

**WINONA COUNTY BOARD OF ADJUSTMENT MINUTES
JANUARY 19, 2023 – 1:00 PM**

1. Call to Order: Chair Robert Redig called the meeting to order at 1:00 p.m.

Board Members Present: Robert Redig, Elizabeth Heublein, Jordan Potter and Kelsey Fitzgerald

Absent: Ed Walsh

Others Present: Kay Qualley, Planning & Environmental Services Director; Alex Thillman, Assistant Winona County Attorney; Eric Johnson, Zoning Administrator; Olivia Luther, Planner and Anne Schwertel, Administrative Specialist

2. Pledge of Allegiance: The Pledge of Allegiance was recited.

3. Election of Chair and Vice Chair

Planning Director, Kay Qualley, explained the role of Secretary is the responsibility of the Planning & Environmental Services Department.

A. Chair

Planning Director, Kay Qualley, called for nominations for the Board of Adjustment Chair. Jordan Potter nominated Robert Redig. Hearing no other nominations, Kay Qualley called for a vote on Robert Redig as the 2023 Board of Adjustment Chair. Vote: Yes – 3; No – 1 (RR). Robert Redig said he would accept the Chair position of the Board of Adjustment.

B. Vice-Chair

Planning Director, Kay Qualley, called for nominations for the Board of Adjustment Vice-Chair. Kelsey Fitzgerald nominated Jordan Potter. Hearing no other nominations, Planning Director, Kay Qualley, called for a vote on Jordan Potter as the 2023 Board of Adjustment Vice-Chair. Vote: Yes – All.

4. Approval of Agenda: On motion of Jordan Potter and seconded Elizabeth Heublein, the Board of Adjustment voted to approve the agenda. Vote: Yes – All.

5. Approval of the November 17, 2022 Minutes: On motion of Jordan Potter and seconded by Elizabeth Heublein, the Board of Adjustment voted to approve the minutes. Vote: Yes – All.

6. Rules of Procedure: Annual Review and Adoption

Planning Director, Kay Qualley, addressed the Board of Adjustment and explained the process of reviewing and adopting the Rules of Procedures annually. On motion by Jordan Potter and seconded by Elizabeth Heublein, the Board of Adjustment voted to re-adopt the Rules of Procedures. Vote: Yes – All.

50 **7. Recommendation to the County Board: Planning Commission Liaison**

51 Robert Redig nominated Jordan Potter as the Planning Commission Liaison. Hearing no further
52 nominations, the Board of Adjustment voted on the recommendation to the County Board of Jordan
53 Potter as the Liaison to the Planning Commission. Vote: Yes – All.

54
55 **8. Petitions**

56
57 **Docket # BOA 01-19-23-01**

58 To consider the petition of Olson Solar Energy (applicants) and Vanguard Valley LLC (landowner),
59 who seek a Variance regarding the following:

- 60
- 61 • To allow construction of a ground-mount solar array 71 feet from the centerline of County
62 Road 1 instead of the required roadway setback of 130 feet, pursuant to Chapter 10.5.1(b)(I) of
63 the Winona County Zoning Ordinance.

64
65 Chair Robert Redig read the petition request aloud.

66
67 Planner Olivia Luther gave a PowerPoint presentation which included overview mapping exhibits of the
68 parcel and proposed solar array installation location, and other project details. She explained the project
69 was originally noticed for a 54' roadway setback, however, the petitioners changed the distance to 71'
70 based on Winona County Highway review of the site plan. Site considerations and photos were shared.
71 Township acknowledgement from Dresbach Township was received, which indicated "no comment" in
72 regard to the request.

73
74 The Board of Adjustment members asked questions about tree removal for the solar array location.

75
76 On motion of Elizabeth Heublein and seconded by Jordan Potter, the Board of Adjustment voted to open
77 the public hearing. Vote: Yes – All.

78
79 Chair Robert Redig asked three times if any members of the public wished to speak for or against the
80 petition; no response.

81
82 On motion of Elizabeth Heublein and seconded by Jordan Potter, the Board of Adjustment voted to close
83 the public hearing. Vote: Yes – All.

84
85 Booker Bredlau, Olson Solar representative, connected to the meeting via RingCentral and shared that
86 their plan was to leave the tree root system and plant shrubbery around the solar array. Additionally, the
87 array will sit about 6' lower than the road.

88
89 Jordan Potter asked if it was considered to use the existing shed roof for the solar array, but it was not a
90 discussion between the solar company and landowner.

91
92 The Board of Adjustment and staff discussed the setback distance from the road and landscape screening
93 that would be needed.

94
95 On motion of Elizabeth Heublein and seconded by Kelsey Fitzgerald, the Board of Adjustment voted to
96 adopt the Findings of Fact as presented and to approve the variance with the conditions as presented.
97 Vote: Yes – All.

98

99 Chair Robert Redig read aloud the appeal to District Court.

100
101 **Findings of Fact:**

- 102 1. The variance request is in harmony with the intent and purpose of the ordinance.

103 *This request asks for a variance to the highway centerline setback requirements established for the*
104 *Rural Heritage Zoning District. Structural setbacks were established in the ordinance for the health*
105 *and safety of present and future residents. The configuration proposed by the petitioners in their*
106 *application ensures that the proposed solar array will stay outside of County Road 1 right of way and*
107 *therefore will not present a risk to community health and safety, in harmony with the purpose of the*
108 *ordinance.*

- 109 2. The variance request is consistent with the comprehensive plan.

110 *The Comprehensive Plan indicates that a goal of rural residential zoning designation is to “minimize*
111 *land use conflicts and consider service and infrastructure needs and environmental impact”. The*
112 *petitioners have stated that the solar array will be tied into the local utility grid. Therefore, the*
113 *proposed use will help address infrastructure needs by providing the area with an alternative source*
114 *of energy and is consistent with the comprehensive plan.*

- 115 3. The applicant has established that there are practical difficulties in complying with the official control
116 and proposes to use the property in a reasonable manner.

117 *The location and layout of the existing structures and topography of the site do not provide any other*
118 *suitable locations where a ground-mounted solar PV system can be sited, therefore practical*
119 *difficulties in that respect have been established for this parcel for the size and the revised layout*
120 *preferred by the contractor.*

- 121 4. The variance request is due to special conditions or circumstances unique to the property not created
122 by owners of the property since enactment of the Ordinance.

123 *The location and layout of the existing structures and topography of the site do not provide any other*
124 *suitable locations where a ground-mounted solar PV system can be sited. The proposed location*
125 *takes advantage of the sunlight access from the open space alongside County Road 1 while*
126 *maintaining the maximum amount natural vegetation and existing grade of the property.*

- 127 5. The variance will not alter the essential character of the locality nor substantially impair property
128 values, or the public health, safety, or welfare in the vicinity.

129 *The Winona County Highway Department was noticed of the petition and concluded that a setback of*
130 *71 feet would be sufficient to significantly reduce the potential for conflict with a future highway*
131 *project and also mitigate any potential threat to public safety. Additionally, the surrounding area*
132 *contains historic nonconforming structures that have similar setback distances as the one proposed*
133 *here. The property is located on a road designated as a scenic by way. As such, granting the variance*
134 *- with the conditions outlined below - would not alter the essential character of the locality.*

- 135 6. Economic considerations alone do not constitute practical difficulties.

136 *The variance is requested due to site topography considerations.*

- 137
138 7. The variance cannot be alleviated by a reasonable method other than a variance and is the minimum
139 variance which would alleviate the practical difficulty.

140 *The petitioner’s proposed location is the most reasonable configuration for a ground mount solar*
141 *system. No other area on the property has been identified which can accommodate this layout.*
142 *Alternatives would involve drastic changes to the existing bluff vegetation as well as natural grade,*

143 which carry their own complications. As such, The request would be considered the minimum
144 variance needed in order to alleviate the practical difficulty facing the petitioners.

- 145
146 8. The request is not a use variance and does not have the effect of allowing any use that is not allowed
147 in the zoning district, permit a lower degree of flood protection than the regulatory flood protection
148 elevation or permit standards lower than those required by State Law.

149 *The proposed use is permitted in the rural heritage zoning district and is not in a floodplain. The*
150 *request does not lower the degree of flood protection established by the Regulatory Flood Protection*
151 *Elevation or lessen State Law standards.*


152
153 **With the following conditions:**

- 154 1. The owner(s) of the property to which this Variance is issued, will abide by all representations and
155 commitments made during the permitting process as well as before the Board of Adjustment to the
156 extent, they are not inconsistent with the spirit or letter of explicit conditions to the variance.
- 157
158 2. The petitioners obtain the required Development Certificate and complies with all relevant
159 regulations and standards of Winona County and the State of Minnesota, to include meeting the
160 State Electrical Code, and obtaining the required permits and inspection if applicable.
- 161
162 3. An erosion and sediment control plan developed by a licensed engineer or a professional
163 geologist or other qualified individual that has experience in building, earth work, and soil
164 erosion control which is deemed acceptable to Winona County Planning & Environmental
165 Services and the Winona County Soil & Water Conservation District (SWCD) for
166 implementation with the project, shall be approved prior to the issuance of a Development
167 Certificate.
- 168
169 4. A landscaping screening plan shall be submitted by a qualified individual in accordance with
170 Section 9.1.5 and Table 9 of the Winona County Zoning Ordinance and reviewed by the Winona
171 County Planning & Environmental Services Department prior to the issuance of a Development
172 Certificate.

173
174 **9. Adjourn**

175 On motion of Jordan Potter and seconded by Kelsey Fitzgerald, the Board of Adjustment voted to
176 adjourn at 1:28p.m. Vote: Yes – All.

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178
179 Respectfully submitted by,
180 Anne Schwertel
181 Administrative Specialist

182
183
184
185 Signed by  _____
186 Board of Adjustment Chair/Vice Chair

2/16/23
Date