

Nicollet County Board of Adjustment and Appeals



June 21, 2021

7:00 PM

Doors Open at 6:45 PM

County Board Room, Nicollet County Government Center, 501 South Minnesota Avenue, Saint Peter MN 56082

Due to the COVID-19 (coronavirus) pandemic and resulting state and federal emergency declarations and guidance about limiting unnecessary person-to-person contact, the Board of Adjustment and Appeals meetings will be conducted under Minnesota Statute 13D.021 – Meetings by Telephone or Other Electronic Means. Some members may participate by telephone or other electronic means.

Due to the current health pandemic, only a limited number of persons will be allowed in the meeting room at one time. Persons in attendance must maintain proper social distancing at all times while in the building.

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 Mandy Landkamer, Property Services Director, at 507-934-7074, or mandy.landkamer@co.nicollet.mn.us.

1. Call to Order
2. Roll Call
3. Review of Cancellations and Additions
4. Approval of Minutes: May 17, 2021
5. Approval of Findings of Fact: May 17, 2021
 - PLN21-21: Mock
6. Public Appearances

Mission Statement

*Providing efficient services
with innovation and
accountability.*

Leadership. Efficiency. Accountability.
Innovation. Integrity.

www.co.nicollet.mn.us

Vision Statement

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

7. **PUBLIC HEARING PLN21-18** *Continued from May 17, 2021 Meeting*
Applicants/Property Owner: Thomas and Patricia Bittner
Request: Reduce the minimum front yard setback and to allow an accessory building on a property with no principal building, for the purpose of constructing a storage shed/shop
Location: Block 1 of Lot 7 of Nob Hill Replat Subdivision, Oshawa Township
Parcel Number: 10.662.0070
8. **PUBLIC HEARING PLN21-24**
Applicant: Great River Energy
Property Owner: Lavonne Olsen
Request: Reduce the front yard setback for the purpose of installing a utility pole
Location: Part of the Southwest ¼ of the Southeast ¼ of Section 27-111-28 in New Sweden Township
Parcel Number: 08.027.0600
9. **PUBLIC HEARING PLN21-25**
Applicant: Jana and James Moeding
Property Owner: Jerald and Phyllis Kuehn Rev Trust
Request: Reduce the setback between a structure used for animal confinement and the property line, and to reduce the setback between an outside fenced run and the property line, for the purpose of establishing a commercial breeding kennel
Location: Part of the Southwest ¼ of Section 7-110-26 in Traverse Township
Parcel Number: 12.107.1105
10. Old Business
11. Other Business
12. Communications
13. Adjourn



Board of Adjustment & Appeals

MINUTES

MAY 17, 2021

7:00 PM

NICOLLET COUNTY
BOARD ROOM

BOARD MEMBERS	David Wendinger ☒ <i>Chair</i>	David Hermanson ☒ <i>Vice Chair</i>	Justin Laven ☒	Ron Regenscheid ☒	Dave Ubel ☒
ABSENT EXCUSED	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
ABSENT	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
STAFF PRESENT	Property and Public Services Director Mandy Landkamer ☒				
	Deputy Zoning Administrator (DZA) Jon Hammel ☒				
	Assistant County Attorney (ACA) Megan E. Gaudette Coryell ☒				
	Other Staff: ☐				

REVIEW OF CANCELLATIONS & ADDITIONS		None.			
MOTION TO APPROVE MINUTES OF APRIL 19, 2021		APPROVE ☒		APPROVE WITH REVISIONS ☐	
1ST	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
2ND	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☐	Ron Regenscheid ☒	Dave Ubel ☐
VOTE TO APPROVE MINUTES		PASS ☒	FAIL ☐	VOTE: 5-0	

PUBLIC APPEARANCES	Mary Milbrath (53491 409 th Avenue, North Mankato MN 56003) spoke on behalf of Belgrade Township. She spoke concerning the Herrley decision. The Township felt the decision to approve the request was inappropriate. She noted there is now a pipe discharging into the ditch.
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MOTION TO APPROVE FINDINGS OF FACT FOR PLN21-06, MEUER / TRUENBACH		APPROVE ☒		APPROVE WITH REVISIONS ☐	
1ST	David Wendinger ☐ <i>Chair</i>	David Hermanson ☐ <i>Vice Chair</i>	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
2ND	David Wendinger ☐ <i>Chair</i>	David Hermanson ☒ <i>Vice Chair</i>	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
VOTE TO APPROVE FINDINGS OF FACT		PASS ☒	FAIL ☐	VOTE: 5-0	

MOTION TO APPROVE FINDINGS OF FACT FOR PLN21-08, BENCO ELECTRIC / OLSON		APPROVE ☒		APPROVE WITH REVISIONS ☐	
1 ST	David Wendinger ☐ Chair	David Hermanson ☒ Vice Chair	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
2 ND	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☒
VOTE TO APPROVE FINDINGS OF FACT		PASS ☒	FAIL ☐	VOTE: 5-0	

MOTION TO APPROVE FINDINGS OF FACT FOR PLN21-09, ZIMMERMAN		APPROVE ☒		APPROVE WITH REVISIONS ☐	
1 ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☐	Ron Regenscheid ☒	Dave Ubel ☐
2 ND	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
VOTE TO APPROVE FINDINGS OF FACT		PASS ☒	FAIL ☐	VOTE: 5-0	

MOTION TO APPROVE FINDINGS OF FACT FOR PLN21-14, HERRLEY		APPROVE ☒		APPROVE WITH REVISIONS ☐	
1 ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
2 ND	David Wendinger ☐ Chair	David Hermanson ☒ Vice Chair	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
VOTE TO APPROVE FINDINGS OF FACT		PASS ☒	FAIL ☐	VOTE: 5-0	

PUBLIC HEARINGS:

APPLICANT: THOMAS AND PATRICIA BITTNER

FILE #: PLN21-18

DESCRIPTION: REDUCE THE MINIMUM FRONT YARD SETBACK AND TO ALLOW AN ACCESSORY BUILDING ON A PROPERTY WITH NO PRINCIPAL BUILDING, FOR THE PURPOSE OF CONSTRUCTING A STORAGE SHED/SHOP IN THE R-1 DISTRICT

APPLICANT COMMENT	The applicant was not present.				
PUBLIC COMMENT	Barb Haack inquired about the request prior to the meeting. She did not object to the request.				
PUBLIC TESTIMONY	Barb Haack (1305 Marshal Street Apt 301, St. Peter MN 56082) spoke on behalf of Resurrection Cemetery which is located directly east of the site. She noted concern over the impact the shop may have during funeral services. Hammel explained the shop would be for personal use and is not proposed to be a business. She did not object to the request.				
MOTION	APPROVE WITH CONDITIONS ☐		DENY ☒		
1 ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
2 ND	None. The motion was rescinded.				
MOTION	CONTINUE TO JUNE 21, 2021 BOARD OF ADJUSTMENT AND APPEALS MEETING TO PROVIDE THE APPLICANT THE OPPORTUNITY TO APPEAR AT THE HEARING ☐				
1 ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐

2 ND	David Wendinger ☐ Chair	David Hermanson ☒ Vice Chair	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
BOARD MEMBER DISCUSSION	Laven asked about the setbacks depicted on the survey. Hammel noted the property has two front yards with applicable setbacks. Laven and Hermanson stated it appeared there was an area outside of the setbacks where the shed could be located. Hammel explained the applicant had chosen the proposed location due to the topography and drainage of the site. Regenscheid asked how far north the shed could be moved and that more information was needed concerning potential alternative locations.				
VOTE	PASS ☒		FAIL ☐	VOTE: 5-0	

APPLICANT: BRIAN MOCK

FILE #: PLN21-21

DESCRIPTION: AFTER-THE-FACT VARIANCE TO ALLOW MORE THAN ONE PERSON TO BE EMPLOYED BY A HOME OCCUPATION, TO ALLOW MORE THAN 25% OF THE GROSS FLOOR AREA TO BE USED FOR A HOME OCCUPATION, AND TO ALLOW THE OUTSIDE APPEARANCE OF THE PROPERTY TO HAVE VISIBLE EVIDENCE OF A HOME OCCUPATION IN THE R-1 DISTRICT

APPLICANT COMMENT	Brian Mock was present. He informed the Board he had a new septic system installed last year. He said with the COVID-19 pandemic he had been shut down for a year and relocating the business was not possible. He also stated he helps the neighbor maintain their properties and has no desire to expand beyond his current size.				
PUBLIC COMMENT	Mock provided two written comments supporting the request from the adjacent landowners.				
PUBLIC TESTIMONY	None.				
MOTION	APPROVE WITH CONDITIONS ☒		DENY ☐		
1 ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
2 ND	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☐	Ron Regenscheid ☒	Dave Ubel ☐
BOARD MEMBER DISCUSSION	Laven noted the business had been operating onsite for 22 years. He asked what was wrong with a business being in the county. Hammel explained the business is allowed in the county but must meet the applicable standards. Landkamer noted the variance was necessary because the property was zoned R-1 Urban/Rural Residential. The standards for home occupations in the R-1 district are more strict than those for other districts.				
VOTE	PASS ☒		FAIL ☐	VOTE: 5-0	

APPLICANT: PATRICK AND SHANA GIESEKE

FILE #: PLN21-19

DESCRIPTION: APPLICANTS APPEAL THE DECISION OF THE DIRECTOR DATED APRIL 8, 2021, THAT REQUIRES THE APPLICANTS "TO SUBMIT VERIFICATION CONCERNING OFFSITE EARTH MOVEMENT... TO ENSURE THE PROPER PLACEMENT OF THE FILL PER COUNTY STANDARDS AND TO ENSURE PROTECTION OF THE ENVIRONMENT" AND THAT "THE LOCATION OF THE MATERIAL MOVED OFFSITE AND WHO MOVED THE MATERIAL OFFSITE" MUST BE RESOLVED. APPLICANTS ALSO APPEAL EACH AND EVERY DECISION MADE BY THE DIRECTOR AFTER THE DATE OF THIS NOTICE OF APPEAL i) WHICH PRESENTS AN IMPEDIMENT TO PROCEEDING WITH A HEARING BEFORE THE BOARD ON THE AFTER THE FACT VARIANCE APPLICATION, ii) WHICH CONCLUDES THAT THE APPLICATION FOR AN AFTER THE FACT VARIANCE IS INCOMPLETE, iii) WHICH REQUIRES SUBMISSION OF THE AMOUNTS ALREADY SUBMITTED ON MARCH 19, 2021, iv) WHICH DENIES THE APPLICANTS' REQUEST BECAUSE AN OFFICIAL APPLICATION HAS NOT BEEN COMPLETED BY THE DIRECTOR, AND v) WHICH REQUIRE ADDITIONAL "PRECISE ELEMENTS" BE LISTED AND IDENTIFIED ON THE APPLICATION.

APPLICANT COMMENT	Patrick and Shana Gieseke were present. The applicant's attorney, Steven Franta, was also present. Shana Gieseke stated she accepted responsibility for not getting a permit prior to the start of construction. She stated the violation was unintentional. Steven Franta stated it was impossible to find out who took the earthen material offsite and what they did with it. He did not feel there was a benefit or detriment to knowing that information. He requested the earthen material requirement be removed from the list of items required to achieve a complete application. Otherwise, he felt the applicants have submitted the information necessary to have a complete application. He noted the many letters that had gone back and forth between the applicants and staff. He said enough was enough, and asked the Board to order that the applicants be told exactly what they need in the application that has not already been provided. Patrick Gieseke explained why the applicants continued to construct the addition after the cease and desist order was issued. They believe it was necessary to protect the construction from the elements.
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PUBLIC COMMENT	None.				
PUBLIC TESTIMONY	None.				
BOARD MEMBER DISCUSSION	Laven asked if the holdup with the application was the location of the offsite earth movement. Hammel stated that was the biggest component missing. Ubel asked if the applicants were aware they needed a permit for the earth movement. Mrs. Gieseke noted they did not know they needed a permit. Ubel asked if the applicants would still be coming back for a variance. Landkamer stated that was correct. The current decision only involved the status of the applicants' March application for an after-the-fact variance. Regenscheid stated he felt the offsite earth movement was important to the application. Landkamer clarified the missing items included the precise elements to be listed on the after-the-fact variance request.				
MOTION	AFFIRM THE DETERMINATION THE APPLICANTS' MARCH 19, 2021 APPLICATION FOR AN AFTER-THE-FACT VARIANCE IS INCOMPLETE ☒				
1ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☐	Ron Regenscheid ☒	Dave Ubel ☐
2ND	None. Motion died for a lack of second.				
MOTION	MODIFY THE DETERMINATION THE APPLICANT'S MARCH 19, 2021 APPLICATION FOR AN AFTER-THE-FACT VARIANCE – REMOVE THE OFFSITE EARTH MOVEMENT REQUIREMENT FOR A COMPLETE APPLICATION ☒				
1ST	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☒	Ron Regenscheid ☐	Dave Ubel ☐
2ND	David Wendinger ☐ Chair	David Hermanson ☒ Vice Chair	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
VOTE	PASS ☒		FAIL ☐	VOTE: 4-1, with Regenscheid voting against	

OLD BUSINESS	None.				
OTHER BUSINESS	None.				
REVIEW OF ADMINISTRATIVE VARIANCES	None.				
COMMUNICATIONS	None.				
MOTION TO ADJOURN	8:59 P.M.				
1ST	David Wendinger ☐ Chair	David Hermanson ☒ Vice Chair	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☐
2ND	David Wendinger ☐ Chair	David Hermanson ☐ Vice Chair	Justin Laven ☐	Ron Regenscheid ☐	Dave Ubel ☒
VOTE TO ADJOURN	PASS ☒		FAIL ☐	VOTE: 5-0	

DAVID WENDINGER, CHAIR		DATE	
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JON HAMMEL, DEPUTY ZONING ADMINISTRATOR/ PLANNER		DATE	
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NICOLLET COUNTY BOARD OF ADJUSTMENTS AND APPEALS

CRITERIA FOR GRANTING AN AFTER-THE-FACT VARIANCE

Name of Applicant/

Date: May 17, 2021

Property Owner: Brian Mock

File #: PLN21-21

Variance Requested:

After the fact variance to allow more than one person to be employed by a home occupation, to allow more than 25% of the gross floor area to be used for a home occupation, and to allow the outside appearance of the property to have visible evidence of a home occupation in the R1 district.

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 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> There is no history of complaints against the property. The business has operated onsite for 22 years. Home occupations are a conditional use in the R-1 zone.
David Wendinger	☒	☐	☐	☐	
David Hermanson	☒	☐	☐	☐	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u> The proposal does not include the development of any agricultural lands or sensitive natural features. It is an existing business. No new buildings will be added.
David Wendinger	☒	☐	☐	☐	
David Hermanson	☒	☐	☐	☐	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u> The request will not alter the essential character of the locality. The locality will remain agricultural, residential, and natural environment in nature. The proposal does not include any new construction and involves an existing building site. The business has operated on the site for 22 years.
David Wendinger	☒	☐	☐	☐	
David Hermanson	☒	☐	☐	☐	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	WHY: The plight is unique to the property. The applicant chose to seek a variance rather than relocate the business.
David Wendinger	☒	☐	☐	☐	
David Hermanson	☒	☐	☐	☐	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	WHY: The applicant intends to maintain the existing vegetative screening. It is an existing business.
David Wendinger	☒	☐	☐	☐	
David Hermanson	☒	☐	☐	☐	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	WHY: The request is based on the history of the property being used for the business, which has been operating on the property for 22 years. The property has no complaints.
David Wendinger	☒	☐	☐	☐	
David Hermanson	☒	☐	☐	☐	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

Additional After-the-Fact Criteria for use ONLY when the first six criteria are met.

7. Did the applicant make a good faith effort to obtain a zoning permit prior to completion of the construction?

	YES	NO	ABSTAINED	ABSENT	WHY: There was no new construction. The applicant has been working with staff towards resolution of the violation.
David Wendinger	☒	☐	☐	☐	
David Hermanson	☒	☐	☐	☐	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

8. In relation to the subject variance, are there similar structures in the area?

	YES	NO	ABSTAINED	ABSENT	WHY: There was no new construction. The business has operated onsite for 22 years. The shop existed when the applicant purchased the property. There are other houses and sheds in the area.
David Wendinger	☒	☐	☐	☐	
David Hermanson	☒	☐	☐	☐	
Justin Laven	☒	☐	☐	☐	
Ron Regenscheid	☒	☐	☐	☐	
Dave Ubel	☒	☐	☐	☐	

9. Does the burden of compliance on the applicant outweigh the benefit to the County?

	YES	NO	ABSTAINED	ABSENT
David Wendinger	☒	☐	☐	☐
David Hermanson	☒	☐	☐	☐
Justin Laven	☒	☐	☐	☐
Ron Regenscheid	☒	☐	☐	☐
Dave Ubel	☒	☐	☐	☐

WHY: The business has been there for 22 years. The applicant otherwise has to relocate or terminate the business.

10. Was the act of the violation by the applicant unintentional?

	YES	NO	ABSTAINED	ABSENT
David Wendinger	☒	☐	☐	☐
David Hermanson	☒	☐	☐	☐
Justin Laven	☒	☐	☐	☐
Ron Regenscheid	☒	☐	☐	☐
Dave Ubel	☒	☐	☐	☐

WHY: Yes, the applicant has stated he was not aware he was in violation of the Zoning Ordinance. The violation was unintentional.

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

Viewed by Members of Board:

- ☐ Wendinger
- ☐ Hermanson
- ☐ Laven
- ☐ Regenscheid
- ☐ Ubel

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: _____



VARIANCE

**REDUCE MINIMUM FRONT YARD
SETBACK, AND ALLOW
ACCESSORY BUILDING ON
PROPERTY WITH NO PRINCIPAL
BUILDING FOR PURPOSE OF
CONSTRUCTING A SHED**

THOMAS & PATRICIA BITTNER

PLN21-18

NICOLLET COUNTY BOARD OF ADJUSTMENT & APPEALS

SUBJECT:	PLN21-18, Variance
APPLICANT/LANDOWNER:	Thomas and Patricia Bittner
LOCATION:	Block 1 of Lot 7 of Nob Hill Replat Subdivision in Oshawa Township
PARCEL NO:	10.662.0070
EXISTING ZONING:	R-1, Urban/Rural Residential
HEARING DATE:	June 21, 2021 <i>(Continued from May 17, 2021 meeting)</i>

REQUEST

The applicant has submitted a variance request to reduce the front yard setback from 85 feet to 42 feet, and to allow an accessory building to be constructed on a property with no principal building. Section 604.4(2.A) of the Zoning Ordinance requires an 85-foot front yard setback along state roads. Section 703.4(1) of the Zoning Ordinance states that no accessory building be allowed on a property without a principal building, such as a dwelling.

Standard	Required	Proposed	Difference
Front Yard Setback (State Road)	85'	42'	51%

The purpose of the request is to allow the applicant to construct a shed. The proposed building would be 36' x 60' or 2,160 square feet in size. The applicant intends to use the shed to store recreational equipment and as a hobby shop for metal and woodworking. The building would have electrical service, but no water service.

The proposed building would be no taller than the applicant's dwelling. The color of the proposed building will match the color of the applicant's dwelling. The applicant's dwelling is located on an adjacent lot, just west of the property.

The applicant has stated the location of the building (see Attachment F.1) was chosen due to the topography and drainage of the property. The area north of the proposed location is hillside with a slope of approximately 17%.

Existing Land Use:

The property is part of the Nob-Hill Replat subdivision. At one point in time the property contained a dwelling, which was destroyed in a 1998 tornado. However, the dwelling no longer exists and the lot is bare land. The lot lies directly adjacent to the applicant's other property, which contains the applicants' dwelling and garage.

Surrounding Land Use:

The surrounding land use is primarily residential. The property is approximately 790 feet west of the City of Saint Peter.

NEIGHBOR NOTIFICATION

Property owners were notified of the request per the standards of Section 503 of the Zoning Ordinance and Minnesota State Statute 394.26.

VARIANCE CRITERIA

NOTE: According to Minnesota State Statute 394.27 Subd.7 “*practical difficulties*,” as used in connection with the granting of a variance, means that: the property owner proposes to use the property in a reasonable manner not permitted by an official control; **and** the plight of the landowner is due to circumstances unique to the property and not created by the landowner; **and** the variance will not alter the essential character of the locality.

***ALL SIX of the variance criteria must be answered
“True” in order for the variance to be granted.***

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

- The front yard standard is intended to provide a buffer between land uses (e.g. transportation and residential).
- The proposed variance decreasing the required front yard setback would result in a 51% reduction of the standard.
- The standard requiring a principal building prior to construction of any accessory building is intended to reduce the opportunity for isolated buildings to become the victims of vandalism or theft.
- The property is directly adjacent to the site of the applicants’ dwelling and is part of a developed subdivision with other dwellings.

2. The variance is consistent with the intent of the comprehensive plan:

- The county will ensure that land is used in an appropriate manner by minimizing conflicts between land uses.
- The property is presently vacant land.
- The applicants’ residence is located on the adjacent property.
- The proposal is to use the property for an accessory residential structure.
- The plan promotes the conservation of agricultural land. The request does not involve the further development of agricultural land.

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

- The request does appear to establish a practical difficulty.
- The proposed location is within an existing developed subdivision and is adjacent to the applicants' dwelling.
- The proposal does not appear to increase the potential for land use conflict.
- The proposed shed would be colored to match the applicants' dwelling.
- The request will not alter the essential character of the locality; the locality will remain residential in nature.
- With or without the variance, the applicant is not denied reasonable use of the property; the applicant could continue to use the vacant lot as open space.

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

- The plight appears to be the result of the location of the existing lot and the lot's proximity to State Highway 99.
- The applicant chose to construct the proposed shed in a manner which requires a variance. However, the location of the property makes it difficult to locate an accessory structure in a manner that meets all applicable setbacks.

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

- The essential character of the locality would remain residential regardless of whether the variance is granted.
- There are two other sheds in the subdivision. However, these sheds are located on properties with a principal building/dwelling. The existing sheds are slightly larger than the proposed structure.

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

- The applicant has not submitted any financial information.
- However, the request appears to include more than economic considerations alone.
- The request is based on the existing property's location and topography.

RECOMMENDATIONS

If the request is approved, staff recommends the following conditions be attached:

1. The applicant undertakes the project according to the plans and specifications submitted to the county with the application.
2. The county may enter onto the premises at reasonable times and in a reasonable manner to ensure the variance holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.

3. The applicant must obtain the appropriate zoning permits prior to construction, including any earthwork or site preparation.
4. The zoning permit is invalid if the variance holder has not substantially completed the structure within the period of time allowed on the zoning permit connected with this variance.

Parcel No: 10.662.0070
Map No: 1419481007

**Applicant/Landowner:
Thomas and Patricia Bittner**

PLN21-18

ATTACHMENT A	Application
ATTACHMENT B	Variance Criteria
ATTACHMENT C	Location Map
ATTACHMENT D	Aerials
ATTACHMENT E	Neighbor Notification List
ATTACHMENT F	Documents Submitted by Applicant
F.1	Survey
F.2	Exhibit Sketch
F.3	Applicant Questionnaires
F.4	Shed Plans
F.5	Neighbor Comment
F.6	Nob Hill Easement Exhibit
F.7	Photos
ATTACHMENT G	Staff Photos



PROPERTY SERVICES DIVISION
501 SOUTH MINNESOTA AVENUE, SAINT PETER MN 56082
507-934-7070

BOARD OF ADJUSTMENT & APPEALS
APPLICATION

Total Fees: \$446.00

Map#: 1419481007
Parcel#: 106620070
Permit#: PLN21-00018
Date: April 09, 2021

Applicant: BITTNER THOMAS C & PATRICIA L BITTNER, , 36129 BOYD DR, SAINT PETER MN 56082
Phone:
Owner: BITTNER THOMAS C & PATRICIA L BITTNER, 36129 BOYD DR, SAINT PETER MN 56082
Property Address: 0,
Abbreviated Legal Description: Block 1 Lot 7 SubdivisionCd 10662 SubdivisionName NOB HILL REPLAT
Township: Oshawa Township

Record Type: Variance

Category: Front Yard

Project Description: Variance request to reduce the front yard setback from 85 feet to 42 feet, and to allow an accessory building on a property with no principal building, for the purpose of constructing a shop/pole building. Ref: 503, 604.4(2.A), 703.4(1).

Hearing Date: 05/17/2021

APPLICANT SIGNATURE

4-9-21

DATE

ATTACHMENT A
Application



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

Name of Applicant/

Property Owner: Thomas and Patricia Bittner

Date: May 17, 2021

Continuation Date: June 21, 2021

File #: PLN 21-18

Variance Requested: Reduce the minimum front yard setback and to allow an accessory building on a property with no principal building, for the purpose of constructing a storage shed/shop

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>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

ATTACHMENT B
Variance Criteria

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>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

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

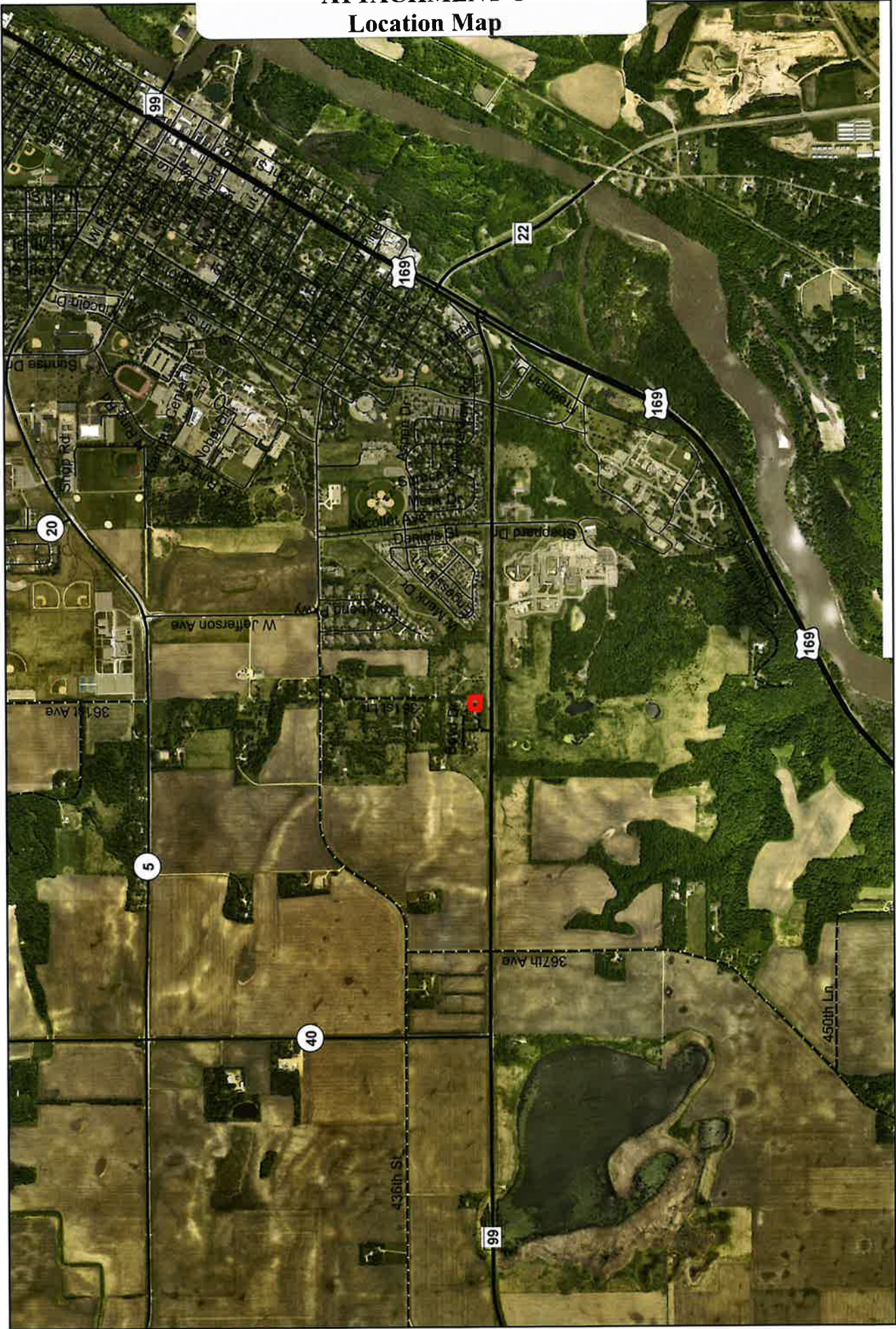
Viewed by Members of Board:

- ☐ Wendinger
- ☐ Hermanson
- ☐ Laven
- ☐ Regenscheid
- ☐ Ubel

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: _____

ATTACHMENT C
Location Map



Disclaimer: The information herein is intended to be a true representation of available records. However, there is no guarantee to the user as to the accuracy, suitability, or reliability of this data for any purpose. The Property Services Division of Nicollet County assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data.

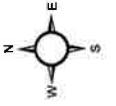
1:24,000 1 inch = 2,000 feet

0 1,000 2,000 Feet

ATTACHMENT D Aerials



Disclaimer: The information herein is intended to be a true representation of available records. However, there is no guarantee to the user as to the accuracy, suitability, or reliability of this data for any purpose. The Property Services Division of Nicollet County assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data.



1:600 1 inch = 50 feet
0 25 50 Feet

JEFFREY & SHEILA ANDERSON
1507 ROCKBEND PKY
SAINT PETER MN 56082

JAMES ANDRESEN
PO BOX 186
SAINT PETER MN 56082-0186

THOMAS & PATRICIA BITTNER
36129 BOYD DR
SAINT PETER MN 56082

ELIZABETH BOATMAN
36158 BOYD DR
SAINT PETER MN 56082

CHARLES & TERESA BURGESS
1217 W MENK DR
SAINT PETER MN 56082

KENNETH & ELAINE DEZEEUW
43631 361ST LN
SAINT PETER MN 56082

FIRST LUTHERAN CHURCH ST PETER &
RESURRECTION CEMETERY
1114 W TRAVERSE RD
SAINT PETER MN 56082

TIMOTHY & KELLI FISCHER
1512 ROCKBEND PKY
SAINT PETER MN 56082

LORENE GARDNER
36306 436TH ST
SAINT PETER MN 56082

SHAWN & ALECIA GUIDA
1204 W MENK DR
SAINT PETER MN 56082

HERMEL FARMS LLC
PO BOX 2960
ALPINE WY 83128

LEONARD HUMMEL & MARCIA BUNGE
1510 ROCKBEND PKY
SAINT PETER MN 56082-1347

RAYMOND & ELIZABETH JACOBSON
1514 ROCKBEND PKY
SAINT PETER MN 56082

TOD & LORI KLOTZ
1131 W MENK DR
SAINT PETER MN 56082

JOHN & SHARON MALM
1132 W MENK DR
SAINT PETER MN 56082

RICHARD & KRISTEN MARLOW
1506 ROCKBEND PKY
SAINT PETER MN 56082

CATHERINE MARTENS
36201 BOYD DR
SAINT PETER MN 56082

KURT & CANDI MOELTER
1139 W MENK DR
SAINT PETER MN 56082

DENNIS & ANGELA MOTT
43950 MEYER AVE
SAINT PETER MN 56082

AMY & CARL NIELSEN
36113 BOYD DR
SAINT PETER MN 56082

PATRICIA NIELSEN
36180 BOYD DR
SAINT PETER MN 56082

PETER & JENNIFER OTTERNESS
1135 W MENK DR
SAINT PETER MN 56082

CHAD & ROXANNE PORTNER
43868 COLE LN
SAINT PETER MN 56082

SCOTT REED & KAMMY HASLIP
36159 BOYD DR
SAINT PETER MN 56082

ROGER & BARBARA RODNING
43773 361ST LN
SAINT PETER MN 56082

JEFFREY & MEGAN RUBLE
1509 ROCKBEND PKY
SAINT PETER MN 56082

CARLIN & COURTNEY SHOEMAKER
1128 W MENK DR
SAINT PETER MN 56082

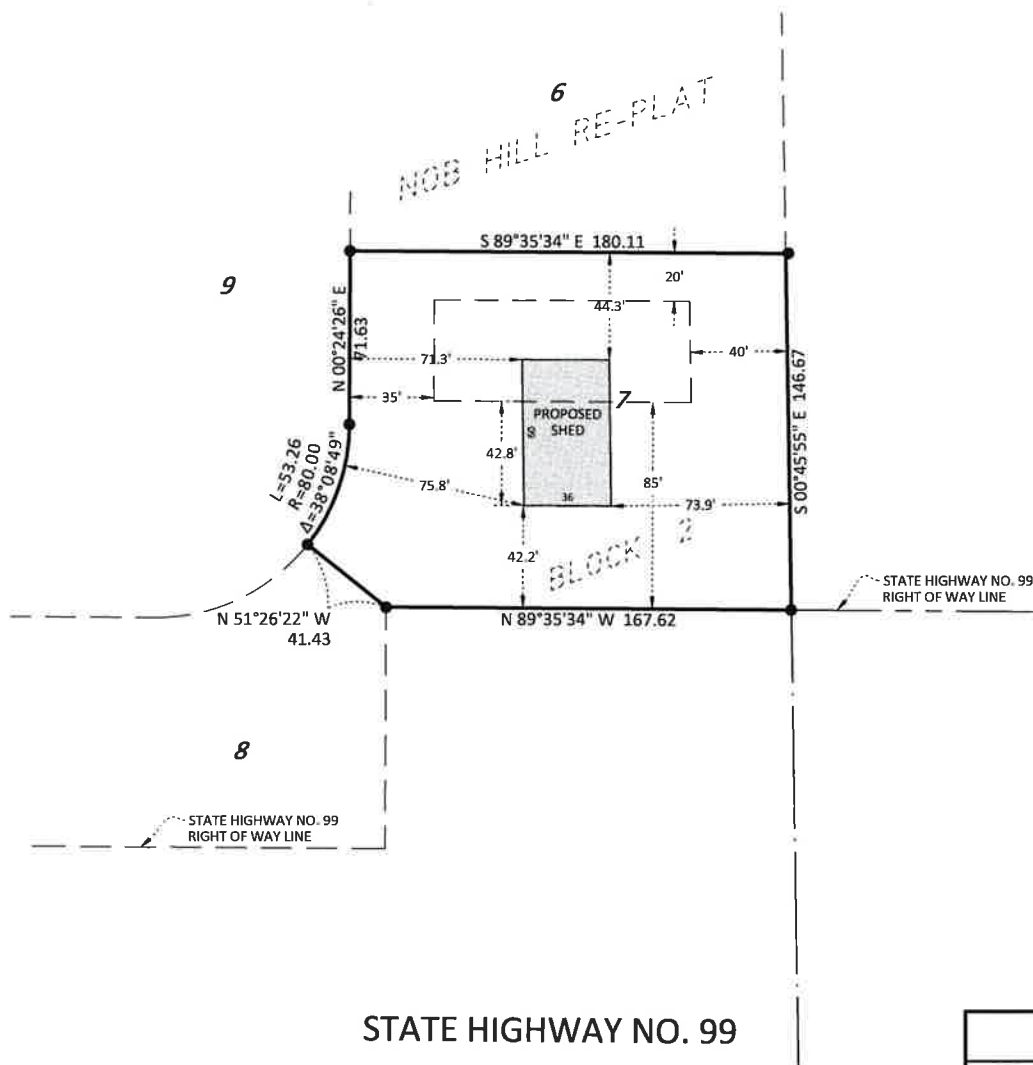
KYLE & KAREN SNAY
1200 W MENK DR
SAINT PETER MN 56082

RONALD & DEBRA VEITH
43764 361ST LN
SAINT PETER MN 56082

CHRISTOPHER & KRISTINE VOELTZ
1511 ROCKBEND PKY
SAINT PETER MN 56082

RUSS WILLE, CITY OF SAINT PETER
227 SOUTH FRONT STREET
SAINT PETER MN 56082

OSHAWA TOWNSHIP
36601 450TH LN
SAINT PETER MN 56082



PID 10.662.0070

SITE ADDRESS

36129 BOYD DRIVE
SAINT PETER, MN 56082

OWNER ADDRESS

THOMAS & PATRICIA BITTNER
36129 BOYD DRIVE
SAINT PETER, MN 56082

URBAN-RURAL RESIDENTIAL (R-1)

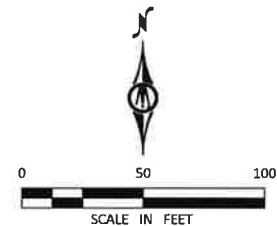
A district within the County to allow limited urban growth or rural clusters of dwellings not associated with farming. After July 1981, development is required to be located immediately adjacent to cities with sanitary sewer services
Minimum lot size - 1½ acres

SETBACKS

Front	85' State R/W 50' County R/W 35' Township R/W
Side	20' principal building 10' septic system
Rear	10' detached accessory building 40' principal building 10' detached accessory building
Bluff line	30' from 12% slope
Ditch	100'

ACCESSORY STRUCTURES

Maximum sq. ft. no greater than ground floor sq. ft. of principal building
No higher than principal building
No closer to front property line than principal building



SURVEYOR'S CERTIFICATION

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.

Michael M. Eichers
License Number 46564

04/01/2021
Date

CERTIFICATE OF SURVEY
NICOLLET COUNTY, MINNESOTA



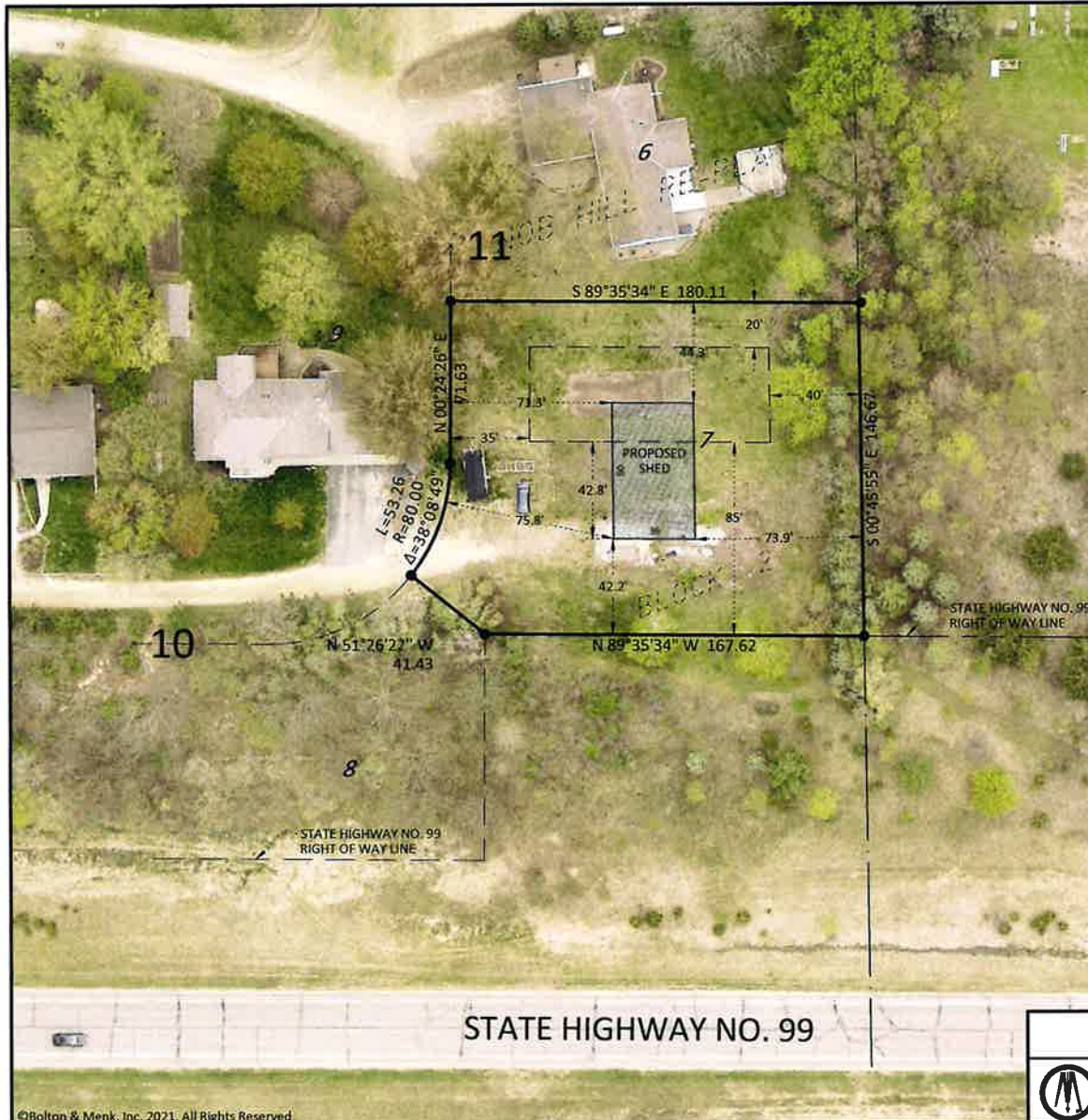
1960 PREMIER DRIVE
MANKATO, MINNESOTA 56001
(507) 625-4171

LOT 7, BLOCK 1, NOB HILL RE-PLAT, NICOLLET
COUNTY, MINNESOTA

FOR: TOM BITTNER

ATTACHMENT F.1

Survey



PID 10.662.0070

SITE ADDRESS
36129 BOYD DRIVE
SAINT PETER, MN 56082

OWNER ADDRESS
THOMAS & PATRICIA BITTNER
36129 BOYD DRIVE
SAINT PETER, MN 56082

URBAN-RURAL RESIDENTIAL (R-1)

A district within the County to allow limited urban growth or rural clusters of dwellings not associated with farming. After July 1981, development is required to be located immediately adjacent to cities with sanitary sewer services
Minimum lot size - 1½ acres

SETBACKS

Front 85' State R/W
50' County R/W
35' Township R/W
Side 20' principal building
10' septic system
10' detached accessory building
Rear 40' principal building
10' detached accessory building
Bluff line 30' from 12% slope
Ditch 100'

ACCESSORY STRUCTURES

Maximum sq. ft. no greater than ground floor sq. ft. of principal building
No higher than principal building
No closer to front property line than principal building

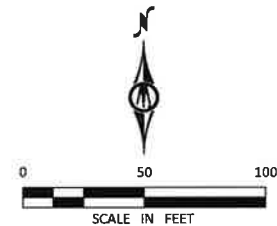


EXHIBIT SKETCH
NICOLLET COUNTY, MINNESOTA



1960 PREMIER DRIVE
MANKATO, MINNESOTA 56001
(507) 625-4171

LOT 7, BLOCK 1, NOB HILL RE-PLAT, NICOLLET
COUNTY, MINNESOTA

FOR: TOM BITTNER

ATTACHMENT F.2
Exhibit Sketch

VARIANCE APPLICANT QUESTIONNAIRE

PROJECT DESCRIPTION

Name of Applicant: Thomas C. Bittner and Patricia L. Bittner

Date: _____

Please describe the specific details related to your request, including but not limited to:

- why you feel the project is a *need* rather than a *want*;
- what alternatives you explored and the reasons they were not reasonable for you; and
- what use, or uses, the project will provide for you;

If your request is approved, you will be **held** to the plans and specifications submitted to the County with your application.

Applicant Thomas C. Bittner is nearing retirement. His hope for retirement is to have a practical shop within which he can store recreation equipment, such as the family pontoon boat. He also hopes to have a shop within which he can pursue hobbies, such as metal work and wood working in a manner that will not disturb the neighboring property owners as well as affording the applicant reasonable privacy. A building that can protect the applicant from the weather in Minnesota's harsh seasons is critical to fulfilling these retirement hopes and dreams.

The request for being 42.2 feet back from the roadway right of way is to allow for water run off to be channeled by proper excavation.

The 85 feet setback location is on a hillside. The 42.2 feet setback is still on flat land. This flat area can be managed much easier than a hillside to mitigate the problem. Our neighbors home is downhill from our property. We have discussed with Scott and Kammy Reed the

importance of this matter. They already experience water in their sump and anything further than what they have will be problematic.

Utilities to the structure will be just electricity. There will be no toilets, drains or running water.

The height of the structure is not taller than our home.

The color of the structure will match the color of our home.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be a standard notebook page.

Name of Applicant: Thomas C. Bittner and Patricia L. Bittner

Date: _____

Request: Reduce Setback from Right of Way

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.

Why do you feel the request meets the following criteria?

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

The construction of a pole building 65 feet from the Highway 99 Row, versus 85 feet as prescribed does not materially impact the purpose of official control due to the elevation, topography and proposed location of the pole building.

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

There is no Comprehensive Plan of record related to this property.

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

Complying with the setback requirement would not allow for proper positioning of the proposed pole building within the lot and in proximity with the applicants home.

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

The plat of this lot positioned this lot close to Highway 99 so as to make the lot largely non-usable if setback requirements are strictly applied.

(Continued onto back)

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

Building a pole building in the location proposed will not alter the character of the locality. Other pole buildings have been built upon lots in this subdivision.

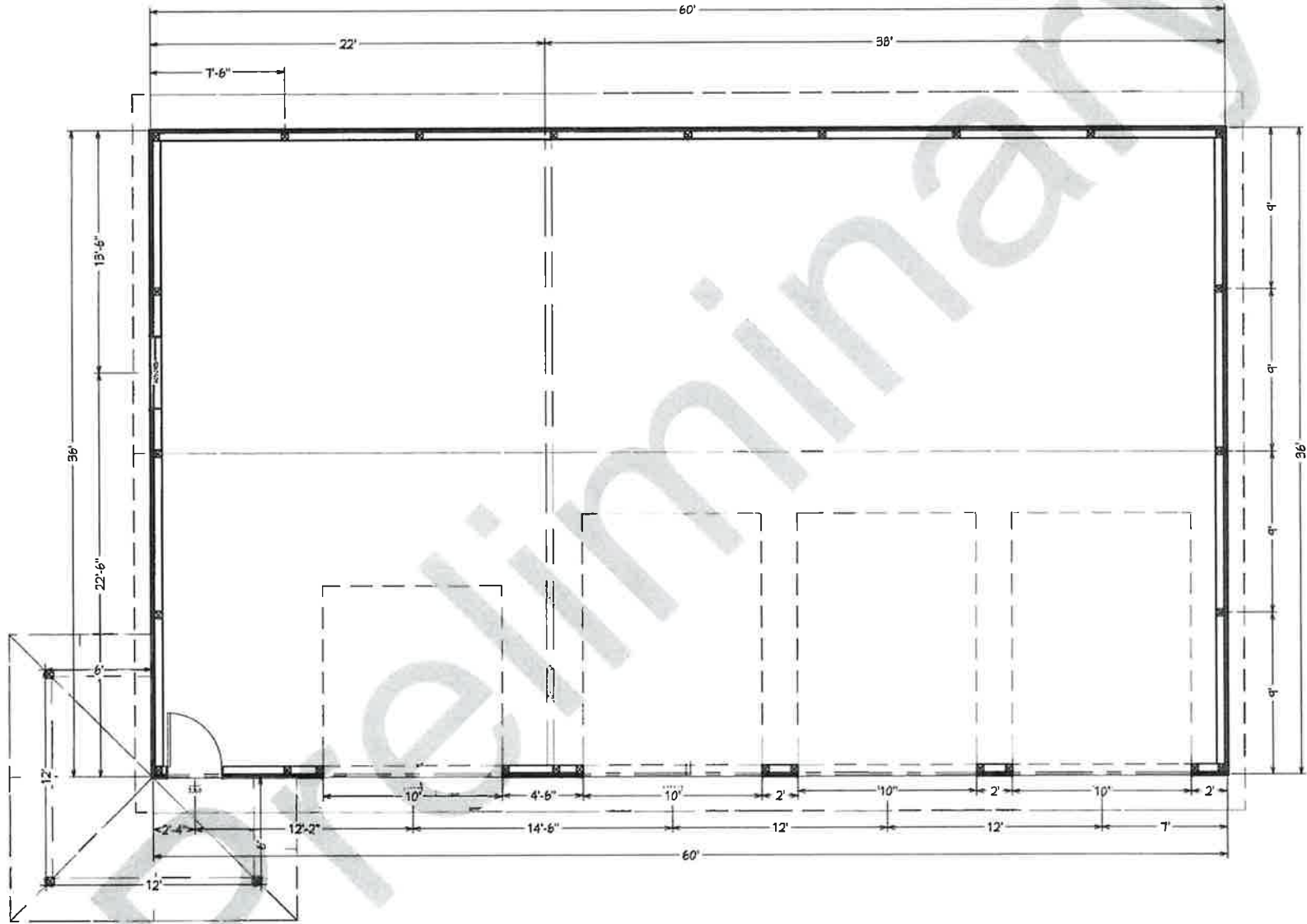
6. The practical difficulty includes more than economic considerations alone.

Applicants have investigated other options and configurations of buildings for this lot. The present plans are the most useful and practical that we can conceive.

7. Additional Information. The lot upon which Thomas and Patricia Bittner would like to build their pole building was previously the site of a home. The foundation/slab remains on the lot. This foundation/slab is located within 65 feet of the Highway Right of Way.

***ALL SIX VARIANCE CRITERIA MUST BE MET
IN ORDER FOR THE REQUEST TO BE APPROVED.***

ATTACHMENT F.4 Shed Plans



Carter Fromm
501-766-4712
carterfromm@gmail.com

Floorplan

Tom Bittner

Design Provided by
TOWN'S EDGE
LUMBER

DATE:

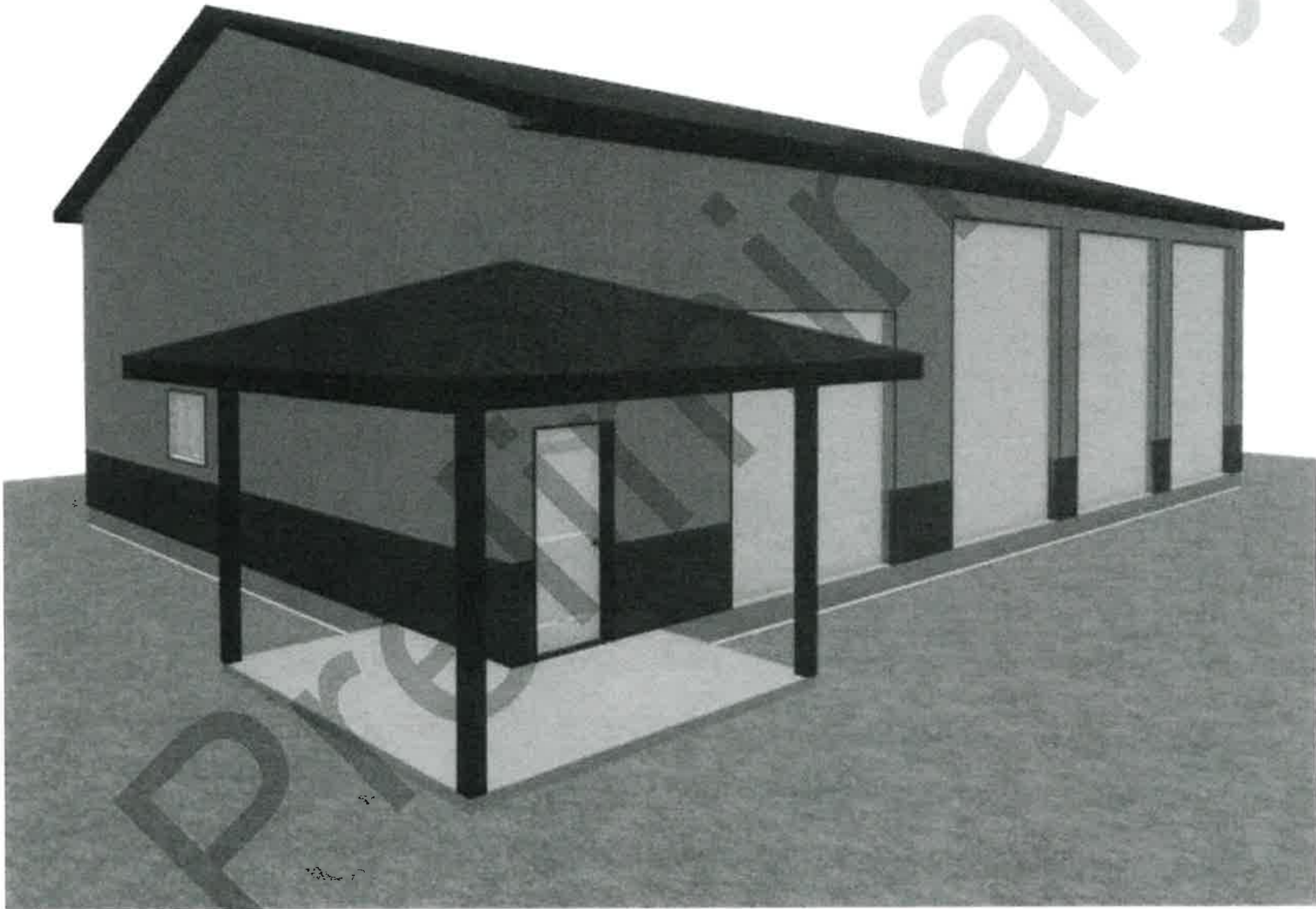
11/27/2020

SCALE:

1/8" = 1'-0"

SHEET:

1



Carter Fromm
501-366-4712
carterfromm@gmail.com

Building
Elevation 1

Tom Bitner

Design Produced by
TOWN'S EDGE
LUMBER

DATE:
11/27/2020

SCALE:

SHEET:
2



Carter Fromm
501-786-4112
carterfromm@gmail.com

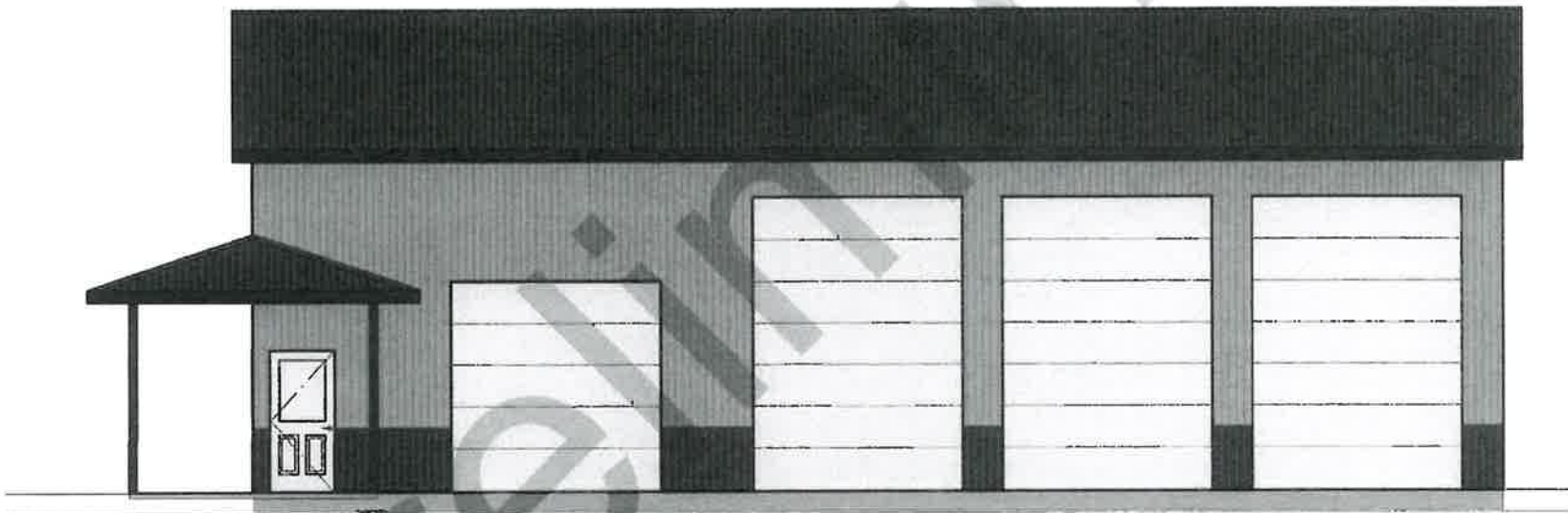
Side Elevation

Tom Bittner

Product Provided By
**TOWN'S EDGE
LUMBER**

DATE:
11/27/2020
SCALE:
3/16" = 1'-0"
SHEET:
3





Carter Fromm
501-184-4712
carterfromm@gmail.com

Front Elevation

Tom Bittner

Change Provided by
TOWN'S EDGE
LUMBER

DATE:

11/27/2020

SCALE:

1/8" = 1'-0"

SHEET:

4

December 4, 2020

To Whom it may concern:

This letter is acknowledgement that Scott and Kammy Reed consent to the building of a structure for storage purposes by our neighbors, Tom and Patty Bittner.

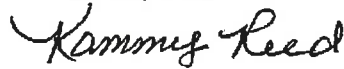
We understand that the proper measures will be taken to ensure that there would not be any water run-off into our property, as a proper water shed would be built to ensure this.

Thank you

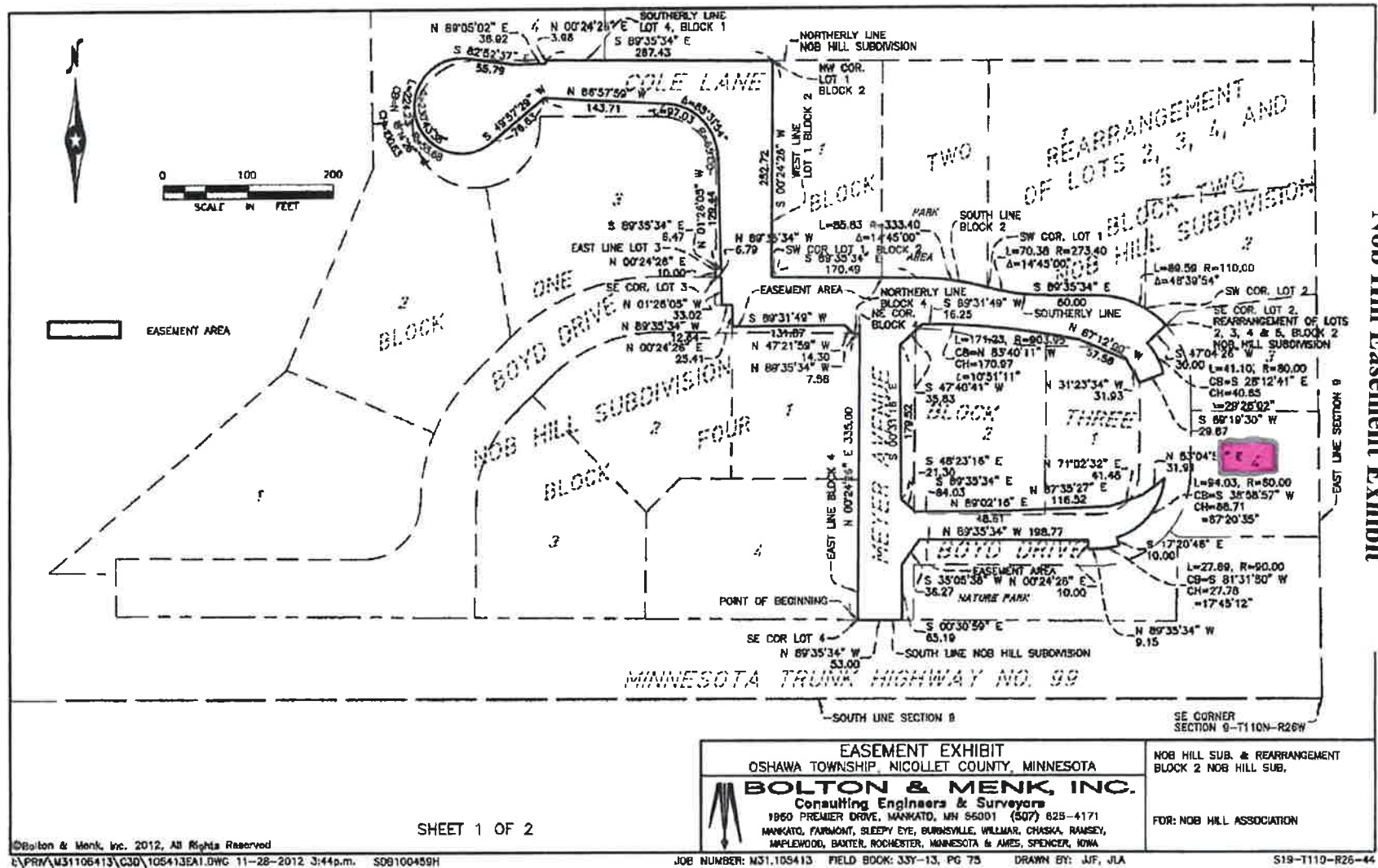
Scott Reed

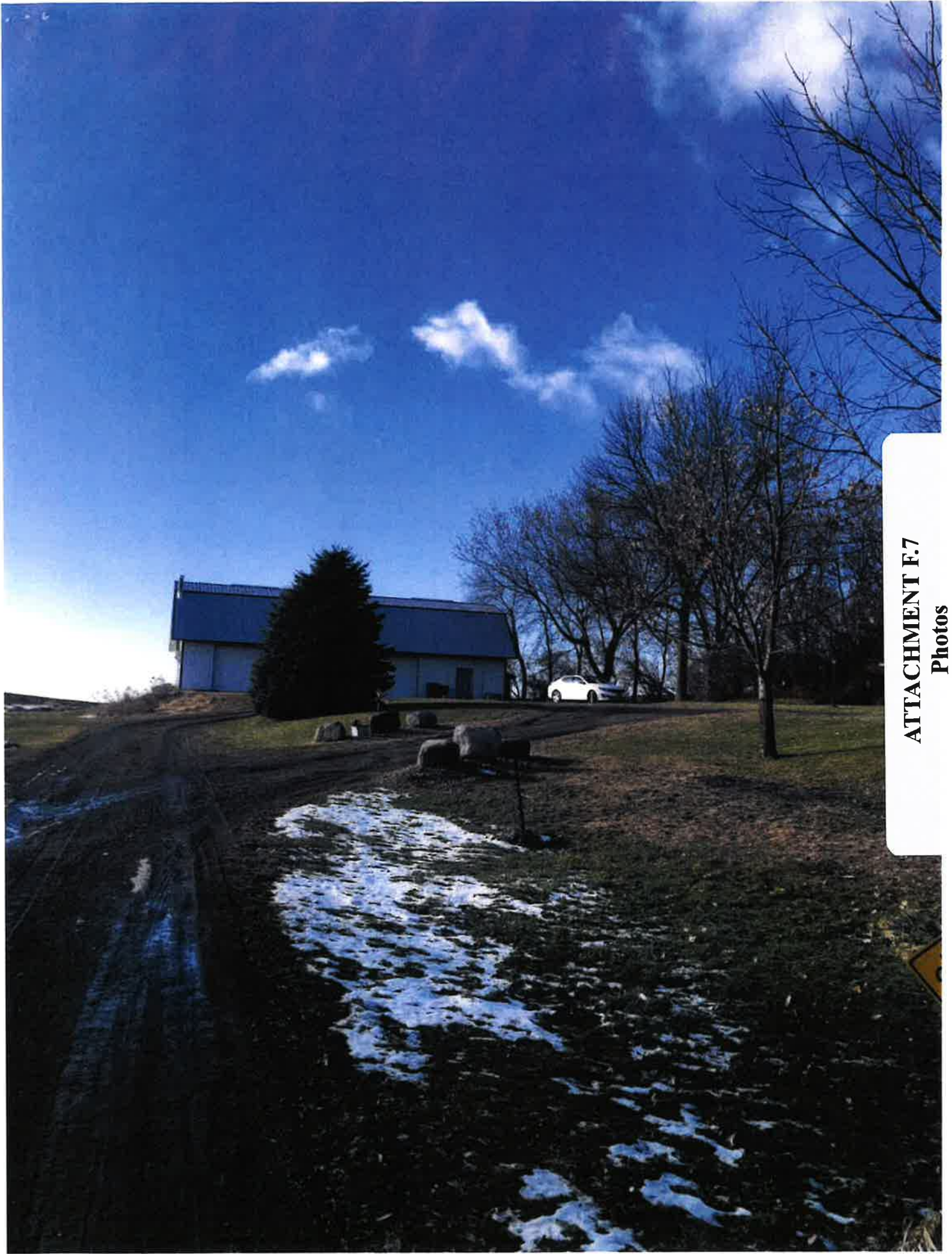
A handwritten signature in black ink, appearing to read "Scott Reed", written in a cursive style.

Kammy Reed

A handwritten signature in black ink, appearing to read "Kammy Reed", written in a cursive style.

ATTACHMENT F.5
Neighbor Comment





ATTACHMENT F.7
Photos





05 28 2021

ATTACHMENT G
Staff Photos



05 28 2021



VARIANCE

**REDUCE FRONT YARD SETBACK
FOR THE PURPOSE OF
INSTALLING A UTILITY POLE**

**GREAT RIVER ENERGY /
LAVONNE OLSEN**

PLN21-24

NICOLLET COUNTY

BOARD OF ADJUSTMENT & APPEALS

SUBJECT:	PLN21-24, Variance
APPLICANT:	Great River Energy
LANDOWNER:	Lavonne Olsen
LOCATION:	Part of the Southwest ¼ of the Southeast ¼ of Section 27-111-28 in New Sweden Township
PARCEL NO:	08.027.0600
EXISTING ZONING:	Agricultural Preservation
HEARING DATE:	June 21, 2021

REQUEST

The applicant has submitted a variance request to reduce the front yard setback. The setback would be reduced from 50 feet to 1-foot, a reduction of 49 feet. The purpose of the request is to allow for the installation of a utility pole. The request is associated with Benco Electric's new/replacement New Sweden substation project. The pole would be the end of the transmission line, which runs east-west along County Road 15. The line would run from the existing transmission line to the proposed utility pole, before angling directly north into the substation.

The applicant has stated the request is necessary in order to keep the new utility pole properly aligned with the existing transmission line. The project engineer has stated in writing that if the location of the utility pole falls out of alignment it would create added tension on the line and would require the replacement of several additional existing utility poles (see Attachment F.3).

Standard	Required	Proposed	Difference
Front Yard Setback (County Road)	50'	1'	98%

The alternative to the request would be for the applicant to locate the proposed utility pole within the right-of-way of County Road 15, or to locate the pole at or beyond the 50-foot front yard setback. Per the project engineer, either of these options would result in added line tension and the potential replacement of additional utility poles.

Existing Land Use:

The existing land use is agricultural. The property contains 160 acres and is zoned Agricultural Preservation.

Surrounding Land Use:

The surrounding land use is primarily agricultural.

NEIGHBOR NOTIFICATION

Property owners were notified of the request per the standards of Section 503 of the Zoning Ordinance and Minnesota State Statute §394.26.

VARIANCE CRITERIA

NOTE: According to Minnesota State Statute §394.27 Subd.7 “*practical difficulties*,” as used in connection with the granting of a variance, means that: the property owner proposes to use the property in a reasonable manner not permitted by an official control; **and** the plight of the landowner is due to circumstances unique to the property and not created by the landowner; **and** the variance will not alter the essential character of the locality.

*ALL SIX of the variance criteria **must** be answered
“True” in order for the variance to be granted.*

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

- The front yard standard is intended to provide a buffer between land uses. The proposal does not increase the potential for land use conflict. The property already contains a transmission line and will contain a replacement substation facility.
- The proposed variance decreasing the required front yard setback from 50 feet to 1-foot would result in a 98% reduction of the standard.
- The request is necessary to properly align the utility pole with both the existing transmission line and the replacement New Sweden substation.
- Per the project engineer, the improper alignment of the utility poles could result in damage to the transmission line and the need to replace additional poles.

2. The variance is consistent with the intent of the comprehensive plan:

- The county will ensure that land is used in an appropriate manner by minimizing conflicts between land uses. The property already contains an existing transmission line and is the site for Benco Electric’s replacement New Sweden substation facility.

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

- The request does appear to establish a practical difficulty.
- The plight is unique to the property due to the existing transmission line alignment and the location of the replacement New Sweden substation.
- The proposal will not increase the potential for land use conflict or result in the further development of agricultural lands – the site contains an existing transmission line and will contain the replacement New Sweden substation.
- The surrounding area will remain predominantly agricultural in nature.

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

- The plight appears to be the result of the location of the existing transmission line, the need to maintain proper alignment of the utility poles, and the location of the replacement New Sweden substation.

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

- The essential character of the surrounding area would remain predominantly agricultural regardless of whether the variance is granted.
- There is an existing transmission line running parallel to County Road 15.
- The property is the location for the replacement New Sweden substation to be built by Benco Electric.

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

- The practical difficulty does appear to include more than economic considerations alone.
- The practical difficulty is due to the need to keep the utility pole in proper alignment with the existing transmission line and replacement substation. The project engineer has stated that improper alignment may damage the existing transmission line.

RECOMMENDATIONS

If the request is approved, staff recommends the following conditions be attached:

1. The applicant undertakes the project according to the plans and specifications submitted to the county with the application.
2. The county may enter onto the premises at reasonable times and in a reasonable manner to ensure the variance holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. The project shall only proceed according to the plans and specifications submitted to the county with the application. Changes from what was approved may require seeking another variance, and/or further permitting from the Road Authority or Property Services.

Parcel No: 08.027.0600
Map No: 0627400001

**Applicant: Great River Energy
Landowner: Lavonne Olsen**

PLN21-24

ATTACHMENT A	Application
ATTACHMENT B	Variance Criteria
ATTACHMENT C	Location Map
ATTACHMENT D	Aerials
ATTACHMENT E	Neighbor Notification List
ATTACHMENT F	Documents Submitted by Applicant
F.1	Survey
F.2	Applicant Questionnaires
F.3	Engineer Email



PROPERTY SERVICES DIVISION
501 SOUTH MINNESOTA AVENUE, SAINT PETER MN 56082
507-934-7070

BOARD OF ADJUSTMENT & APPEALS
APPLICATION

Total Fees: \$446.00

Map#: 0627400001
Parcel# 080270600
Permit#: [PLN21-00024](#)
Date: May 27, 2021

Applicant: PETER SCHAUB, GREAT RIVER ENERGY, 12300 ELM CREEK BLVD, MAPLE GROVE MN 55369
Phone: 6128017370
Owner: OLSEN LAVONNE, 44646 COUNTY RD 15, NICOLLET MN 56074
Property Address: 0,
Abbreviated Legal Description: SE 1/4 ACRES 160.00
Township: New Sweden Township

Record Type: Variance

Category: Front Yard

Project Description: Reduce the front yard setback from 50 feet to one-foot, a reduction of 49 feet, for the purpose of installing a utility pole. Ref: 503, 602.4(2.A).

Hearing Date: 06/21/2021

GRE/Peter M Schaub
APPLICANT SIGNATURE

May 27, 2021
DATE

ATTACHMENT A
Application



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

Name of Applicant: Great River Energy
Property Owner: Lavonne Olsen
Date: June 21, 2021
File #: PLN21-24
Variance Requested: Reduce the front yard setback for the purpose of installing a utility pole

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>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

ATTACHMENT B
Criteria

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>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

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

Viewed by Members of Board:

- ☐ Wendinger
- ☐ Hermanson
- ☐ Laven
- ☐ Regenscheid
- ☐ Ubel

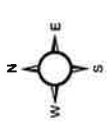
Facts supporting the answer to each question above are hereby certified as the Findings of the Nicollet County Board of Adjustments and Appeals.

Date: _____ Chair: _____



ATTACHMENT C
Location Map

Disclaimer: The information herein is intended to be a true representation of available records. However, there is no guarantee to the user as to the accuracy, suitability, or reliability of this data for any purpose. The Property Services Division of Nicollet County assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data.



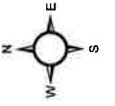
1:48,000 1 inch = 4,000 feet 0 2,000 4,000 Feet

Legend

 Olson Property



Disclaimer: The information herein is intended to be a true representation of available records. However, there is no guarantee to the user as to the accuracy, suitability, or reliability of this data for any purpose. The Property Services Division of Nicollet County assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data.



1:6,000 1 inch = 500 feet 0 255 510 Feet

ATTACHMENT D Aerial

BENCO CO-OP ELEC ASSN
PO BOX 8
MANKATO MN 56002

DALE & WAYNE BJORKLUND
36610 451ST AVE
SAINT PETER MN 56082

WAYNE & DALE BJORKLUND
36329 STATE HIGHWAY 22
NICOLLET MN 56074

DAVID & MICHELE GRAN
37135 425 AVE
SAINT PETER MN 56082

DAVID & VICKI HERMANSON
45209 COUNTY ROAD 15
NICOLLET MN 56074

DONALD & RHONDA HERMANSON
44893 COUNTY ROAD 15
NICOLLET MN 56074

CARROLL & ELAINE HERMANSON REV
TRUST
45213 COUNTY ROAD 15
NICOLLET MN 56074-4247

DAVID HERMANSON REV TRUST
45209 COUNTY ROAD 15
NICOLLET MN 56074

LAVONNE OLSEN
44646 COUNTY RD 15
NICOLLET MN 56074

SCOTT & AMY REGNER
45345 380TH ST
NICOLLET MN 56074

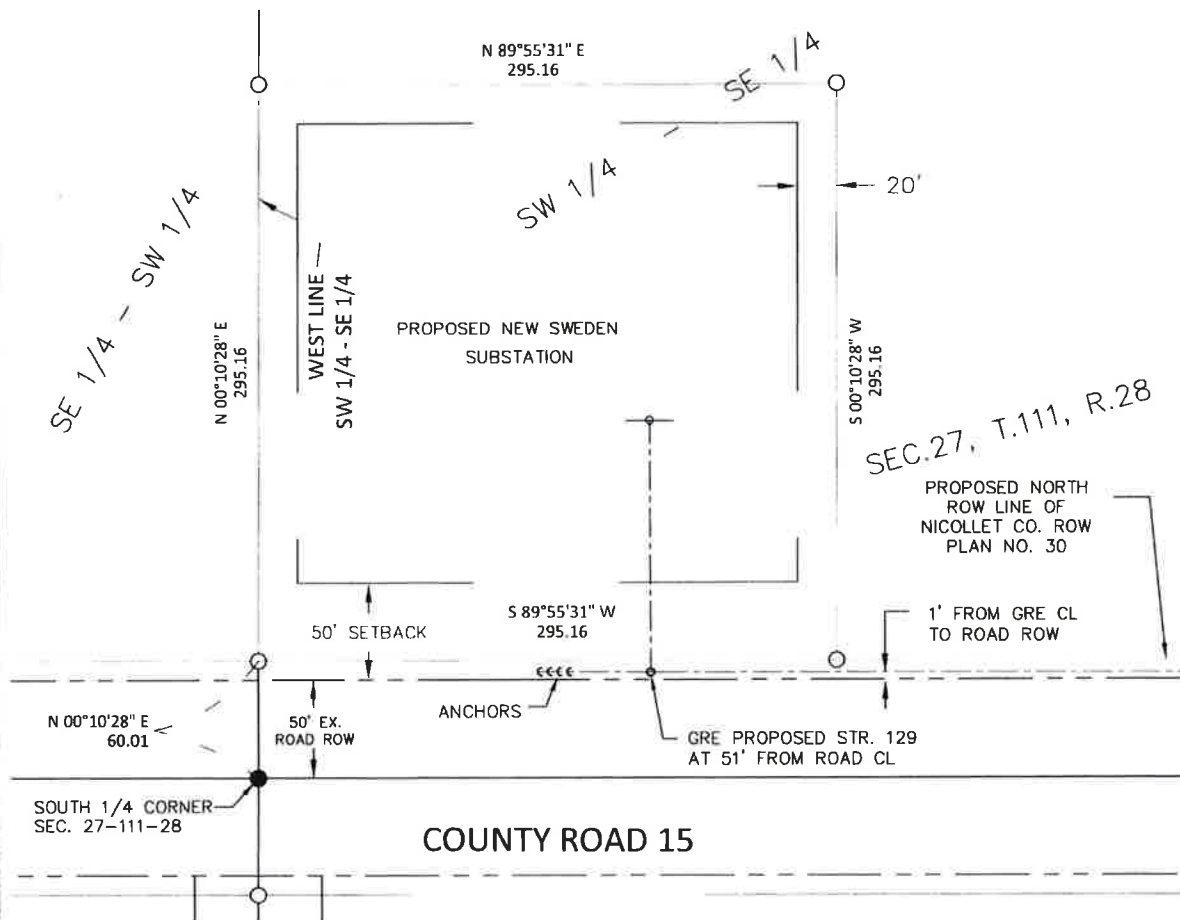
HAROLD & LOUISE RODNING TRUST
44562 CO RD 15
NICOLLET MN 56074

DOUGLAS & JUDITH SCHULTZ TRUST
45763 COUNTY ROAD 15
NICOLLET MN 56074

PAUL SWENSON
45672 380TH ST
NICOLLET MN 56074

NEW SWEDEN TOWN BOARD
36329 STATE HIGHWAY 22
NICOLLET MN 56074

ATTACHMENT E
Notification List



CERTIFICATION:

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.

Jacob R. Cunningham
 Jacob R. Cunningham
 MN License No. 49547

May 26, 2021

Date

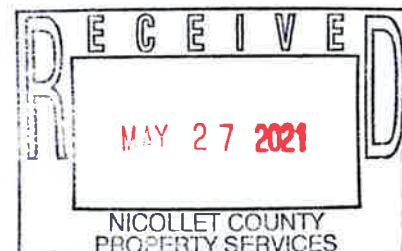
PROPOSED PROPERTY DESCRIPTION

That part of the Southwest Quarter of the Southeast Quarter of Section 27, Township 111 North, Range 28 West, Nicollet County, Minnesota, described as follows: Commencing at the South Quarter Corner of said Section 27; thence North 00 degrees 10 minutes 28 seconds East on the west line of said Southwest Quarter of the Southeast Quarter, a distance of 60.01 feet to the point of beginning; thence continuing North 00 degrees 10 minutes 28 seconds East on said west line, a distance of 295.16 feet; thence North 89 degrees 55 minutes 31 seconds East, a distance of 295.16 feet; thence South 00 degrees 10 minutes 28 seconds West, a distance of 295.16 feet; thence South 89 degrees 55 minutes 31 seconds West, a distance of 295.16 feet to the point of beginning.

Said parcel contains 2.00 acres of land.

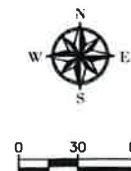
BASIS OF BEARINGS:

The bearings shown on the survey are based on the Nicollet County Coordinate System (1996 Adjustment).



LEGEND

- TRANSMISSION LINE
- ROAD RIGHT OF WAY LINE
- PROPERTY LINE



ENCLOSURE OF THIS DOCUMENT TO A THIRD PARTY CONSTITUTES AN OFFICIAL USE FOR OFFICIAL PURPOSES. NO NEW CONSTRUCTION IS SUBJECT TO OFFICIAL PERMISSION FROM GREAT RIVER ENERGY.			
GREAT RIVER ENERGY			
NEW SWEDEN SUBSTATION POLE VARIANCE SURVEY			
DATE	5-26-2021	PROJECT NO.	207440
SCALE	1"=60'	SHEET NO.	1
DATE	5-26-2021	BY	JACOB R. CUNNINGHAM
DATE	5-26-2021	BY	JACOB R. CUNNINGHAM
SHEET 1 OF 1			

ATTACHMENT F.1 Survey



VARIANCE APPLICANT QUESTIONNAIRE PROJECT DESCRIPTION

Name of Applicant: Great River Energy

Date: 5/21/21

Please describe the specific details related to your request, including but not limited to:

- why you feel the project is a *need* rather than a *want*;
- what alternatives you explored and the reasons they were not reasonable for you; and
- what use, or uses, the project will provide for you;

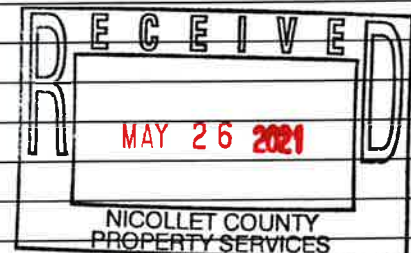
If your request is approved, you will be **held** to the plans and specifications submitted to the County with your application.

BENCO Electric Cooperative purchased property from Laverne Olsen (copy of deed to be provided), adjacent to CR 15, in the Southwest corner of the Southeast Quarter (SWSE)

of Section 27, Township 111 North, Range 28 West, Nicollet County, to construct its "New Sweden" Substation. To power the substation, it will be necessary for Great River Energy (GRE) to run its BE-NST 69-kV transmission line into the substation. The BE-NST line was constructed in 1967 and has been, and currently remains in its current location, approximately 50 from the CR 15 centerline. To run this tap into the substation, it is necessary to align the pole designated #129 so that it will sit 51 feet from the CR 15 centerline and directly in front of the substation high side. This places structure #129 one foot north of the edge of the current 50-foot road right-of-way width. Therefore, we are requesting a 49-foot variance from the 50 foot setback from road r-o-w requirement.

Placement of Structure #129 as described is proposed because it avoids putting an angle on the line and allows for the best alignment of the line entering into the substation. If #129 were to be placed closer to, or at the 50-foot setback requirement, the line tension created by the angle of such a location would require the removal of some existing poles to the east, and their replacement with additional poles farther north, in staggered locations leading up to #129. Such a configuration would lead to both an inferior engineering design and needless added costs. The requested, proposed alignment of structure #129 has been discussed with and approved by Nicollet County employee Seth Greenwood and county consultant Tyler Newhall in conjunction with discussions regarding the county's upcoming CR 15 project.

In summary, Great River Energy needs to provide the tap into the New Sweden substation, which will provide electric power to the surrounding area. The 49-foot requested variance is needed because the proposed location of structure #129 provides the best possible design configuration for the tap line into the substation, avoids both unnecessary additional structures and resulting costs and, avoids the need to acquire more easements for placement of additional poles in adjoining crop land.



ATTACHMENT F.2
Applicant Questionnaires

Name of Applicant: Great River Energy
Request: 59-foot variance from 50-foot setback for transmission pole

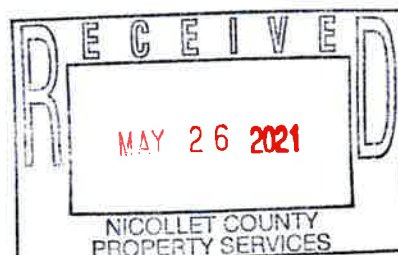
Date: 5/21/21

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.

Why do you feel the request meets the following criteria?

1. The variance is in harmony with the general purposes and intent of the official control.
Given that the variance requested would only move structure #129 one foot off its existing centerline, would allow for a more concise, efficient and economical engineering design and, avoid placing an unnecessary burden on adjoining agricultural property, the variance is in harmony. Assuming the purpose and intent of the control is to, among other things, provide reliability, consistency and limit unnecessary burdens on private and public interests.
2. The variance is consistent with the intent of the Comprehensive Plan.
The introduction to the Comprehensive Plan states that the intent is to promote, among other things the health, safety and general welfare, plan for the future, maintain agricultural heritage and, provide access to a high quality of life. The requested variance would allow efficient design and operation of an electric line to power an electric substation which, in turn allows for a high quality of life, planning for the future and aids in the health, safety and welfare of the community. Additionally, the variance helps limit additional use of ag. land and thereby preserve agricultural heritage.
3. The variance establishes a practical difficulty in complying with the official controls.
To follow the required setback would mean a less efficient line design and require use of a greater amount of agricultural land as well as increase costs of the project. Granting the variance allows for the efficient and economical placement of the line without burdening the existing land since the substation has already been granted a variance and the line hardly moves from its location that was established in the 1960s.
4. The plight of the landowner is due to circumstances unique to the property not created by the landowner.
While GRE's line will power the substation, it did not determine the location of the substation. Given the location of the substation, the most efficient and economical line design into the substation necessitates placing structure #129 in the proposed location and thereby seeking the requested variance.

(Continued onto back)



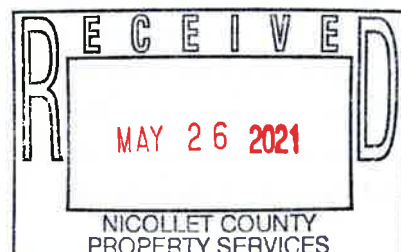
5. The variance will not alter the essential character of the locality.

The transmission line has been located approximately 50 feet from the centerline of CR 15 since the 1960s. The proposed placement of #129, for which the variance is requested, will be 51 feet from the centerline of the road. The land immediately adjacent to #129 will contain a substation. The land adjacent to the transmission line structures to the east of the requested variance structure is agricultural. Approving the variance will avoid disturbing the ag. land and won't alter the character or nature of the locality.

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

Although not granting the variance would cause additional costs to GRE, the other, and more important reasons for seeking the variance are: the variance permits both a better and more efficient engineering design of the line; and, avoids placing a greater burden on an uninvolved third-party land owner by not moving other structures farther north to account for the greater tension and pole replacements that would be required if the variance isn't granted.

***ALL SIX VARIANCE CRITERIA MUST BE MET
IN ORDER FOR THE REQUEST TO BE APPROVED.***



Jon Hammel

From: Schaub, Peter GRE-MG <pschaub@GREnergy.com>
Sent: Tuesday, June 8, 2021 8:01 AM
To: Jon Hammel
Subject: New Sweden variance

Hi Jon:

Here is the explanation from the line designer regarding the placement of the pole going into the New Sweden substation and the need for a variance.

Please let me know if you have additional questions.

Thank you,

Peter

*Peter M. Schaub
Great River Energy
Sr. Field Representative
(763) 445-5976: direct
(612) 801-7370: mobile*

**ATTACHMENT F.3
Engineer Email**

From: Paumen, Troy GRE-MG <TPaumen@GREnergy.com>
Sent: Monday, June 07, 2021 4:11 PM
To: Schaub, Peter GRE-MG <pschaub@GREnergy.com>
Subject: new Sweden explanation

Hi Pete,

Here is an explanation for the variance....

If GRE is required to move and install a new single pole at the setback from the road, since the existing transmission line is at 50ft from road centerline, this will cause an angle on an existing pole as you head east from the new substation location. Such an angle on a pole creates additional/unique design loads for which the original poles were not designed. Left in this manner, the existing pole would fail. Therefore, such an angle would cause the need to replace several poles east of #129 with poles large enough to accommodate the types of design loads such an angle would create.

If GRE were required to install a new single pole at the setback, there would be 2 options. Option number 1 is to replace several additional poles heading east from the new substation location with larger poles, which would cost more and would be a greater visual impact on the surrounding landscape. These additional poles would need to be installed at 50ft from road centerline in the same alignment as the existing transmission line. Option number 2, using similar sized poles, would be to move the entire transmission line heading east from the substation location, north more in alignment with the location of #129 at the setback distance. Allowing a variance to place pole #129 is the most efficient and sound means of moving the transmission line into the New Sweden substation.

You may also want to mention that the County road department was adamant that we only replace 1 pole. This is why we moved forward with placing the new pole At 51ft.

Thanks
Troy

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[Total Control Panel](#)

[Login](#)

To: jon.hammel@co.nicollet.mn.us

[Remove](#) this sender from my allow list

From: pschaub@grenergy.com

You received this message because the sender is on your allow list.

NOTICE:

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VARIANCE

**REDUCE SETBACK BETWEEN A
STRUCTURE USED FOR CANINE
CONFINEMENT AND PROPERTY LINE,
REDUCE SETBACK BETWEEN OUTSIDE
FENCED RUN AND PROPERTY LINE,
FOR PURPOSE OF ESTABLISHING A
COMMERCIAL BREEDING KENNEL**

**JANA & JAMES MOEDING /
JERALD & PHYLLIS KUEHN
REVOCABLE TRUST**

PLN21-25

NICOLLET COUNTY BOARD OF ADJUSTMENT & APPEALS

SUBJECT:	PLN21-25, Variance
APPLICANT:	Jana and James Moeding
LANDOWNER:	Jerald and Phyllis Kuehn Revocable Trust
LOCATION:	Part of the Southwest ¼ of Section 7-110-26 in Traverse Township
PARCEL NO:	12.107.1105
EXISTING ZONING:	Agricultural Preservation, Conservancy
HEARING DATE:	June 21, 2021

REQUEST

The applicant has submitted a two-component variance request for a commercial breeding kennel. The variance components include:

- Reducing the setback between a structure used for canine confinement (i.e. kennel building) and the property line from 100 feet to 48 feet, a reduction of 52 feet.
- Reducing the setback between an outside fenced run and the property line from 100 feet to 42 feet, a reduction of 58 feet.

The applicants currently operate Rosewood Kennel in Montevideo, Minnesota. Their proposal is to relocate the kennel to Nicollet County in order to be closer to the applicants' family. In addition to their variance request, the applicants have also applied for a conditional use permit for a commercial breeding kennel. The applicants cross Golden Retrievers and Poodles to breed Goldendoodles. The kennel will contain no more than a total of 18 adult dogs, including no more than 13 unsterilized females. Females are bred for five years and are then rehomed to families free of charge. The business would generally not be open to the public and would essentially be by appointment only. When the puppies are 6 weeks of age they meet potential owners. The puppies are then matched with customers and at 8 weeks, the puppies are sent home with their new families. The applicants intend to utilize existing buildings for the kennel operation, including:

- 20' x 26' granary – would be used as a nursery with 5 outside fenced dog runs.
- 20' x 40' chicken house – would be used as the main kennel with 10 outside dog runs.
- 20' x 32' shop/machine shed – would be used as a shop.

The closest non-associated dwelling is located 880 feet southeast of the proposed facility. This meets the required 500-foot kennel to dwelling setback as per Section 720.2 of the Zoning Ordinance.

Standard	Required	Proposed
Structures used for animal (canine) confinement from property line	100'	48' (Variance Request)
Outside fenced run areas to property line	100'	42' (Variance Request)
Structures used for animal (canine) confinement from existing dwellings	500'	880'
Outside fenced run areas to existing dwellings	500'	880'

The project includes splitting the existing property. The building site would be split from the agricultural and natural environment portions of the property. The east property line of the proposed split runs along the boundary of the agricultural cropland. This results in a property line that does not provide enough room to accommodate the required setbacks. The applicant has stated the request is necessary because the existing landowner is not willing to sell the additional agricultural land needed to meet the setbacks.

An alternative to the project would be to move the proposed eastern property line in a manner that provides the additional space for the applicants to meet the 2 setbacks. Another alternative would be to relocate the proposed kennel structure and fenced run in a manner that meets the required setbacks.

Existing Land Use:

The property contains 65.8 acres and is zoned a mix of Agricultural Preservation and Conservancy. The building site contains a dwelling, garage, barn, chicken house, granary, and three (3) machine sheds.

Surrounding Land Use:

The surrounding land use is primarily agricultural. The property is approximately ¾ of a mile west of the City of Saint Peter.

NEIGHBOR NOTIFICATION

Property owners were notified of the request per the standards of Section 503 of the Zoning Ordinance and Minnesota State Statute §394.26.

VARIANCE CRITERIA

NOTE: According to Minnesota State Statute §394.27 Subd.7 “*practical difficulties*,” as used in connection with the granting of a variance, means that: the property owner proposes to use the property in a reasonable manner not permitted by an official control; **and** the plight of the landowner is due to circumstances unique to the property and not created by the landowner; **and** the variance will not alter the essential character of the locality.

*ALL SIX of the variance criteria **must** be answered
“True” in order for the variance to be granted.*

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

- The two setbacks (canine confinement structure to property lines; outside fence run to property lines) are intended to provide a buffer between the kennel facility and adjacent land uses.
- The proposal results in a 52% reduction of the canine animal confinement setback and a 58% reduction of the outside fenced run setback.
- The applicants are proposing to utilize existing structures for the kennel.
- The new lot on which the kennel is to be located has not yet been created. The proposed eastern lot line could be shifted eastward to accommodate the required setback distances.

2. The variance is consistent with the intent of the comprehensive plan:

- The plan states that the county will ensure that land is used in an appropriate manner by minimizing conflicts between land uses. However, the project may result in an increase for land use conflict by decreasing the buffer between land uses. For example, the adjacent property is eligible for the construction of a new single family home. Unlike the feedlot setback, the kennel setbacks are not reciprocal.
- The plan also promotes the conservation of agricultural land. The request does not involve the further development of agricultural land.

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

- The request does not appear to establish a practical difficulty.
- The difficulty lies in the existing landowner not wanting to part with additional agricultural land and the location of the lot lines for the proposed new property.
- The proposal may increase the potential for land use conflict by reducing the kennel setbacks.
- With or without the variance, the applicant is not denied reasonable use of the property. The applicant could continue to use the property as a residential, feedlot, or farm site. Alternatively, a kennel could be located on the property in a manner that meets the required setbacks.

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

- The plight appears to be due to the location of the proposed lot lines for the new property in relation to the existing structures to be used for the kennel. The design of the proposed lot could be altered to adhere to the required setbacks.
- The plight is also do the existing landowner's desire to not sell any additional agricultural land.

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

- The essential character of the locality would remain predominantly agricultural regardless of whether the variance is granted.

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

- The applicant has not submitted any financial information.
- The difficulty appears to be caused by the existing landowner's desire to not sell any additional agricultural land and the location of the existing structures to be utilized by the proposed kennel.

RECOMMENDATIONS

If the request is approved, staff recommends the following conditions be attached:

1. The applicant undertakes the project according to the plans and specifications submitted to the county with the application.
2. The county may enter onto the premises at reasonable times and in a reasonable manner to ensure the variance holder is in compliance with the conditions and all other applicable statutes, rules, and ordinances.
3. The applicant must obtain the appropriate zoning permits prior to construction, including any earthwork or site preparation.
4. The zoning permit is invalid if the variance holder has not substantially completed the structure within the period of time allowed on the zoning permit connected with this variance.
5. The applicants must have an issued conditional use permit for the facility prior to commencement of kennel operations.

Parcel No: 12.107.1105

Map No: 1407300014

Applicant: Jana and James Moeding
Landowner: Jerald and Phyllis Kuehn Revocable Trust

PLN21-25

ATTACHMENT A	Application
ATTACHMENT B	Variance Criteria
ATTACHMENT C	Location Map
ATTACHMENT D	Aerials
ATTACHMENT E	Neighbor Notification List
ATTACHMENT F	Documents Submitted by Applicant
F.1	Survey
F.2	Site Plan
F.3	Applicant Questionnaires



PROPERTY SERVICES DIVISION
501 SOUTH MINNESOTA AVENUE, SAINT PETER MN 56082
507-934-7070

BOARD OF ADJUSTMENT & APPEALS
APPLICATION

Total Fees: \$446.00

Map#: 1407300014
Parcel# 121071105
Permit#: PLN21-00025
Date: May 28, 2021

Applicant: JANA AND JIM MOEDING, , 2056 60TH AVE NW, MONTEVIDEO MN 56265

Phone: 3202697716

Owner: KUEHN REV TRUST, JERALD H & PHYLLIS A, 36923 COUNTY ROAD 15, SAINT PETER MN 56082

Property Address: 36923 COUNTY ROAD 15, ST PETER MN 56082

Abbreviated Legal Description: W 1/2 W 1/4 LYG S OF SA 15 "EX ROW PLAT 13" ACRES 50.39 & TRACT COMM
CENT SEC SLY 781.80'; SLY 673.73'; WLY 574.92'; SLY 179.59'; W 322.17'; & W 411.21' TO POB; E 411.21'; & 322.17';
NLY TO N LN S 3/4 OF E 1/2 SW 1/4 ALONG SAID N LINE TO INT

Township: Traverse Township

Record Type: Variance

Category: Performance Standard

Project Description: Reduce the setback between a structure used for animal confinement and the property line from 100 feet to 48 feet, and reduce the setback between an outside fenced run and the property line from 100 feet to 42 feet, for the purpose of establishing a commercial breeding kennel. Ref: 503, 720.2 (2), 720.2(5).

Hearing Date: 06/21/2021


APPLICANT SIGNATURE

5/28/21
DATE

ATTACHMENT A
Application



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

Name of Applicant: Jana and James Moeding **Date:** June 21, 2021
Property Owner: Jerald and Phyllis Kuehn Revocable Trust **File #:** PLN21-25
Variance Requested: Reduce the setback between a structure used for animal confinement and the property line, and reduce the setback between an outside fenced run and the property line, for the purpose of establishing a commercial breeding kennel

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>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

ATTACHMENT B
Criteria

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>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

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

	YES	NO	ABSTAINED	ABSENT	<u>WHY:</u>
David Wendinger	☐	☐	☐	☐	
David Hermanson	☐	☐	☐	☐	
Justin Laven	☐	☐	☐	☐	
Ron Regenscheid	☐	☐	☐	☐	
Dave Ubel	☐	☐	☐	☐	

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:

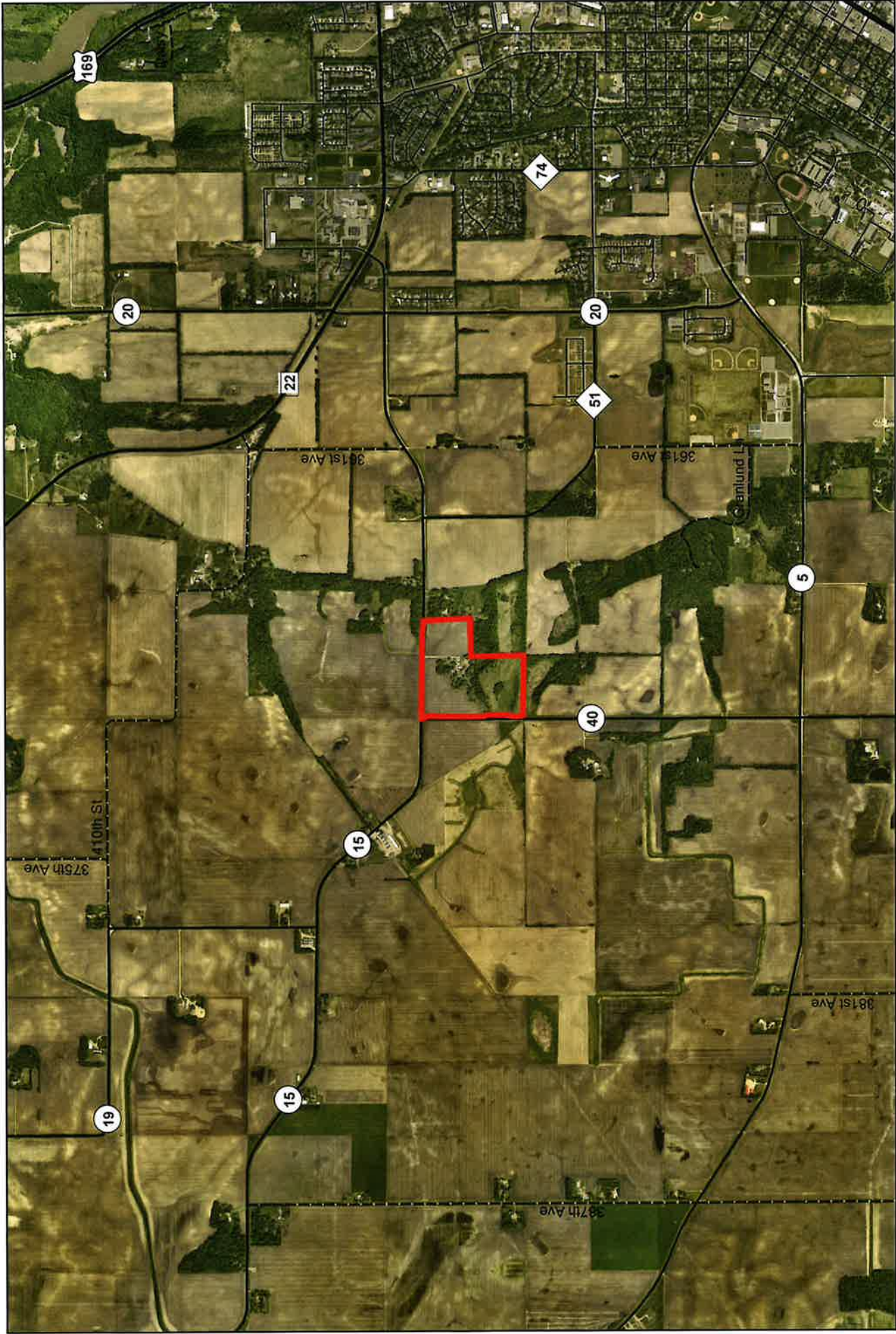
- ☐ Application
- ☐ Staff Report
- ☐ Pictures
- ☐ Information received at public hearing

Viewed by Members of Board:

- ☐ Wendinger
- ☐ Hermanson
- ☐ Laven
- ☐ Regenscheid
- ☐ Ubel

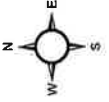
Facts supporting the answer to each question above are hereby certified as the Findings of the Nicollet County Board of Adjustments and Appeals.

Date: _____ Chair: _____



Disclaimer: The information herein is intended to be a true representation of available records. However, there is no guarantee to the user as to the accuracy, suitability, or reliability of this data for any purpose. The Property Services Division of Nicollet County assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data.

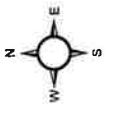
1:30,000 1 inch = 2,500 feet



ATTACHMENT C **Location Map**



Disclaimer: The information herein is intended to be a true representation of available records. However, there is no guarantee to the user as to the accuracy, suitability, or reliability of this data for any purpose. The Property Services Division of Nicollet County assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data.



1:3,600 1 inch = 300 feet 0 150 300 Feet

ATTACHMENT D Aerial

BRENDA DEBLIECK REV TRUST
36910 COUNTY ROAD 15
SAINT PETER MN 56082

TIMOTHY & LISA ENZ
42297 387TH AVE
SAINT PETER MN 56082

THOMAS HERGERT
36706 COUNTY ROAD 15
SAINT PETER MN 56082

DEBRA KING
23527 COUNTY RD 40
NEVIS MN 56467

LUKE KRUEGER
62385 215TH ST
EAGLE LAKE MN 56024

JERALD & PHYLLIS KUEHN REV TRUST
36923 COUNTY ROAD 15
SAINT PETER MN 56082

DAVID & MARY MOGENSEN REV TRUST
46599 391ST AVE
SAINT PETER MN 56082

NATHAN & MACEYLYN NEWHOUSE
36815 COUNTY ROAD 15
SAINT PETER MN 56082

BARBARA OLMANSON
40497 COUNTY RD 20
SAINT PETER MN 56082

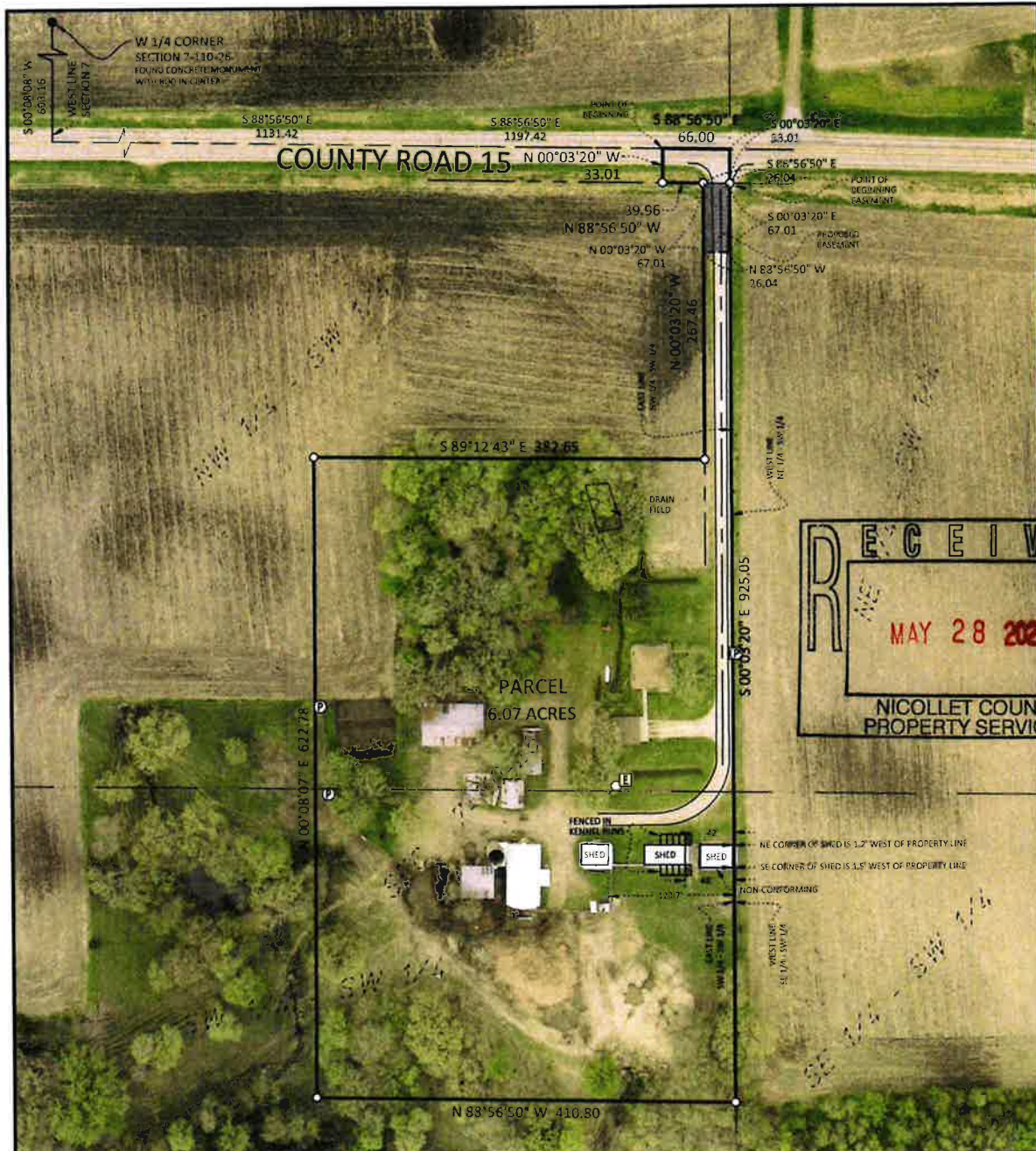
VERL & SANDRA PETTIS
36753 COUNTY ROAD 15
SAINT PETER MN 56082

LOREN STAUFF REV TRUST
1220 STATE HIGHWAY 99 E
CLEVELAND MN 56017

MARK & JACALYN WETTERGREN
42238 371ST AVE
SAINT PETER MN 56082

SCOTT & AMY WOLFE
124 LYNX LN
MANKATO MN 56001

TRAVERSE TOWN BOARD
41416 403RD AVE
SAINT PETER MN 56082



PROPOSED DESCRIPTION

That part of the Northwest Quarter of the Southwest Quarter and that part of the Southwest Quarter of the Southwest Quarter of Section 7, Township 110 North, Range 26 West, Nicollet County, Minnesota, described as follows: Commencing at the West Quarter Corner of said Section 7; thence South 00 degrees 08 minutes 08 seconds West (bearing based on Nicollet County Coordinate System NAD83, 1996 Adjustment) on the west line of said Section 7, a distance of 693.16 feet; thence South 88 degrees 56 minutes 50 seconds East, a distance of 1131.42 feet to the point of beginning; thence continuing South 88 degrees 56 minutes 50 seconds East, a distance of 66.00 feet to the east line of said Northwest Quarter of the Southwest Quarter and the Southwest Quarter of the Southwest Quarter; thence South 00 degrees 03 minutes 20 seconds East on said east lines, a distance of 925.05 feet; thence North 88 degrees 56 minutes 50 seconds West, a distance of 410.80 feet; thence North 00 degrees 08 minutes 07 seconds East, a distance of 622.78 feet; thence South 89 degrees 12 minutes 43 seconds East, a distance of 382.65 feet; thence North 00 degrees 03 minutes 20 seconds West, a distance of 267.46 feet; thence North 88 degrees 56 minutes 50 seconds West, a distance of 39.96 feet; thence North 00 degrees 03 minutes 20 seconds West, a distance of 33.01 feet to the point of beginning.

Said parcel contains 6.07 acres of land.

LEGEND

- 3/4" IRON PIPE MONUMENT SET MARKED BY LIC. NO. 46564
- MONUMENT FOUND

REVISED ORIGINAL SURVEY: 5-28-2021

SURVEYOR'S CERTIFICATION

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.

Michael M. Eichers

Michael M. Eichers
License Number 46564

09/18/2020
Date



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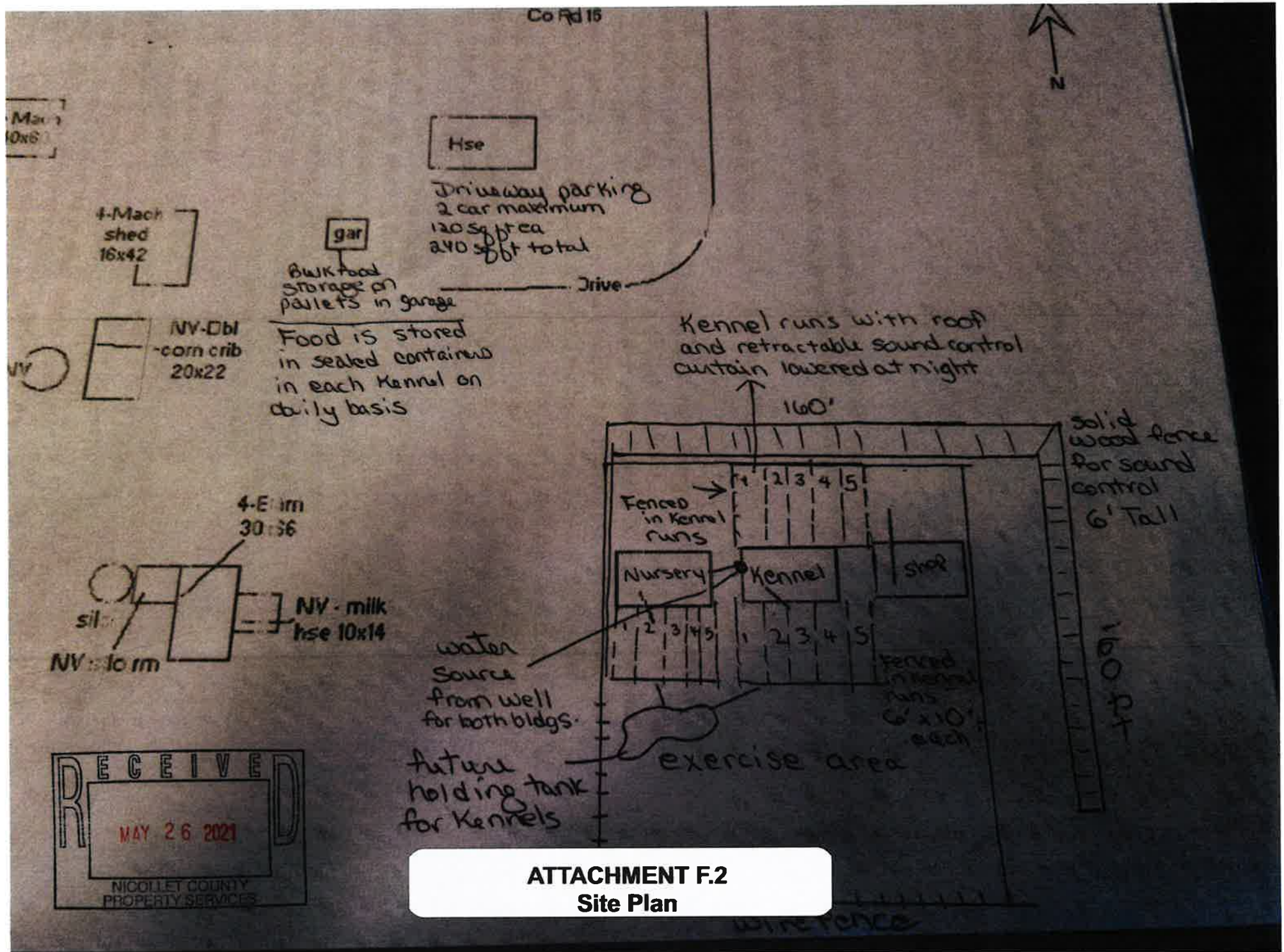
CERTIFICATE OF SURVEY
TRAVERSE TOWNSHIP, NICOLLET COUNTY, MINNESOTA

BOLTON & MENK

1960 PREMIER DRIVE
MANKATO, MINNESOTA 56001
(507) 625-4171

THAT PART OF THE NW 1/4 OF THE SW 1/4 OF SECTION 7, TOWNSHIP 110 NORTH, RANGE 26 WEST, TRAVERSE TOWNSHIP, NICOLLET CO., MN FOR: JERRY KUEHN

ATTACHMENT F.1
Survey



ATTACHMENT F.2
Site Plan



VARIANCE APPLICANT QUESTIONNAIRE

Name of Applicant: James + Jana Mording Date: 5/26/21
Request: _____

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.

Why do you feel the request meets the following criteria?

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

Variance is needed for us to use buildings that
are already on the property for our kennel.

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

See above

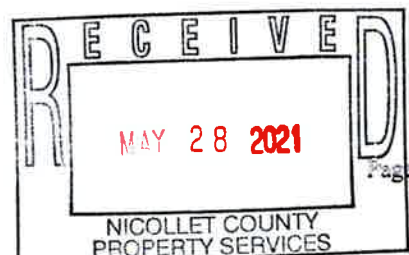
3. The variance establishes a practical difficulty in complying with the official controls.

Since setback requirements are 100 ft we need
the Variance to utilize buildings already on
the property.

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

Again we are wanting to use buildings for this
we have looked at dozens of properties in 3 counties and
this property seemed to be the very best for our
relocation of our kennel.

(Continued onto back)





VARIANCE APPLICANT QUESTIONNAIRE

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

in using buildings we are keeping the character of the locality. The kennel can be dismantled when we retire.

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

Should we not be granted the variance we will be unable to move closer to our family. This is our sole reason for moving.

***ALL SIX VARIANCE CRITERIA MUST BE MET
IN ORDER FOR THE REQUEST TO BE APPROVED.***



Name of Applicant: James & Jana Meeching

Date: 5/25/21

Please describe the specific details related to your request, including but not limited to:

- why you feel the project is a *need* rather than a *want*;
- what alternatives you explored and the reasons they were not reasonable for you; and
- what use, or uses, the project will provide for you;

If your request is approved, you will be held to the plans and specifications submitted to the County with your application.



We have been running our Kennel for 15 yrs. It is our passion. We love where we are currently. However, our family is in Lake Crystal & Jeffers. One of our daughters has had surgery for cancer and the other is pregnant with an 4th grandchild. We very much want to move to be closer to them and to be able to help out when needed.

The Kennel provides us our retirement income. Without it, we will be unable to move.

Our plan is to do this for 4 to 5 yrs and then to retire from it. We will then return the property to what it currently is.

There is a feedlot on the property which we will terminate if allowed to have our kennel. It would provide us with income if we kept it but we worry about what it is doing to the land & water.

We have looked at dozens of properties in 3 counties and this is the one we felt held the most promise.

It has been an exhaustive process. Real estate goes so quickly it has been difficult. We finally found a landowner willing to work with us & we don't want to lose this opportunity.