acres

Describe the effects on the property if the variance is not granted:

Basically the property won't change except 1 Acre for building site

Describe any unique physical limitations that exist on your property, not generally found on others, which prevent you from complying with the provisions of the current ordinance:

This is the only flat area of the approx. 50 Acres to build and not take of bigger tillable fields

Discuss alternatives you considered that comply with existing standards. If compliant alternatives exist, provide your reasoning for rejecting them:

No rejecting involved, for what I've been told is I need this variance because there will be less than 35 Acres left by one owner in each section

Discuss alternatives you considered that would require a lesser variance. If you rejected such alternatives, provide your reasoning:

That land I'm purchasing is the only land that the owner is willing to sell, He wants to keep the good tillable land for crops

In your opinion, do you think the granting of your variance request would alter the "essential character" of the neighborhood/area?:

There is one neighbor & he is in favor of it, I've involved him in many discussions, the shed I'm wanting to build would look nice in city limits

**BOARD OF ADJUSTMENT
GOODHUE COUNTY, MN
May 20th, 2019 MEETING MINUTES**

The meeting of the Goodhue County Board of Adjustment was called to order at 5:33 PM by Chair Ellingsberg in the Goodhue County Government Center Court Room in Red Wing, MN.

Roll Call

Commissioners Present: Darwin Fox, Rich Ellingsberg, Kristin Toegel, Robert Benson, Dan Knott

Staff Present: Land Use Management Director Lisa Hanni, Zoning Assistant Ryan Bechel and Zoning Assistant Samantha Pierret

1. Approval of Agenda

¹Motion by **Fox**, and seconded by **Benson** to approve the meeting agenda

Motion carried 5:0

2. Approval of Minutes

²Motion by **Benson** and seconded by **Toegel** to approve the previous month's meeting minutes with the time change.

Motion carried 5:0

3. Conflict of Interest/Disclosure

There were no reported conflicts of interest.

4. Public Hearings:

PUBLIC HEARING: Request for Variance to Feedlot Setback Standards

Request for Variance, submitted by Edward Fletcher, to Article 13 (Confined Feedlot Regulations) setback standards to allow a new feedlot to be established within 1000 feet or 94% odor annoyance-free rating (as determined by the OFFSET model) of an existing dwelling. Parcel 35.033.0200. 2636 450th Street, Kenyon, MN 55946. Part of the W ½ of NE ¼ of Sect 33 Twp 110 Range 18 in Holden Township. A1 Zoned District.

Bechel presented the staff report and attachments.

Hanni noted that this type of variance has been granted in the County in the past and reviewed the Planning Commission's decision from the meeting held Monday May 13, 2019 when a Conditional Use Permit for the same property was recommended for denial.

Hanni reviewed County policies on the time frame for variances to be implemented (one year from the date of approval). Therefore the applicants could return for a new conditional use permit with the Planning Commission if it were denied at the County Board level. Urged the Board of Adjustment to concentrate solely on the variance request.

Commissioner Toegel questioned why the parcels needed to be split if they were proposed to be sold to the same party.

Discussion continued regarding lending practices and financing for homes versus financing for agricultural facilities.

Tammy Fletcher (co-owner) gave information on the process the owners have been through attempting to sell their property as a single parcel. Two parties have had difficulties finding financing to purchase the property. Noted there is a shared well between the dwelling parcel and feedlot parcel. Stated the other option would be to tear down the hog barns.

Chair Ellingsberg opened the Public Hearing.

No one from the public was present to speak for or against the request.

³ **After Chair Ellingsberg asked three times for comments it was moved by Benson and seconded by Fox to close the public hearing.**

Motion carried 5:0

**BOARD OF ADJUSTMENT
GOODHUE COUNTY, MN
May 20th, 2019 MEETING MINUTES**

Commissioner Fox gave concerns regarding the ability of any future buyer selling the dwelling parcel separate from the hog barns.

Hanni noted that upon approval, the variance would be recorded as public record.

Bechel clarified that the variance would be an agricultural protection. If a future buyer of the dwelling parcel were to bring forth a complaint regarding this feedlot in the future, this variance would be on record and the feedlot would not need to meet the standards at that time.

Commissioner Fox inquired whether a manure management plan was on record for this property.

Hanni stated that if animals are present a manure management plan must be in place with the Feedlot Officer.

Bechel gave a history of the Feedlot registration process for this parcel.

Commissioner Benson questioned whether the feedlot could be tied to the dwelling parcel without a variance.

Hanni noted that the recorders are not responsible for monitoring zoning requirements. Once the two parcels are split, each parcel could be sold to a separate party. The County has not done deed restrictions in the past.

Bechel stated that if the variance were approved, a property records search would show the feedlot next to the dwelling site.

⁴Motion by Commissioner Benson, seconded by Commissioner Fox, for the Board of Adjustment to:

- adopt the staff report into the record;
- adopt the findings of fact;
- accept the application, testimony, exhibits, and other evidence presented into the record; and

APPROVE the request for variance, submitted by Edward Fletcher, to Article 13 (Confined Feedlot Regulations) setback standards to allow a new registered feedlot to be established 215 feet from an existing dwelling.

Motion carried 5:0

PUBLIC HEARING: Request for Variance to Minimum Lot Size Standards

Request for Variance, submitted by Scott Berg, to the A3 Zoning District dimensional standards to establish two parcels less than 35 acres in area. Parcels 40.035.0300 and 40.026.1800. TBD 165th Avenue. Part of NE ¼ of NE ¼ of Sect 35 Twp 109 Range 16 in Roscoe Township and part of the S ½ of SE ¼ of Sect 26 Twp 109 Range 16 in Roscoe Township. A3 Zoned District.

Hanni presented the staff report and noted that the applicant is in the process of getting a professional survey.

Commissioner Toegel questioned whether platting across a section line was permissible.

Hanni stated that the only way to combine parcels in two separate sections is to plat them.

Scott Berg discussed the existing topography of the area to be platted.

Commissioner Knott questioned the definition of an “agricultural building” in the report.

Mr. Berg stated the plan is to construct a shed with a dwelling as a single structure in the future. Noted there will not be animals in the building.

Chair Ellingsberg opened the Public Hearing.

No one from the public spoke in favor or against the request.

**BOARD OF ADJUSTMENT
GOODHUE COUNTY, MN
May 20th, 2019 MEETING MINUTES**

⁵After Chair Ellingsberg asked three times for comments it was moved by Benson and seconded by Knott to close the public hearing.

Motion carried 5:0

⁶Motion by Commissioner Knott, seconded by Commissioner Toegel, for the Board of Adjustment to:

- adopt the staff report into the record;
- adopt the findings of fact;
- accept the application, testimony, exhibits, and other evidence presented into the record; and

APPROVE the request for variance, submitted by Scott Berg to establish two parcels less than 35 acres in area in the A3 Zoned District.

Subject to the following conditions:

1. The proposed reconfiguration of Parcel #40.026.1800 and #40.035.0300 shall be subject to subdivision (platting) requirements set forth in the Goodhue County Subdivision Controls Ordinance.
2. No resulting parcels less than 35 acres shall be eligible as a dwelling under provisions of the A-3 (Urban Fringe) District.

Motion carried 5:0

5. Other-Discussion

Bechel introduced the new Zoning Assistant Samantha Pierret to the Board.

6. Adjourn

⁷Motion by Benson seconded by Fox to adjourn the Board of Adjustment meeting at 5:58 PM.

Motion carried 5:0

Respectfully submitted,

Zoning Assistant, Samantha Pierret

MOTIONS

¹ APPROVE the meeting agenda. Motion carried 5:0

² APPROVE the previous meeting's minutes. Motion carried 5:0

³ Close the Public Hearing. Motion carried 5:0

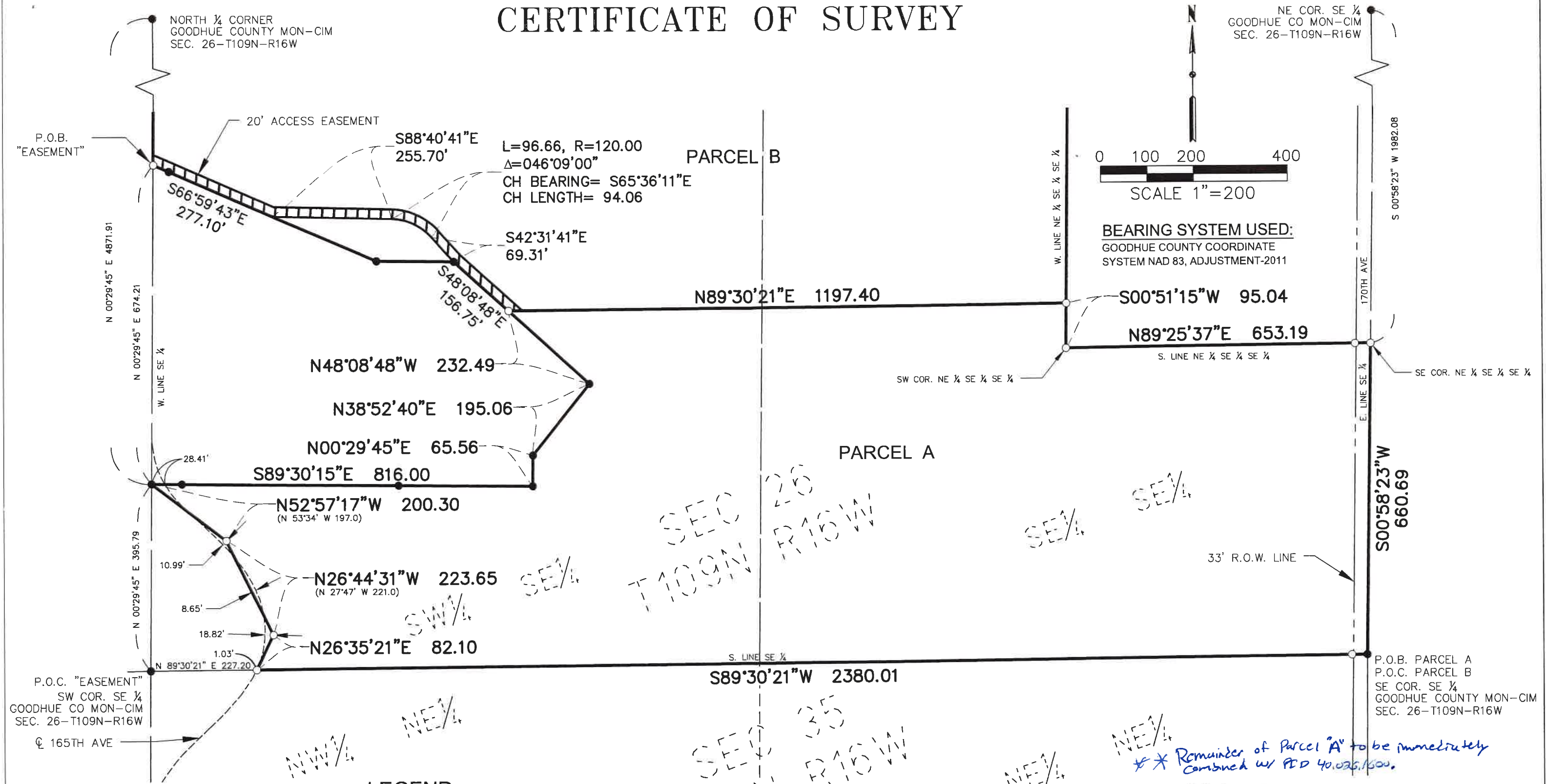
⁴ APPROVE the variance request to allow a new feedlot to be established within 1000 feet of an existing dwelling. Motion carried 5:0

⁵ Close the Public Hearing. Motion carried 5:0

⁶ APPROVE the variance request to establish two parcels less than 35 acres in area in the A3 Zoned District. Motion carried 5:0

⁷ ADJOURN. Motion carried 5:0

CERTIFICATE OF SURVEY



LEGEND

- - DENOTES FOUND PIPE UNLESS OTHERWISE NOTED
- - DENOTES 1/2" DIAMETER IRON PIPE WITH CAP #44930
- (N 27°05' E 82.1) RECORDED BEARING & DISTANCE
- ROW LINE
- LOT LINE
- SECTION LINE
- ▨ ACCESS EASEMENT

SURVEYOR'S CERTIFICATE

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

TIMOTHY A. HRUSKA, LIC. NO. 44930 DATE 8/23/19

| | |
|-------------|---------------|
| SCALE: | 1" = 200' |
| DRAWN BY: | DAT |
| DATE: | 8/23/19 |
| PROJECT NO. | 08881.00 |
| CADD NO.: | 08881.00_CERT |

FOR: **JERRY BERG**
 SE 1/4 SECTION 26 T109N R16W
 GOODHUE COUNTY

Splits Approved by
 County Zoning Administrator
 Date 8-23-19 By *[Signature]*
 This does not guarantee a building site

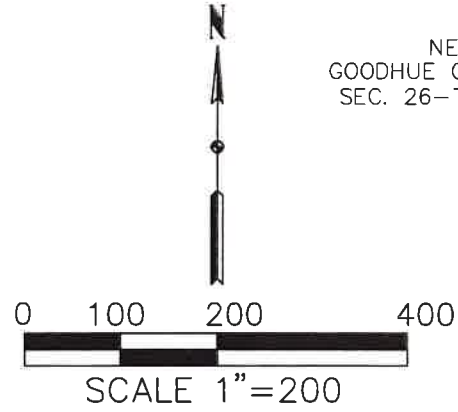
Remainder of Parcel "A" to be immediately combined w/ P.D. 40.026,1600.

CERTIFICATE OF SURVEY

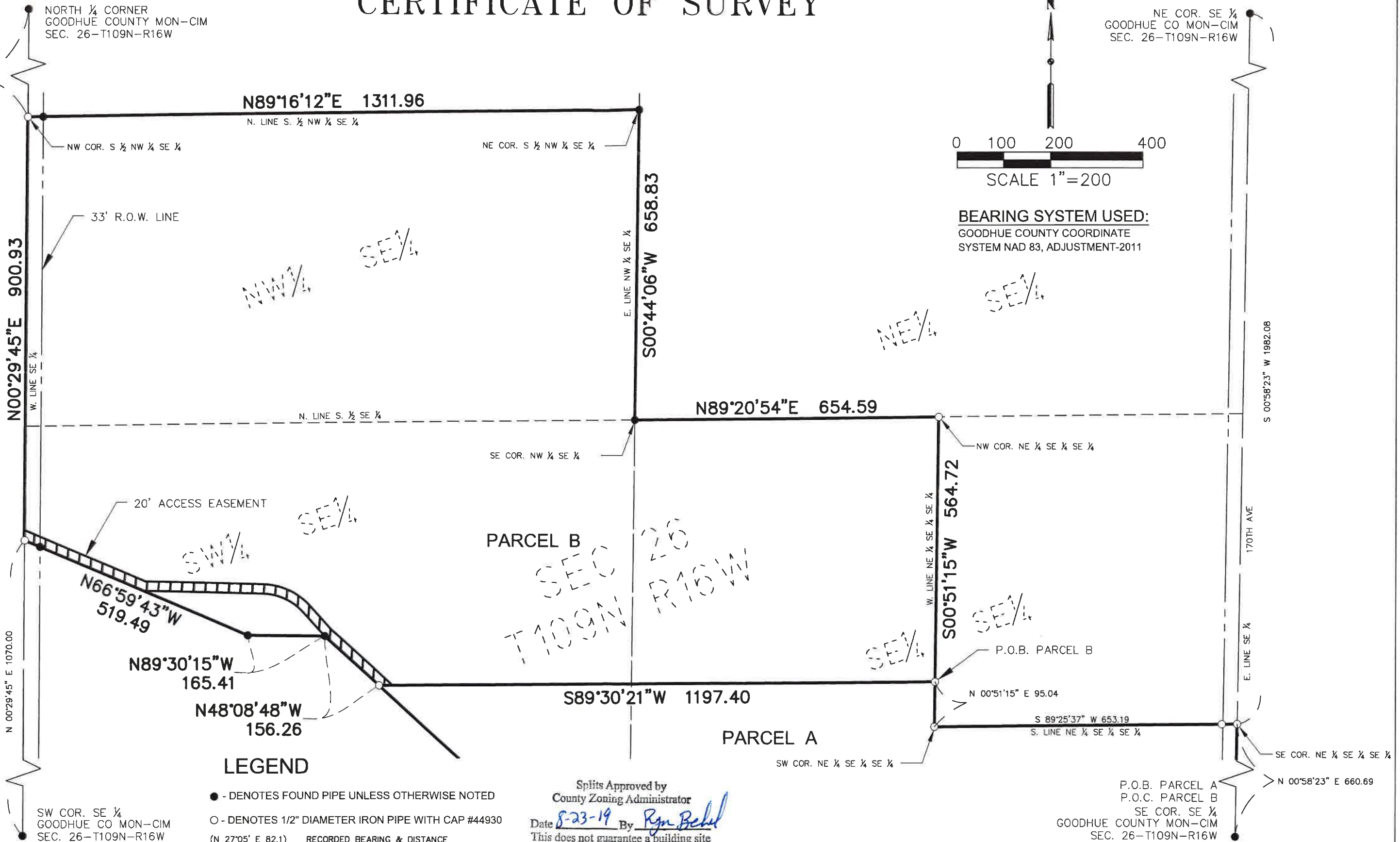
NORTH ¼ CORNER
GOODHUE COUNTY MON-CIM
SEC. 26-T109N-R16W

NE COR. SE ¼
GOODHUE CO MON-CIM
SEC. 26-T109N-R16W

S 00°29'45" W 3296.77



BEARING SYSTEM USED:
GOODHUE COUNTY COORDINATE
SYSTEM NAD 83, ADJUSTMENT-2011



LEGEND

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- ▨ ACCESS EASEMENT

Splits Approved by
County Zoning Administrator
Date 8-23-19 By Rgn Behl
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Timothy A. Hruska
TIMOTHY A. HRUSKA, LIC. NO. 44930

8/23/19
DATE

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FOR: **JERRY BERG**
SE 1/4 SECTION 26 T109N R16W
GOODHUE COUNTY

P.O.B. PARCEL A
P.O.C. PARCEL B
SE COR. SE ¼
GOODHUE COUNTY MON-CIM
SEC. 26-T109N-R16W

