MEETING MINUTES
POPE COUNTY BOARD OF ADJUSTMENT
Thursday July 22, 2021

The Board of Adjustment convened in regular session on Thursday, July 22, 2021 at the Pope County Courthouse, Community Meeting Room.

Members Present: Ronald Feigum, Ivie Cooley, John Messenger, and Mark Halls

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

The meeting was called to order by Chairwoman Cooley at precisely 6:00 p.m.

Additions and Corrections to the Agenda

There was no additions or corrections to the agenda.

Review minutes of June 24, 2021

The minutes of the Board of Adjustment meeting that was held on June 24, 2021 were submitted for approval. Motion to accept the minutes as written was made by Messenger. Seconded by Feigum. Motion carried with no dissenting votes noted.

Variance-Scott Tempel with Novel Energy

Chairwoman Cooley introduces the item. Applicant Scott Tempel (Novel Energy) and James Fischer (Landowner) are present. Director Green presents staff report and indicates staff does not believe that a practical difficulty has been established and staff does not support an approval of the variance as requested. Chairwoman Cooley asks for any additional comments from the applicant. Applicant Scott Tempel states "this project was conceived in 2019 and the lease was signed and the project was submitted to Excel in 2019. At that time, it was based upon the 125-foot setback that the county had. Excel energy is notoriously behind and it took them over 18 months to review. Since then both the county and the township had a change in the ordinance. We worked as hard as we could to adjust the setback to 250-feet on the fence and almost 280-feet on the array itself. We are constrained with the wetland area. The significance with being in the Excel program, is once we register the project with Excel, we cannot change the lease area. The lease area is set through legal documents and the point of interconnect is set by Excel. So, if we would try and move the project we would basically have to start over and there would be no capacity on the system and there would be no project. That is the situation we are forced into by the program rules. We did go to the township and the township enacted a quarter mile setback and we did get a variance from the township. We would love to meet the 500-feet setback but we cannot move the array any further. Our practical difficulty lies in being constrained in our lease area and not being able to utilize the rest of that area to the north because of the wetland." Commissioner Rogahn asks "is Excel so rigid that you could not move the direction?" Applicant Scott Tempel states "it is outside of our lease area. Any modifications would put it back into the que to get our interconnection agreement." Cooley asks "how long does that process take?" Applicant Scott Tempel states "it isn't the time, it's the effect that it puts us in the que. Each substation has a limited

capacity and when people sign up to interconnect with that substation every applicant gets in a que. There is a list of folks and if you change your project or withdraw your project you are back to the bottom of the que. There is only so much capacity. If we have to resubmit it, we won't have a project." Messenger asks "the terms of the lease with the property owner, are they for a specific number of acres for the site outlined in red." Applicant Scott Tempel states "it is for a specific metes and bounds. It is a specific number of acres but the shape of it is in the lease document. I believe the red outline on the staff report is just the panels. So, the lease area is longer than what you are seeing in the red outline. The lease area as to where the array goes is up to the landowner. When we negotiated with him, we are not telling the landowner where to put the array, they are telling us where to put it. They want to keep the rest of the farmland tillable or for whatever reason. The location is chosen by the landowner." Chairwoman Cooley opens to the public asking "is there anyone speaking in favor of this variance?" Jim Fisher (landowner) states "it sure would be very beneficial to me if this was passed and we have been working on this for a while now." Chairwoman Cooley asks "is there anyone speaking against this variance?" None noted. Chairwoman Cooley closes the public hearing. Cooley states "I have concerns that I don't understand on the configuration here going north and south where it could easily, to me, be broadened to the west and meet our setback. One of our standards that we look at are their circumstances unique to the property that have to be dealt with and in this case, it looks to me like there is adequate space." Halls states "like it was stated, the footprint that they have now, it would have to start all over and I have dealt with this and it is not easy to do at all. You would have to go to the bottom of the que and it would more than likely end this project." Commissioner Rogahn asks "how long would it take for you to go to Excel and request a different configuration?" Applicant Scott Tempel states "their reviews on applications can be done within a month but the problem is not the review it is having the place in their que and getting hooked up. If we redraw and resubmit, we will be at the bottom of the que and there will most likely not be enough capacity for us to do the project. Believe me, if we could have redrawn this we wouldn't be here tonight. We do not take variances lightly and this is a rarity of our company to ask for rules to be changed. But in this case, we moved it as far north as we could within the lease area. We can not go outside of that lease area without starting an entirely new project which is not possible. We might be able to squeak out another 10 to 20 feet but I am not sure what the visual difference these 10 to 20 feet would make." Chairwoman Cooley seeks a motion. Messenger 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 locate the solar facility as proposed, at a reduced setback of two hundred fifty feet from the right of way." Halls seconded." Motion carried with no dissenting votes noted. Halls makes a motion to direct staff to revise the findings to support the motion made." Messenger seconded. Motion carried with no dissenting votes noted.

Variance-Jon & Diane Gruhot

Chairwoman Cooley introduces the item. Applicant Jon & Diane Gruhot are present. Director Green presents staff report and indicates staff does not object to the issuance of a variance with conditions stated in staff report. Chairwoman Cooley asks for any additional comments from the applicants. Applicant Jon Gruhot states "this is a joint venture with my two daughters and their husbands. They

are the majority ownership. It is two daughters and two sons-in-law's, us as the mother and father, and grandchildren. As Mr. Green stated, we started this little venture around November of 2020 with our conversations with Land & Resource. He is correct in stating that what we were originally asking for and what we are asking for today is greatly reduced to meet the ordinances. We have redesigned it and we are not expanding the footprint we just basically want to finish off what is up in the air and change the roof line a little bit. What we are proposing to change in the roofline, I believe, meets all ordinances as set forth." Chairwoman Cooley opens to the public asking "is there anyone speaking in favor of this variance?" Nicole Killey states "when we first looked at this property, we were so excited for a lot of reasons and one of them was for the garage space. Knowing that my parents would hopefully retire one day and enjoy that retirement we saw it as a way to give them space. When we bought the property, we did the typical title search and went through the due diligence process to make sure that there were no open permits. We went into it assuming that all buildings had been completed following all local statutes. So, for us, we saw this as a great property and we were really surprised when this came up that it wasn't quite meeting the mark as far as the setbacks. So, for us, we are just really hopeful that we could get this variance approved tonight so that we can get just a little bit more space." Chairwoman Cooley asks "is there anyone speaking against this variance?" None noted. Chairwoman Cooley closes the public hearing. Comments from the site team indicate that they have no objections or concerns. Chairwoman Cooley seeks a motion. Feigum states "I move to approve of the variance request." Messenger seconded. Motion carried with no dissenting votes noted.

Tabled/Old Business

There was no additions or corrections to the agenda.

Adjournment 6:41 p.m. Motion by Feigum to adjourn the Board of Adjustment meeting. Motion Seconded by Halls. Motion carried with no dissenting votes noted.

Respectfully submitted,

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