

## MINUTES-PLANNING COMMISSION/BOARD OF ADJUSTMENTS MEETING

Tuesday, May 9, 2023 7:00 P.M. COMMISSIONERS ROOM, LYON COUNTY GOVERNMENT CENTER, MARSHALL, MN.

MEMBERS PRESENT: DeBaere, Meulebroeck, Louwagie, Sleiter, Olson

OTHERS PRESENT: Biren, Wikelius, Crowley, Graupmann, Keri Williams, Atwell, David Kosturik, Nexamp, Josh Chandler, Troy Wendland, Leroy Johnson

ABSENT: None

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

All present recited the Pledge of Allegiance

Identify any conflicts of interest: None

AMEND/APPROVE AGENDA: Meulebroeck moved, seconded by Louwagie to approve the agenda as presented. Biren introduces County Attorney, Abby Wikelius. All in favor, motion carried.

Minutes for the April 11, 2023 meeting reviewed. Louwagie moved, seconded by Meulebroeck 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 Josh and Kylie Chandler for a variance request to construct a Home Addition, Seventy (70) feet from the road right-of-way of 110th Street. This is a Thirty (30) foot variance request.

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

A parcel on land located in the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section Thirty-one (31), Township One Hundred and Nine (109) North, Range Forty-two (42) West, Rock Lake Township, Lyon County, MN.

*Biren: Introduces Josh Chandler. Biren proceeds to explain project.*

*Chandler: Looking to do an addition, adding a main floor bedroom. Adding to the east and going 12' feet in each direction.*

*Olson: As far as the rest of the house, this makes the most sense to put it there based on the rest of the house?*

*Chandler: Yes, because of the roof line. This would be just the main floor, this is a two-story house. We could have gone to the south, but worried about ice dams of the 2<sup>nd</sup> floor. Want to follow the original roof line.*

*Biren: Do you know when the house was originally built?*

*Chandler: Like the 1890's or 1910. Not sure.*

*Olson: Any other questions? Ready for public comment?*

*Biren: No public comment was received. Township Board did meet last night. Troy Wendland is here for the Rock Lake Township Board.*

*Wendland: Discussed at the meeting. Nothing in the site line to be concerned about.*

*Biren: Snow removal isn't an issue?*

Wendland: No

Olson: Any other comments or questions? Let's move to Findings of Fact. Read through Findings of Facts. Board agrees with all findings of fact and answers yes to all of the findings of facts.

Biren: Read proposed motion for Board of Adjustments for: Josh and Kylie Chandler for a variance request to construct a Home Addition, Seventy (70) feet from the road right-of-way of 110th Street. This is a Thirty (30) foot variance request. The area representing the request is zoned Agricultural. The property is described as follows:

A parcel on land located in the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of Section Thirty-one (31), Township One Hundred and Nine (109) North, Range Forty-two (42) West, Rock Lake Township, Lyon County, MN.

Applicant to comply with all zoning requirements. 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 Louwagie, 2<sup>nd</sup> by DeBaere, All in favor, motion carried.

VOTING FOR: Louwagie, DeBaere, Sleiter, Olson, Meulebroeck

OPPOSED: None

ABSTAINED: None

ABSENT: None

## **PLANNING COMMISSION:**

Biren: Introduces David Kosturik, Developer for Nexamp Solar for Yankton Solar, LLC and Keri Williams, Civil Engineer for Atwell, LLC. Biren proceeds to explain project and reads Public Notice.

A REQUEST HAS BEEN MADE to the Lyon County Planning and Zoning Administrator by Nexamp Solar, LLC – Yankton Solar, LLC (Applicant) for a Conditional Use Permit (CUP) as regulated by the Lyon County Zoning Ordinance. The site is leased from the Willard J. Engel and Colleen R. Engel Trust. The Project is referred to as the Nexamp Solar LLC – Yankton Solar, LLC. The project's peak production will be approximately 1-megawatt. The area representing the request is zoned agricultural. The affected properties are described as follows:

The Southwest Quarter (SW 1/4) of Section Twenty-four (24), Township One Hundred Nine (109) North, Range Forty-two (42) West, SAVE AND EXCEPT the Railway right-of-way of the Chicago Northwestern Railway as it is constructed and laid out across said quarter.

ALSO EXCEPTING

All that part of the Southwest Quarter of the Southwest Quarter (SW 1/4 SW 1/4) of Section 24. Township 109 North, Range 42 West, described as follows:

Commencing at the southwest corner of the SW 1/4; thence East 300 feet on the South section line; thence North at a right angle 725 feet; thence West at a right angle 300 feet to the West section line; thence South on the West section line a distance of 725 feet to the point of beginning.

*David Kosturik, Developer for Nexamp Solar for Yankton Solar, LLC explains re-noticing as time had lapsed from original Conditional Use Permit and gives background on Nexamp and project.*

*Biren: Why do you put up a fence?*

*Kosturik: For security and keep wildlife out. It is an 8-foot fence. It is a requirement. There is signage on the fence as well. On the east side, we are butting up against DNR land and we do meet the setback requirements.*

*Meulebroeck: Why do you do the 1 mW? Is that to get away from the production tax?*

*Kosturik: no, We want to do bigger projects, but Xcel and State wants to regulate size.*

*Meulebroeck: We can't increase the property tax because it is still showing as agricultural.*

*Olson: Any other questions?*

*Meulebroeck: You plan on keeping this and not going to sell this? Can you guarantee that?*

*Kosturik: We can't guarantee, but the way we model the projects, we do all the work from the ground up. We look for projects like this.*

*Meulebroeck: What is your decommissioning? Bond or Cash?*

*Kosturik: It is a condition of the county. We have had requirements before.*

*Olson: It's \$25,000 is what we have done in the past.*

*Biren: How long would construction take?*

*Kosturik: 3-4 weeks. Will have more intensive days when installing.*

*Biren: Will you have hours of operation?*

*Kosturik: Will have a clear cut guideline. If there is times for start and stop, we will abide by that.*

*Olson: Have we heard from the landowners surrounding the project?*

*Biren: I have not heard from the ones on the west side, but the closest one to the north, her big concerns was safety during construction, more traffic, it is a township road. They are going to be looking at this across the road, and they won't be given any compensation. I also talked to DNR, Wendy - get is on the record, that it is a public hunting spot and they do fire guns over there.*

*Olson: Any public questions?*

*Crowley: Just want to clarify this - You said that you would never sell it. If Xcel if they want to buy it you won't sell it to them?*

*Kosturik: Our intention in the way we develop projects, own, construct and operate them for the life of the project – the time we turn on the switch, typically 30-35 years.*

*Crowley: Can you foresee in the future if the lease will be renewed.*

*Kosturik: Definitely, it would definitely be renewed with our model*

*Crowley: Does the price change with land lease?*

*Kosturik: It is a case by case with that landowner.*

*Wendland: I rent the land and live to the east. How much dirt work is going to be done. Is this pond going to be filled back in after decommissioning? It will be the next generation.*

*Kosturik: Exact calculations would be more when we start construction for an answer. Holding ponds, everything that has been disturbed, gets brought to original condition.*

*Wendland: It will never be exact to what is was before. I'm just concerned for the next generation and drainage.*

*Kosturik: We do employee engineers licensed in the State of MN. They follow all the storm water management. They do everything by code, requirements and regulation. To not have any detrimental effects during it's life cycle.. Try to be as minimal as possible when establishing the site. The racking and modules need to be at a certain level, so this is an engineering item that needs to function for the site.*

*Meulebroeck: You did say earlier that Minnesota is not a Sunshine State.*

*Kosturik: It is today.*

*Meulebroeck: So why put these all in Minnesota?*

*Kosturik: It is the program, we are doing a lot in Illinois too. The state dictates and derived at the state level, not the federal level. We enter the markets at the State level with this one being with Xcel. The incentives and programs is derived at the state level.*

*Meulebroeck: It's the government money you are after*

*Kosturick: It's a contract with Xcel, and the subscribers and the value of solar. It isn't what we are pulling from government funds.*

*Olson: Anymore questions?*

*Wendland: What happens when these come and go? Who is responsible for this in 30-40 years? Solar Farms and Wind Towers. Is this going to be the kids that have to deal with this? Thoughts that should be actually thought about. It's going to be the next generation. I know we need renewable energy, but who is responsible for the decommissioning?*

*Olson: The amount that is required for the financial guarantee for decommissioning should a company go out of business is something the county would have to change. We have discussed it, but we haven't come up with a number. But , I think that it is something we have discussed. Who is the governing body? More than likely it is the County Commissioners and they would have to decide on what we suggest.*

*Biren: I appreciate your comments. We have surveyed our neighboring counties and that is where that number came from. Surety bonds, are great for road or infrastructure projects, but holding something like that for 20-35 years, I'm not going to be here, all things can change .I don't know who is going to keep track of that. I like cash, if it's sits in an account until then, at least its there. If you have to do all the dirt work, that number is going to get huge. I have concerns about that, but disposal of the panels themselves, not sure if they are going to be landfillable, but in the infancy stage. Galvanized can be taken out.*

*Johnson: There is an existing approach, is your thoughts to take the one out? How many approaches do you need in a quarter of a mile?*

*Kosturik: There is an obvious entrance into the field. Anyone accessing the field can use this access. If we need to re-work this access to make it work better, we can move it over, its not set in stone.*

*Olson: I appreciate the things you have brought up and we have discussed in the past, so thank you for addressing those.*

*Johnson: We live across the road. Hours of operation?*

*Kosturik: We will have a plan for hours and safety. Being a good neighbor is one our goals, follow the rules.*

*Olson: Do you have a suggested time?*

*Johnson: 7-7:30 a.m. during the week, during the day, I get it, just the early mornings.*

*Kosturik: I don't think there is a problem with working with the work schedule.*

*Olson: What time do you kids go to bed?*

*Johnson: 8 p.m.*

*Wendland: If they destroy the road, just want to make sure they are fixing the roads*

*Kosturik: We will work with our contractors to make sure they are following the rules.*

*Olson: Any further questions? Before we move to the findings of fact, I did take a copy of notes and added to work with township board on field approaches and then added in hours of operation to not start before 7-7:30 a.m.*

*Crowley: Can these be changed?*

*Biren: Yes, they are suggestions to the County Board to take into consideration, having said that, if there are things that come to light that can make this better, they can do that.*

*Crowley: The dollar amount for decommissioning. That can be changed? \$25,000 might not be enough.*

*Biren: I can talk to our Solid Waste Department and see what he would think it would cost to dispose on one of those panels. That's going to be the biggest cost. What I have suggested to the County Board in the past is to write an ordinance, that you cannot subdivide land for renewable energy, but haven't been able to get anywhere.*

*Crowley: It might be too late on these projects. We've talked about it in the past, but didn't have a meeting.*

*Biren: The Conditional Use Permits follow the land.*

*Olson: Any other questions, otherwise we will move onto Findings of Fact. Olson reads the findings of fact. Board agrees with all findings of fact and answers yes to all of the findings of facts with changes to add the field approaches and hours of operation.*

*Biren: Read proposed motion for Planning Commission for: Nexamp Solar, LLC - Yankton Solar, LLC(Applicant) to construct a ground-mounted Solar Farm Facility. The site is leased from the Willard J. Engel and Colleen R. Engel Trust. The area representing the request is zoned agricultural and described as:*

The Southwest Quarter (SW 1/4) of Section Twenty-four (24), Township One Hundred Nine (109) North, Range Forty-two (42) West, SAVE AND EXCEPT the Railway right-of-way of the Chicago Northwestern Railway as it is constructed and laid out across said quarter.

ALSO EXCEPTING

All that part of the Southwest Quarter of the Southwest Quarter (SW 1/4 SW 1/4) of Section 24. Township 109 North, Range 42 West, described as follows:

Commencing at the southwest corner of the SW 1/4; thence East 300 feet on the South section line; thence North at a right angle 725 feet; thence West at a right angle 300 feet to the West section line; thence South on the West section line a distance of 725 feet to the point of beginning.

With the following stipulations:

1. Conditional Use Permit to be reviewed as needed.
2. The Applicant shall comply with all governmental laws, rules and regulations as they apply to the project at the time of granting the conditional use permit. If any local, state, or federal permits are required prior to commencement of construction of the project, a copy of those permits must be submitted to the Lyon County Planning & Zoning Office before operation can begin.
3. All solar farm components and accessory facilities shall be removed within one year of the discontinuation of use/operation as per the decommissioning plan submitted by Nexamp Solar, LLC – Yankton Solar, LLC
4. Prior to the start of construction, a land use permit for any structures as defined by the Lyon County Zoning Ordinance shall be obtained from the Lyon County Zoning Office. Changes made to the original application shall be noted on the land use permit. Zoning Administrator shall review the condition of the township road in consultation with Nexamp Solar, LLC, Yankton Solar, LLC and Rock Lake Township prior to construction, during construction, and after completion of construction to ensure the satisfactory condition of the road.
5. The Applicant must notify Lyon County prior to starting and when construction is complete.
6. The Applicant shall consult with and receive permission by the road authority to construct any driveway or access to the property. Proper signage to identify construction activities to be installed as recommended by the road authority.
7. Coordinate with the Rock Lake Township Board on location of field approach/approach for the solar farm.
8. During construction, hours of operation from 7:00 AM to 8:00 PM
9. Adopt Findings of Fact as part of Motion.
10. A copy of the County Board's 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.
11. A financial guarantee in the amount of \$25,000 for decommissioning.

Motion by Sleiter, 2<sup>nd</sup> by DeBaere, opposed by Meulebroeck. Motion carried.

VOTING FOR: Olson, Louwagie, Sleiter, DeBaere

OPPOSED: Meulebroeck

OBSTAINED: None

ABSENT: None

DATED: May 9, 2023

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

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Board of Adjustments/Planning Commission  
Chair

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John Biren, Lyon County P&Z Administrator