**MEETING MINUTES**
**POPE COUNTY BOARD OF ADJUSTMENT**
**Thursday, December 17, 2020**

The Board of Adjustment convened in regular session on Thursday, December 17, 2020 via telephone conference call in an effort to comply with MDH recommendations issued with the declared Peacetime Emergency in response to the spread of COVID-19 (coronavirus) in MN.

**Members Present**: Roger Isdahl, Ronald Feigum, Ivie Cooley, John Messenger, Brian Jergenson and Mark Halls

**Other Officials Present**: David Green (Land & Resource Management Director), Shelley Cameron (Sr. Administrative Associate), Jessica Hill (Land Use Specialist), and Cody Rogahn (County Commissioner)

The meeting was called to order by Chairman Messenger at precisely 6:00 p.m.

**Additions and Corrections to the Agenda**

There was no additions or corrections to the agenda.

**Review minutes of November 19, 2020**

The minutes of the Board of Adjustment meeting that was held on November 19, 2020 were submitted for approval. Motion to accept the minutes as written was made by Jergenson. Seconded by Cooley. Motion carried.

**Variance-Shane Blair with Gateway Construction on behalf of Craig & Barbara Wetter**

Chairman Messenger introduces the item. Applicants Shane Blair (Gateway Construction) and Craig Wetter are present. Director Green presents staff report and states "staff does not object to the issuance of a variance with conditions with the first condition as the most important, which is the new addition is at least fifty (50) feet from the OHWL and out of the shore impact zone." Chairman Messenger asks for any additional comments from the applicant. Applicant Shane Blair states "we started with a proposed addition that would come off of the north corner at approximately 35 feet from the Ordinary High-Water Level (OHWL) and to be parallel to the lake to the north and thus be no closer than what the existing structure is currently. What we would like to see if we can come off of the north corner of the cabin and to follow that line which would allow us to create a home that has more useability, more accessibility and aesthetically pleasing. It would follow the same roof line. If we build to the east, there is a well that will be somewhat in the vicinity and also the septic tank and drainfield are just to the north of the garage, so we are somewhat limited on space. The septic is complaint for a four-bedroom home and it will remain a four-bedroom home." Cooley states "I think the plans that were submitted by the applicant are very aesthetically pleasing but this would make them very close to the lake. I notice that there is some kind of windows or sliding glass doors off of the bedroom and I question if you will be asking for any additional deck or patio that would be even closer to the lake." Applicant Shane Blair states "at this point no, there is no request for that. The addition would be a crawl space so there wouldn't have to be any extra excavation to lower that area towards the lake. We would maintain that grade." Applicant Craig Wetter states "we have a nice cabin

and it has been updated and we want to make into our full-time home. If we come off of the 50-foot setback it would really be a chopped-up house that is not conducive to what we are looking for in the future. We would not be putting in a basement. Our plan is to keep it to a four-bedroom home. We love the lake and the lake life and we are looking forward to making it our permanent home within five years." Chairman Messenger opens to the public asking "is there anyone speaking in favor of this variance?" Greg Swan states "I am the neighbor to the south of the Wetter's and my concern is if you start chopping houses up and make them unattractive, you will also deter good neighbors like them from buying places like this. It also would have been helpful to know that a variance would be required before they spend all the money to buy these places. I think it would be a big mistake not to just allow them to go the 35 feet from the lake all the way around. Not only because how it will make their house look, but also the character of people you're dealing with." Chairman Messenger asks "is there anyone speaking against this variance?" None noted. Chairman Messenger closes the public hearing. Chairman Messenger asks for comments from the site team. Feigum (site team) states "when you move it back to the 50-foot setback, that house is going to look so cut up I think it's going to look worse than if you were to put it at the 35-foot setback." Cooley (site team) states "I can see the sense it makes aesthetically, but I am a little disappointed there isn't a second set of drawings submitted by the applicant to show what it would look like at the 50-foot setback." Messenger states "I can understand the objectives that are trying to be reached but it also appears that we are boxed in by the DNR and the shore impact zone which requires a 50-foot setback." Chairman Messenger seeks a motion. Cooley states "based upon the information as presented in the staff report and facts as gathered this evening, I move to approve of the variance request to alter and expand a nonconforming structure limited to the conditions as identified in the staff report." Jergenson seconded. Motion carried with no dissenting votes noted.

**Variance-Michael & Stephanie Reese**

Chairman Messenger introduces the item. Applicant Michael Reese is present. Director Green presents staff report and states "staff does not object to the issuance of a variance with conditions stated in staff report." Halls states "I think we should have the applicant complete a right-to-farm acknowledgment form." Chairman Messenger asks for any additional comments from the applicant. Applicant Michael Reese states "I am a farmer myself and I work for the University. My own farm is near Lake Emily. This was my in-law's place. My wife and I currently live in Morris. We want to raise our son in the country and my wife didn't like the idea of driving all the way out to Lake Emily to live on my farm so this was our compromise. It is half way in-between. We are not changing the footprint that is closest to the road. We are expanding, but we are expanding to the east. In all honesty if we could pick up the whole house and move it, we would do that but the reality is that we are working with a budget and we want this place to work out. My son's grandparents are right across the road. As far as the right-to-farm acknowledgement form being completed as a condition, am 100% behind that. There has been a septic system design and application for a replacement septic system submitted to Land & Resource. I thank you for your time and consideration." Chairman Messenger opens to the public asking "is there anyone speaking in favor of this variance?" None noted. Chairman Messenger asks "is there anyone speaking against this variance?" None noted. Chairman Messenger closes the public hearing. Comments from the site team indicate that they have no objections or concerns.

Chairman Messenger seeks a motion. Feigum states "based upon the information as presented in the staff report, I move to approve of the variance request to alter and expand a nonconforming structure limited to the conditions as identified in the staff report and as amended this evening, to add the condition that a right-to-farm acknowledgement form is submitted by the applicant." Halls seconded. Motion carried with no dissenting votes noted.

**Dan Rogers with Swan Garden LLC on behalf of Larry Adolphsen**

Chairman Messenger introduces the item. Applicant Dan Rogers with Swan Garden LLC is present. Director Green presents staff report and states "staff does not object to the issuance of a variance in this case." Chairman Messenger asks for any questions the board has for the applicant. Cooley states "when the solar garden was requested within the city limits of Villard, we requested it not to be in the city of Villard and requested it to be moved behind Larry's (Adolphsen) property so that it wouldn't be visible from County Road 28. They said no, this could not be done. Now all of a sudden, I am looking at a diagram that shows that it can be done. I am not happy with the one located within city limits because there is inadequate arborvitae that was put along the road and actually some of them have died. I don't think it is an attractive place for it. I do believe that our ordinance, which was just put in place, specifies 500 feet and when we did that, I also requested rows of trees that would obliterate the view from any passing vehicle. So, as I look at this I really don't understand. First of all, how they can do it now when then could not do it then when they put it in the city limits, and second, why they can not abide by the 500-foot setback. Even if they moved it behind Larry's (Adolphsen) property, it would be within the 500-foot setback. So, there is a lot of actual distrust of what is happening here." Applicant Dan Rogers states "I would like to address the question as to why now when it couldn't be before. Previously when we built that project to the south, we ended up extending Xcel's line about 2000 feet to the north from the substation to the south. So previously this project would not have been possible prior to that upgrade. That upgrade allowed for this project to go forward. To the second point about the trees along the first project, I will note that we are happy to add additional trees. Those are the trees that unfortunately died. We could only get the larger trees that didn't take but we are planning to replant the ones that died in the spring. And then to the third point, really what we are trying to do is work on behalf of our landowner and the use of his property. As you can kind of see there is a nice cut out space with the wetlands kind of surrounding and if we adhere to the setback of 500-feet it will remove additional acreage that he would normally be able to farm. Our understanding is that it doesn't conflict with the setback from the highway so that is why we are requesting this variance." Cooley states "As I look at this piece of property that you have selected, everything from this area is farmland as is everything to the west and to the south. So, it all affects farmland. If it was to be moved this would be congruous with the piece next to it to the west. If you put it down further behind Larry's (Adolphsen) place, it is not as if you are not taking farmland, the whole area is farmland. Because the view, as on the previous one, has not been dealt with, I guess I feel the 500-feet setback and relocating this would be totally appropriate. I do think it alters the character of the locality; it should follow the setback. I do object to staff findings number 2, which says the property/structure is a reasonable use for a solar garden in this particular area as evidenced by other existing solar gardens which should have probably never been there. So, if you are saying yes, we are going to put a second one there because of the first one was given permission but probably shouldn't have been. So, the other existing solar garden is objectionable as well." Chairman Messenger opens to the public asking "is there anyone speaking in favor of this variance?" None noted. Applicant Dan Rogers states "I do know that Larry Adolphsen is on here tonight and is trying to speak but having audio issues." Chairman Messenger asks "is there anyone speaking against this variance?" None noted. Chairman Messenger

closes the public hearing. Chairman Messenger asks for comments from the site team. Feigum (site team) states "I think it is a fairly decent spot. Anything that is going to block off more of the field will make it a lot easier for them to farm. Even if you put it at the 500-foot setback you would still see it. There isn't anyplace that you are going to put this that you aren't going to be able to see it. I really think it will work fine right where it is indicated." Messenger (site team) states "I can see the logic behind having it being at the 225 feet versus the 500 feet required setback to maximize efficient use of the farmland surrounding the site." Cooley (site team) states "I see absolutely no reason to locate it here. If it was moved to the west and then south behind Larry's (Adolphsen) it would be less visible and the amount of land that could be farmed is exactly the same. We have been pretty dissatisfied with the lack of trees and attempts of different kinds of vegetation. We have suggested different things perhaps vines but we have gotten no follow through. There are some trees but they are inadequate for the one that is there now. So, I guess my confidence with this is pretty low and the reasoning is pretty low." Chairman Messenger seeks a motion. Cooley states "I move to table action on this variance request until the next regularly scheduled meeting to come back with an alternative plan with arborvitae and maybe a berm. What we have is their choice and what is most economical to them and not necessarily the choice that would fit in with the environment and aesthesis of the land." Motion fails with no second. Chairman Messenger seeks another motion. Feigum states "I make a motion to approve of the variance request to allow for the solar garden to be located at least 225 feet from the centerline of the roadway." Cooley states "I would like to make a comment before we vote. I do feel that a row of arborvitae with a berm which would be parallel to the road all the way for the entire distance should be added." Feigum states "if you put the arborvitae on a berm you will have more death from that because they are not going to get enough water. I move to modify my motion to put a double row of arborvitae a minimum height of five feet to spread out along the east side of the proposed site at a distance such that it will supply an effective visual buffer." Cooley seconded. Motion carried with no dissenting votes noted.

**Tabled/Old Business**

There was no tabled or old business.

**Adjournment** 7:30 p.m. Motion by Feigum to adjourn the Board of Adjustment meeting. Motion Seconded by Jergenson. Motion carried with no dissenting votes noted.

Respectfully submitted,

Shelley Cameron

*Shelley Cameron/Sr. Administrative Associate*
Pope County Land & Resource Management