

MINUTES-PLANNING COMMISSION/BOARD OF ADJUSTMENTS MEETING

Tuesday, August 9, 2022 7:00 P.M. COMMISSIONERS ROOM, LYON COUNTY GOVERNMENT CENTER, MARSHALL, MN.

MEMBERS PRESENT: DeBaere, Meulebroeck, C. Olson, Louwagie

OTHERS PRESENT: Biren, Springstead, Crowley, Graupmann, Kevin Hart, Darrell Mercie-Lake Marshall Township, Jerae Wire – East River Electric

ABSENT: Sleiter

Biren opened the meeting at 7:00 p.m.

All present recited the Pledge of Allegiance

Identify any conflicts of interest: None

AMEND/APPROVE AGENDA: DeBaere moved, seconded by Meulebroeck to approve the agenda as presented. All in favor, motion carried

Minutes for the July 12, 2022 meeting reviewed. Meulebroeck moved, seconded by Louwagie to approve the minutes as presented. All in favor motion carries.

BOARD OF ADJUSTMENTS:

A REQUEST HAS BEEN MADE to the Lyon County Planning and Zoning Administrator by Kevin & Ivonne Hart for a variance request to construct a Garage Addition, Twelve (12) feet from the property line. This is a Thirteen (13) foot variance request.

The area representing the request is zoned agricultural. The property is described as follows:

All that part of the West Half (W 1/2) of Section Twenty Six (26), Township One Hundred Eleven (111) North, of Range Forty-One (41) West, Lake Marshall Township, Lyon County, Minnesota.

Biren: Introduces Kevin Hart. Biren proceeds to explain project.

Hart: Explains why the garage addition should be where they are proposing. I talked to the neighbor to make sure it was okay with her. The septic drain field is behind the existing garage, so I can't go that direction and to the north is water sitting because it is lower lying area.

Olson: So the structure is attaching to the current garage?

Hart: Yes, I want to park my motorhome in there, so that is the whole purpose of the project. It will match what is there.

Biren: I asked Kevin to give you a drawing to what he is proposing. It is in your board packets.

Olson: It helps to see the contour lines. Any other questions?

Meulebroeck: So your door will be towards the highway?

Hart: Yes, there won't be anything other than a window on the other side.

Biren: Lake Marshall Township board – Darrell Mercie is present and the town board has no problem with the variance. There was no public comment.

Olson: Any other questions? Let's move on to the findings of fact.

Olson: Read through Findings of Facts.

Board agrees with all findings of fact and answers yes to all of the findings of facts.

Olson: Read proposed motion for Board of Adjustments- Kevin & Ivonne Hart for a variance request to construct a Garage Addition, Twelve (12) feet from the property line. This is a Thirteen (13) foot variance request.

The area representing the request is zoned agricultural. The property is described as follows:

All that part of the West Half (W 1/2) of Section Twenty Six (26), Township One Hundred Eleven (111) North, of Range Forty-One (41) West, Lake Marshall Township, Lyon County, Minnesota.

With the following stipulations:

1. That if any of the work performed as allowed by the granting of this variance is ever impacted or required to be removed, the cost of such impact shall be borne by the landowner, including removal and/or relocation of property and facilities.
2. Must obtain a building permit prior to construction.
3. The purpose of which the variance was granted shall be undertaken by the applicant within 18 months of the granting of the variance. For good cause, the Zoning Administrator may grant an administrative extension of up to 12 months. Said extension shall be in writing. If the applicant fails to establish use of the variance within said time limits, the variance shall expire.
4. Adopt Findings of Fact as part of Motion.
5. A copy of this Motion shall be filed with the County Recorder's Office along with the legal description of the property. Additional fees to be paid by the applicant for the actual costs incurred by the county for the recording fees.

Motion by Meulebroeck, 2nd by Louwagie to approve the Variance Permit request.

VOTING FOR: Meulebroeck, DeBaere, Olson, Louwagie

OPPOSED: None

ABSTAINED: None

ABSENT: Sleiter

All in favor, motion carried.

PLANNING COMMISSION:

A REQUEST HAS BEEN MADE to the Lyon County Planning and Zoning Administrator by East River Electric Power Cooperative for a Conditional Use Permit – Major Essential Service Request to install a 69KV Transmission line (T-line) in the road right-of-way. The area affected is zoned agricultural and described as follows:

Nordland Township – Sections 17,16 ,15,14,23 and 24, parallel to County Road 8 and County Road 3 in the road right-of-way at a 48' alignment from the highway centerline. The transmission line will be placed at a 31' alignment along 310th St and a 48' alignment along 57th or as documentation on the Utility Permit issued by the Lyon County Highway Engineer.

Biren: Reads Conditional Use Permit – Major Essential Service Request from East River Electric and introduces Jerae Wire, representative for East River Electric. The reason for the Conditional Use Permit is East River is wanting to rebuild a line, but a component in Nordland Township, would be relocated from the center of the section to along County Road 8 and County Road 3.

Biren explains proposed project – Point on County Road 55 and County Road 8 was permitted on the North Side to Lincoln County last year (2021). The new proposed line will be re-routed because and the new map spells out where the poles will be located. It is following County Road 8 until the Hemnes Church. It crosses to go south, the guide wires will be in the

road right-of-way on the Maeyaert property after they get an overhead easement from the Maeyaerts. Then there will be guidewire across from the cemetery to hold that pole back. There is not a lot of area to put other structures to hold the poles in place. The cemetery has some gravesites that are only 30' from the road right-of-way, so have to be careful in that area. There is not any room in the northeast corner to put a post. They want to put the guidewires in a line so that snowmobilers will not hit them. Maeyaerts do not have an easement signed yet and East River needs that easement to proceed.

East River Electric services Lyon Lincoln Electric and they buried their single phase lines that service this area. East River is looking to propose to put their line in 70' to the south of the bridge and then they will cross the road to County Road 3 to by Jim Myhre's place. The Maeyaerts would prefer to have the lines on the other side because there is big Cottonwood Trees in the way. If the route is change even a mile in either direction, we will be back at the drawing board.

Dan Maeyaerts and Doug Maeyaerts driveways and then east to the county road and then by Nancy Johnson's property and then it goes to the existing line on the Fixen property.

Louwagie: Why change the existing route?

Wire: On the west end of the old route, it goes cross-country to the sub-station on County Road 55, and then it goes across the section, which is pretty gnarly and inaccessible in storms. It would be for the safety for crews to fix the lines and less damage to crops. It is practical standard to be along the road. We are going to be replacing for better-insulated poles, more power capacity and improving the liability and capacity for Lyon Lincoln Electric. Lineman walk the line twice a year for inspection and more accessible to drive along the road vs. in a field. They also do aerial and drone inspections.

Biren: This is where it crosses the road by County Road 3 and shows the relocation perspective on map

Louwagie: What happens if they don't sign the easement?

Wire: There has been a lot of time put into this project, this route was chosen because of the least impactful, safest, most economical route and not as many landowners involved as well as getting the line out of the section line to maintain service. It is important to keep the cost down.

Biren: There is never a perfect route. Problems with zoning sometimes is the local minority. 85% easements were signed up last year. With this line, a few easements still need to be signed. Dan Maeyaert would prefer to have it on the other side of the road and Myhre's don't want to lose the Cottonwood trees. Want to keep the lines in line if possible. There is a proposed 3-phase, but not ideal. One thing about County Road 57 is there is only a 33' right-of-way. I would rather have the poles closer to 48' from the right-of-way for safety. The county is firm to keeping these in the road right-of-way because of the cost to move them. If easements can't be obtained, they will need to come up with other options.

Wire: Just to reiterate it, it's the shortest, safest, the best solution from the engineer's perspective.

Olson: So on the corner, the lines angling across, how big of an overlap will that have on CREP land?

Louwagie: Is Doug upset about crossing the driveway

Biren: I don't know that Doug was upset

Wire: The height at the lowest point, bottom for the line, it will be a minimum of 35 feet.

Olson: How tall is the combine with the auger extended?

Louwagie: About 16 feet

Olson: That should not be a problem then. One time the sheriff stopped and was concerned about the power lines by one of our fields.

Biren: At one time we did look at crossing the bridge, but Aaron VanMoer, Highway Department, wasn't in favor of it in case they would have to work on the bridge at some point. I believe the best solution is putting that pole on the west side. I think the second would be at an angle and take out the trees.

Olson: Is the pole on the west side in their line of sight from their house?

Biren: You can see it on the map.

Wire: We did have Lyon Lincoln bury a line for this project last spring.

Olson: It's part of our ordinance for repairs, but it is also the landowner has to

Biren: I did have Nancy Johnson contact me about a pole that is pretty close to one of their field approaches; East River is going to move that.

Crowley: They are planning to rebuild that line and go east.

Biren: The green line does continue into other townships

Wire: It goes all the way to the Marshall substation. The poles will all be upgraded.

Biren: I did send out notice to surrounding townships and supporting letters were received from other townships. Some farmers thought that the existing poles were fine, but they deteriorate and they do get refurbish those poles

Wire: It's the underground that we don't see is where they rot. Will be putting heavier gauge wire on them and need higher quality poles to handle it

Olson: They will be wood poles again?

Wire: Yes

Graupmann: In the same location?

Biren: It is going to be the same alignment and may not be in the same hole, but will be in the right-of way

Wire: The holes will be filled and seeded, they will look a lot like the Marble to Ghent line. We are adding the top lightning protection – communication wire (objw) that will send data to let them know what is happening, lightning, spikes etc.

Springstead: The pictures that we have it what is proposed, but don't have pictures for alternatives?

Biren: We can show them on those maps. I would call this a minor alteration to that route. Go to the maps for the cemetery.

Wire: It will start in 36 and end in 39

Biren: Our motions and our public notices would support this minor alternative. The reason that this might happen is if they can't get an easement from Dan Maeyaert. Here is the cemetery, Hemnes Church to the south, this is my preferred route and it would cross the bridge to the south and the pole crosses. If it takes crossing the road north of this bridge, won't put it on the cemetery property. Moving this crossing. This is part of the legal notice and also in the motion. If they can't get an easement and don't pursue condemnation. They would have to come back to use for another permit.

Crowley: On the corner by the Maeyaerts, one way or another, you will need to do an easement? Has this been offered to the Maeyaerts?

Wire: Are there other ways to do it? It would not be good. We feel this is the safest and least impactful for all homes that are members and the co-ops. We are trying to do right.

Crowley: You will pay an easement if you can put the lines on the poles on the line that is inside

Wire: Yes, This would be an overhang easement

Crowley: You must have some type of funding that you would use to pay?

Wire: Yes – what we run into is that the utilities have to be in the right-of-way, the poles. In South Dakota, it is private right-of-way, but here we would be looking at an overhang easement. The poles would still be in the public.

Crowley: What I am getting at is where the corner is, would that be a bigger price than it would be normally for the overhang.

Wire: I would have to talk to the land aid. I don't know how those prices are set. I know they are established as a ½ mile. It is a set rate. Since it hangs over more, I don't know if there is an additional easement payment. But I know that it hangs over a little more, there might be additional easement payment.

Olson: Any other questions? Any other thoughts before we move on to the next step?

Biren: The conversations that I have had with the Myhre's and Maeyaerts, I wanted to be perfectly clear of some of the issues even though they aren't here.

Olson: I think we all feel better that you went over the issues.

Wire: How do we want to pursue this with the Johnson(she's on the south) field approach/pole on the north end? The grid alignment? We jog in a little bit to that 33'?

Biren: On that County Road 57, we only have a 33' right-of-way. There are a lot of discussions on County Road 3, so the road was originally built in the early 1900's (Highway Department records) where the record shows the 33' easement. In 1945, the road was re-graded and plans shows a 50' easement and we re-did that bridge not that long ago it says a 50' right-of-way. If you asked if there is a deed that shows that the County owns 33' or 50', there is not. It does not exist. The Highway Department goes by a prescriptive easement. Aaron went to the neighboring counties and he feels 100% confident that it is 50' it is on public ground, not private, but on County Road 57, it is 33' on that road, The poles will be closer, but we don't have a choice. Put them as close to the private property as we can.

Olson: So that is only a mile?

Biren: We are going to be replacing existing on Robert and Jeanette Fixen's place, but on the Nancy Johnson place, there is no poles there right now. Not sure what the future of that road is, might go back to a Township Road.

Biren: We need to go through Findings of Fact and I wrote up stipulations similar to the ones that we used last year. This board would make a recommendation to the County Board, if something needs to be changed, there is a way to make adjustments as long as it in the application period..

Wire: Would like to start this project yet this fall.

Olson: There are few more findings of fact. The applicant has a 60 day limit of September 23, 2022. Read Findings of Facts. Board agrees with all findings of fact and answers yes to all of the findings of facts.

Olson: Read proposed motion for Planning Commission

Meulebroeck moved, seconded by Louwagie to recommend to the Lyon County Board of Commissioners to grant a Conditional Use Permit – Major Essential Service to East River Electric Power Cooperative for a Conditional Use Permit – Major Essential Service Request to install a 69KV Transmission line (T-line) in the road right-of-way. The area affected is zoned agricultural.

The Transmission line is proposed to be constructed through Nordland Township -Sections 17, 16, 15, 14, 23 and 24, parallel to County Road 8 and County Road 3 in the road right-of-way.
With the following stipulations:

1. Site to be inspected as needed.
 2. Must submit a map indicating location, alignment of transmission lines prior to installation.
 3. Any changes to the project shall be submitted to the Zoning Administrator prior to start of the project.
 4. Transmission line to be installed in the right-of-way or 90 feet from the center of the road.
 5. Must apply for and obtain permits from state and other appropriate agencies.
 6. All drainage facilities and patterns shall be repaired to pre-construction condition as soon as possible after construction.
 7. Rocks and construction debris shall be removed from each individual section of land where construction takes place within (90) working days of the commencement of major essential service construction on that individual section of land. For purposes of this subsection, working days are defined as: all days except days between November 15 and April 15 (winter), or any day when more than ½ inch of precipitation has fallen. For purposes of this subsection, section of land is defined as a numbered section as defined by the Government Land Survey, or a portion thereof.
 8. Shelterbelts, windbreaks, fences and vegetation shall be restored to pre-construction condition with the following exceptions:
 - a) Shelterbelt and windbreak replacement shall be to pre-construction density and may allow for operation maintenance of essential service lines.
- OR
- b) Agreements between East River Electric Cooperative and Landowners regarding tree removal and/or replacement shall supersede Option a.
9. If preliminary engineering, surveys or other documentation is provided, modifications to accommodate future drainage or roadway construction activities may be required.
 10. Major essential service construction activities shall be conducted in such a manner as to minimize impacts on livestock movements and access to agricultural fields.
 11. Adopt Findings of Fact as part of Motion.
 12. A copy of the County Board's Motion shall be filed with the County along with the route of the project.

VOTING FOR: Meulebroeck, DeBaere, Olson, Louwagie

OPPOSED:

OBSTAINED:

ABSENT: Sleiter

DATED: 8-9-2022

Motion to adjourn by Meulebroeck, second by DeBaere. All in favor, motion carried.

Board of Adjustments/Planning Commission
Chair

John Biren, Lyon County P&Z Administrator