

BOARD OF ADJUSTMENT & APPEALS AGENDA

Date: November 21, 2022

Time: 7:00 p.m. (doors open at 6:45)

Location: Nicollet County Board Room, 501 S Minnesota Ave, St. Peter, MN

Copies of the meeting agenda and packet are available on the Nicollet County website at:
<https://mn-nicolletcounty.civicplus.com/AgendaCenter>

Questions or comments regarding the meeting can be directed to Spencer Crawford, Deputy Zoning Administrator, at 507-934-7071, or spencer.crawford@co.nicollet.mn.us.

1. Call to Order
2. Roll Call
3. Review of Cancellations and Additions
4. Approval of Minutes: *October 17, 2022*
5. Approval of Findings of Fact: 10/17/2022
 - **PLN 22-13, United Farmer's CO-OP**
 - **PLN 22-16, BENCO Electric Cooperative**
 - **PLN 22-17, Bruegger**
6. Public Appearances
7. Old Business
8. Other Business
9. Communications
10. Adjourn

Mission Statement

Providing efficient services
with innovation and
accountability.

Vision Statement

Setting the standard for providing superior and efficient county
government services through leadership, accountability and
innovation to a growing and diverse society.

Core Values

Leadership. Integrity.
Accountability.
Efficiency. Innovation.



Board of Adjustment & Appeals

MINUTES

OCTOBER 17, 2022

7:02 PM

NICOLLET COUNTY
BOARD ROOM

BOARD MEMBERS	Justin Laven ☒ <i>Chair</i>	David Hermanson ☒ <i>Vice Chair</i>	Dave Ubel ☒	Lloyd Hoffmann ☒	
ABSENT EXCUSED	Justin Laven ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Dave Ubel ☐	Lloyd Hoffmann ☐	
ABSENT	Justin Laven ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Dave Ubel ☐	Lloyd Hoffmann ☐	
STAFF PRESENT	Property & Public Services Supervisor Loria Rebuffoni ☒				
	Deputy Zoning Administrator (DZA) Spencer Crawford ☒				
	County Attorney (CA) Michelle Zehnder Fischer ☒ Assistant County Attorney (ACA) Roxann Klein ☒				
	Other Staff: Recording Secretary Crystal Madden ☒				

MOTION TO APPROVE MINUTES OF SEPTEMBER 19, 2022					
1ST	Justin Laven ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Dave Ubel ☒	Lloyd Hoffmann ☐	
2ND	Justin Laven ☐ <i>Chair</i>	David Hermanson ☒ <i>Vice Chair</i>	Dave Ubel ☐	Lloyd Hoffmann ☐	
VOTE TO APPROVE MINUTES		PASS ☒	FAIL ☐	VOTE: 4-0	

MOTION TO ADOPT FINDINGS, PLN22-10 Dinse					
1ST	Justin Laven ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Dave Ubel ☒	Lloyd Hoffmann ☐	
2ND	Justin Laven ☐ <i>Chair</i>	David Hermanson ☒ <i>Vice Chair</i>	Dave Ubel ☐	Lloyd Hoffmann ☐	
VOTE TO ADOPT FINDINGS		PASS ☒	FAIL ☐	VOTE: 4-0	

MOTION TO ADOPT FINDINGS, PLN22-11 Kiecker					
1ST	Justin Laven ☐ <i>Chair</i>	David Hermanson ☒ <i>Vice Chair</i>	Dave Ubel ☐	Lloyd Hoffmann ☐	

2 ND	Justin Laven ☐ Chair	David Hermanson ☐ Vice Chair	Dave Ubel ☐	Lloyd Hoffmann ☒	
VOTE TO ADOPT FINDINGS		PASS ☒	FAIL ☐	VOTE: 4-0	

MOTION TO ADOPT FINDINGS, PLN22-14 Domeier					
1 ST	Justin Laven ☐ Chair	David Hermanson ☐ Vice Chair	Dave Ubel ☒	Lloyd Hoffmann ☐	
2 ND	Justin Laven ☐ Chair	David Hermanson ☒ Vice Chair	Dave Ubel ☐	Lloyd Hoffmann ☐	
VOTE TO ADOPT FINDINGS		PASS ☒	FAIL ☐	VOTE: 4-0	

PUBLIC HEARINGS:

Board Member Hermanson recused himself from the hearing for PLN22-13.

UNITED FARMERS COOPERATIVE PLN22-13 INSTALL A 30,000 GALLON ANHYDROUS STORAGE TANK WITHOUT A BERM AS REQUIRED BY SECTION 708 OF THE NICOLLET COUNTY ZONING ORDINANCE

APPLICANT COMMENT	Jim Carlson was present representing United Farmers Cooperative. After public comment, he stated that United Farmers Cooperative is following all state requirements and there are no berms around other storage tanks in the state.				
PUBLIC COMMENT	None.				
PUBLIC TESTIMONY	Kevin Johnson, 34908 425th Ave, Le Sueur MN 56058, expressed concern about the ability to permit the request due to the Zoning District, proximity to homes and the Boy Scout Camp, the number of trips generated, and additional tanks being placed in the future. Andrew Grave 37577 State Highway 22, St Peter, MN 56082, expressed concern about the safety of the tank, the dangers of ammonia, and impact to his property value.				
MOTION	APPROVE WITH CONDITIONS ☒		DENY ☐		
1 ST	Justin Laven ☐ Chair	David Hermanson ☐ Vice Chair	Dave Ubel ☒	Lloyd Hoffmann ☐	
2 ND	Justin Laven ☐ Chair	David Hermanson ☒ Vice Chair	Dave Ubel ☐	Lloyd Hoffmann ☐	
BOARD MEMBER DISCUSSION	Chair Laven asked staff about additional comments before the hearing. Board Member Ubel recommended adding the State Fire Marshal to condition number four, which requires the applicant to obtain all required permits and follow all applicable regulations.				
VOTE TO APPROVE REQUEST	PASS ☒		FAIL ☐	VOTE: 3-0	

BENCO ELECTRIC COOPERATIVE PLN22-16 REDUCTION OF MINIMUM LOT SIZE IN THE AGRICULTURAL PRESERVATION DISTRICT FROM 3.5 ACRES TO 2 ACRES FOR THE PURPOSE OF EXANDING AN ELECTRICAL SUBSTATION

APPLICANT COMMENT	Tim Braulick was present representing BENCO Electric Cooperative. He stated the new substation was needed to replace older equipment and increase capacity. He also stated the new substation would be similar to the one in New Sweden Township.				
PUBLIC COMMENT	None.				
PUBLIC PARTICIPATION	None.				
MOTION	APPROVE WITH CONDITIONS ☒		DENY ☐		

1ST	Justin Laven ☐ Chair	David Hermanson ☒ Vice Chair	Dave Ubel ☐	Lloyd Hoffmann ☐	
2ND	Justin Laven ☐ Chair	David Hermanson ☐ Vice Chair	Dave Ubel ☐	Lloyd Hoffmann ☒	
BOARD MEMBER DISCUSSION	None.				
VOTE TO APPROVE REQUEST		PASS ☒	FAIL ☐	VOTE: 4-0	

MICHAEL BRUEGGER PLN22-17 REDUCTION OF THE FRONT YARD SETBACK TO 31.1 FEET AND BLUFF SETBACK TO 16.7 FEET FOR THE PURPOSE OF CONSTRUCTING A HOME ADDITION.

APPLICANT COMMENT	Michael Bruegger was present. Bruegger had no comment.				
PUBLIC COMMENT	None.				
PUBLIC PARTICIPATION	None.				
MOTION	APPROVE WITH CONDITIONS ☒		DENY ☐		
1ST	Justin Laven ☐ Chair	David Hermanson ☐ Vice Chair	Dave Ubel ☒	Lloyd Hoffmann ☐	
2ND	Justin Laven ☐ Chair	David Hermanson ☐ Vice Chair	Dave Ubel ☐	Lloyd Hoffmann ☒	
BOARD MEMBER DISCUSSION	Chair Laven clarified the existing home is closer to the front yard right-of-way than the addition. DZA Crawford confirmed that is correct.				
VOTE TO APPROVE REQUEST		PASS ☒	FAIL ☐	VOTE: 4-0	

OLD BUSINESS		None.			
OTHER BUSINESS		None.			
REVIEW OF ADMINISTRATIVE VARIANCES		None.			
COMMUNICATIONS		None.			
MOTION TO ADJOURN					
1ST	Justin Laven ☐ Chair	David Hermanson ☒ Vice Chair	Dave Ubel ☐	Lloyd Hoffmann ☐	
2ND	Justin Laven ☐ Chair	David Hermanson ☐ Vice Chair	Dave Ubel ☒	Lloyd Hoffmann ☐	
VOTE TO ADJOURN		PASS ☒	FAIL ☐	VOTE: 4-0	

JUSTIN LAVEN, CHAIR		DATE	
SPENCER CRAWFORD, DEPUTY ZONING ADMINISTRATOR		DATE	



NICOLLET COUNTY BOARD OF ADJUSTMENTS AND APPEALS CRITERIA FOR GRANTING A VARIANCE

Name of Applicant/ United Farmers Cooperative
Property Owner: Farmers CO-OP of Lafayette

Date: October 17, 2022

File #: PLN22-13

Variance Requested: To install a 30,000 gallon anhydrous ammonia storage tank without a berm as required by Section 708 of the Nicollet County Zoning Ordinance

FINDINGS OF FACT

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a **practical difficulty**. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute 394.27, subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

1. The variance is in harmony with the general purpose and intent of the official control.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	The official control is designed to keep dangerous liquids contained. However, this particular liquid will vaporize and become a gas in the case of a spill.
David Hermanson	☐	☐	☒	☐	
Dave Ubel	☒	☐	☐	☐	
Lloyd Hoffmann	☒	☐	☐	☐	Berming of a tank this size is not required by the Minnesota Department of Agriculture.
	☐	☐	☐	☐	

2. The variance is consistent with the intent of the Comprehensive Plan.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	A concrete barrier will be installed to protect the tank, and the Minnesota Department of Agriculture does not require a berm.
David Hermanson	☐	☐	☒	☐	
Dave Ubel	☒	☐	☐	☐	
Lloyd Hoffmann	☒	☐	☐	☐	The proposal follows all county and state requirements.
	☐	☐	☐	☐	

3. The variance establishes a practical difficulty in complying with the official controls.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	The berm will not affect the safety of the tank.
David Hermanson	☐	☐	☒	☐	
Dave Ubel	☒	☐	☐	☐	A berm will not affect the volatility of the product.
Lloyd Hoffmann	☒	☐	☐	☐	
	☐	☐	☐	☐	Placing a tank of this size without a berm is reasonable per the Minnesota Department of Agriculture.

4. The plight of the landowner is due to circumstances unique to the property and not created by the landowner.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	The plight is due to the specific characteristics of the liquid. This liquid will vaporize upon the event of a spill.
David Hermanson	☐	☐	☒	☐	
Dave Ubel	☒	☐	☐	☐	The Nicollet County Zoning Ordinance requirement for this tank to have a berm is unnecessary.
Lloyd Hoffmann	☒	☐	☐	☐	
	☐	☐	☐	☐	It will become a gas when released.

5. The variance will not alter the essential character of the locality.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	There is an existing tank on the property, and there is a landscaping plan to screen the proposal from surrounding properties.
David Hermanson	☐	☐	☒	☐	
Dave Ubel	☒	☐	☐	☐	The site is already a farm supply business and the change in character will be minimal.
Lloyd Hoffmann	☒	☐	☐	☐	
	☐	☐	☐	☐	

6. The practical difficulty includes more than economic considerations alone.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	The practical difficulty is related to the desire to increase anhydrous storage without incurring the cost of berming and disruption to the environment.
David Hermanson	☐	☐	☒	☐	
Dave Ubel	☒	☐	☐	☐	A berm is not needed, and a larger tank would better serve customers.
Lloyd Hoffmann	☒	☐	☐	☐	
	☐	☐	☐	☐	The berm would become a hazard when trying to fill other tanks.

SPECIAL CONDITIONS ARE LISTED ON THE RECORDED VARIANCE AND IN THE RECORD

THE NICOLLET COUNTY BOARD OF ADJUSTMENT AND APPEALS:
(☒ APPROVES) (☐ DENIES) THE REQUESTED VARIANCE

This decision is based on:

- ☒ Application
- ☒ Staff Report
- ☒ Pictures
- ☒ Information received at public hearing
- ☐ Site visit

Facts supporting the answer to each question above are hereby certified as the Findings of the Nicollet County Board of Adjustments and Appeals.

Date: _____ Chair: _____



NICOLLET COUNTY BOARD OF ADJUSTMENTS AND APPEALS CRITERIA FOR GRANTING A VARIANCE

Name of Applicant: BENCO Electric Cooperative
Property Owner: Frost-Benco-Wells Electric

Date: October 17, 2022

File #: PLN22-16

Variance Requested: Reduction of the minimum lot size in the Agricultural Preservation Zoning District from 3.5 acres to 2 acres for the purpose of expanding an electrical substation.

FINDINGS OF FACT

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a **practical difficulty**. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute 394.27, subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

1. The variance is in harmony with the general purpose and intent of the official control.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	
David Hermanson	☒	☐	☐	☐	The intent of the official control is to make sure properties have enough room for future development.
Dave Ubel	☒	☐	☐	☐	
Lloyd Hoffmann	☒	☐	☐	☐	The proposal takes less land from agriculture.
	☐	☐	☐	☐	All setbacks will be met.

2. The variance is consistent with the intent of the Comprehensive Plan.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	
David Hermanson	☒	☐	☐	☐	This request increases the acreage of the existing nonconforming lot and preserves agricultural land.
Dave Ubel	☒	☐	☐	☐	
Lloyd Hoffmann	☒	☐	☐	☐	All setbacks will be met.
	☐	☐	☐	☐	

3. The variance establishes a practical difficulty in complying with the official controls.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	
David Hermanson	☒	☐	☐	☐	The substation does not require large acreage, thereby preserving agricultural land.
Dave Ubel	☒	☐	☐	☐	
Lloyd Hoffmann	☒	☐	☐	☐	There is already a substation on this site.
	☐	☐	☐	☐	There is no septic; the extra land is not needed.

4. The plight of the landowner is due to circumstances unique to the property and not created by the landowner.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	The applicant intends to protect as much nearby agricultural land as possible.
David Hermanson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	A 3.5 acre site is not needed.
Lloyd Hoffmann	☒	☐	☐	☐	
	☐	☐	☐	☐	

5. The variance will not alter the essential character of the locality.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	There is an existing substation on the property.
David Hermanson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	The new substation will have a cleaner appearance.
Lloyd Hoffmann	☒	☐	☐	☐	
	☐	☐	☐	☐	

6. The practical difficulty includes more than economic considerations alone.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	This request is related to the applicants desire to provide more electrical power to meet growing demand.
David Hermanson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	The request is related to the applicants desire to take no more land than necessary.
Lloyd Hoffmann	☒	☐	☐	☐	
	☐	☐	☐	☐	The goal of the county is to preserve farmland, which this proposal does.

SPECIAL CONDITIONS ARE LISTED ON THE RECORDED VARIANCE AND IN THE RECORD

THE NICOLLET COUNTY BOARD OF ADJUSTMENT AND APPEALS:
(☒ APPROVES) (☐ DENIES) THE REQUESTED VARIANCE

This decision is based on:

- ☒ Application
- ☒ Staff Report
- ☒ Pictures
- ☒ Information received at public hearing
- ☐ Site visit

Facts supporting the answer to each question above are hereby certified as the Findings of the Nicollet County Board of Adjustments and Appeals.

Date: _____ Chair: _____



NICOLLET COUNTY BOARD OF ADJUSTMENTS AND APPEALS CRITERIA FOR GRANTING A VARIANCE

Name of Applicant: Michael Bruegger
Property Owner: Michael & Kimberly Bruegger
Date: October 17, 2022
File #: PLN22-17
Variance Requested: Reduction of the front yard setback to 31.1 feet and bluff setback to 16.7 feet for the purpose of constructing a home addition

FINDINGS OF FACT

A variance may be granted only where the strict enforcement of the Nicollet County zoning controls results in a **practical difficulty**. A determination that a practical difficulty exists is based upon criteria defined by the Minnesota Supreme Court; Minnesota State Statute 394.27, subdivision 7; and Nicollet County Zoning Ordinance, Section 503.1.

1. The variance is in harmony with the general purpose and intent of the official control.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	
David Hermanson	☒	☐	☐	☐	The intent of the front yard setback is to provide separation between land uses and protect public right of ways.
Dave Ubel	☒	☐	☐	☐	
Lloyd Hoffmann	☒	☐	☐	☐	There is no impact to the bluff.
	☐	☐	☐	☐	The existing dwelling is closer to the front yard setback.

2. The variance is consistent with the intent of the Comprehensive Plan.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	
David Hermanson	☒	☐	☐	☐	Bluffs are to be protected and preserved per the Comprehensive Plan. The proposal does not damage the bluff.
Dave Ubel	☒	☐	☐	☐	
Lloyd Hoffmann	☒	☐	☐	☐	Given the location of the home, this is the best place for an addition.
	☐	☐	☐	☐	

3. The variance establishes a practical difficulty in complying with the official controls.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	
David Hermanson	☒	☐	☐	☐	There is no legal place to add the porch due to the bluffs and township road.
Dave Ubel	☒	☐	☐	☐	
Lloyd Hoffmann	☒	☐	☐	☐	
	☐	☐	☐	☐	

4. The plight of the landowner is due to circumstances unique to the property and not created by the landowner.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	The plight is due to the proximity of the bluff and the location of the road.
David Hermanson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	A variance is needed for reasonable use of the property.
Lloyd Hoffmann	☒	☐	☐	☐	
	☐	☐	☐	☐	

5. The variance will not alter the essential character of the locality.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	The surrounding land consists of forested bluff, farmland, and scattered residential development.
David Hermanson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	The existing home encroaches further into the right of way than the proposed addition.
Lloyd Hoffmann	☒	☐	☐	☐	
	☐	☐	☐	☐	The bluff is not being altered.

6. The practical difficulty includes more than economic considerations alone.

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
Justin Laven	☒	☐	☐	☐	The request is based on the landowner's desire to add a porch on property surrounded by road and bluffs.
David Hermanson	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	The practical difficulty is based on the location and topography of the property.
Lloyd Hoffmann	☒	☐	☐	☐	
	☐	☐	☐	☐	

SPECIAL CONDITIONS ARE LISTED ON THE RECORDED VARIANCE AND IN THE RECORD

THE NICOLLET COUNTY BOARD OF ADJUSTMENT AND APPEALS:
(☒ APPROVES) (☐ DENIES) THE REQUESTED VARIANCE

This decision is based on:

- ☒ Application
- ☒ Staff Report
- ☒ Pictures
- ☒ Information received at public hearing
- ☐ Site visit

Facts supporting the answer to each question above are hereby certified as the Findings of the Nicollet County Board of Adjustments and Appeals.

Date: _____ Chair: _____