

Goodhue County Board of Adjustment Government Center- Board Room 509 West 5th St, Red Wing MN 55066

#### Virtual Meeting Notice

The Goodhue County Board of Adjustment will be conducting a meeting on March 22nd, 2021 at 5:00 p.m. Due to concerns surrounding the spread of COVID-19, the meeting and all public hearings will be conducted by telephone or other electronic means.

The public may monitor the meeting from a remote site by logging into https://global.gotomeeting.com/join/541366989 or calling 1-866-899-4679 beginning at 4:50 PM or any time during the meeting. Access Code: 541-366-989

Public Comments: Interested persons must submit comments by phone, in writing, or via email until noon on Monday, March 22nd, 2021. To submit your comments please email them to samantha.pierret@co.goodhue.mn.us or mail them to the Land Use Management Department at 509 West 5th Street, Red Wing, MN 55066. Comments received by this deadline will be read into the record during the public hearing for that item, including name and address.

Call Meeting To Order

Approval Of Current Agenda

Approval Of Previous Month's Meeting Minutes

1. January 25, 2021 BOA Meeting Minutes

Documents:

#### **BOAMEETINGMINUTES.PDF**

Conflict/Disclosure Of Interests

PUBLIC HEARING: Appeal Of Zoning Administrator's Rejection Of A Split Creating 3 Lots Less Than 35 Acres In The A3 District

Request submitted by Mark Jeanson (on behalf of David Jeanson, Steve Kelling and the Thomas Jeanson Estate) appealing the Zoning Administrator's determination that a proposed 3-lot split creating parcels less than 35-acres in the A3 Zoning District does not conform to the District regulations. Parcels 39.030.0700, 39.030.0600 and 40.025.0400. 50287 and 50189 180th AVE Pine Island, MN 55963. Part of the NW ¼ of Section 30 TWP 109 Range 15 in Pine Island Township and Part of the E ½ of the NE ¼ of Section 25 TWP 109 Range 16 in Roscoe Township.

Documents:

BOAPACKET\_JEANSON.PDF

Other-Discussion

Adjourn

Anyone interested is invited to attend. Agenda items may be subject to change.

**Goodhue County Land Use Management** 

\* Goodhue County Government Center \* 509 West Fifth Street \* Red Wing \* Minnesota \* 55066 \* Building \* Planning \* Zoning \* Telephone: 651/385-3104 \* Fax: 651/385-3106 \*

# BOARD OF ADJUSTMENT GOODHUE COUNTY, MN JANUARY 25<sup>TH</sup> 2021 MEETING MINUTES

**DRAFT** 

The meeting of the Goodhue County Board of Adjustment was called to order at 5:00 PM by Chair Knott virtually via GoToMeeting with staff members present at the Goodhue County Government Center Basement IT Conference Room.

#### **Roll Call**

Commissioners Present virtually via GoToMeeting: Daniel Knott, Rich Ellingsberg, Darwin Fox, and Denny Tebbe

Commissioners Absent: None

Staff Present: Zoning Administrator Ryan Bechel and Zoning Assistant Samantha Rierret

## 1. Approval of Agenda

<sup>1</sup>Motion by Fox, and seconded by Tebbe to approve the meeting agenda

## **Motion carried 4:0**

## 2. Approval of Minutes

<sup>2</sup>Motion by **Tebbe** and seconded by **Fox** to approve the previous month's meeting minutes.

## **Motion carried 4:0**

## 3. Appointment of Chair and Vice-Chair

<sup>3</sup>Nomination by **Tebbe** and seconded by **Fox** to nominate Daniel Knott as Board of Adjustment Chair for 2021.

There were no other nominations.

#### Carried 4:0

<sup>4</sup>Nomination by **Tebbe** to nominate Darwin Fox as Board of Adjustment Vice-Chair for 2021.

There were no other nominations

#### Carried 4:0

## 4. Conflict/Disclosure of Interest

There were no conflicts of interest reported.

## 5. Public Hearings:

#### **PUBLIC HEARING: Request for Variance to Feedlot Setback Standards**

Request for Variance, submitted by Dan Bauer (Owner) to Shoreland setback standards to construct a cattle shed addition less than 100 feet from the Ordinary High Water Mark of a public watercourse. Parcel 38.033.0700. 45451 145<sup>th</sup> AVE Zumbrota, MN 55992. Part of the SE ½ of the NW ¼ of Section 33 TWP 110 Range 16 in Minneola Township. A1 Zoned District.

Pierret presented the staff report and attachments.

# BOARD OF ADJUSTMENT GOODHUE COUNTY, MN JANUARY 25<sup>TH</sup> 2021 MEETING MINUTES

**DRAFT** 

Kelsey Petit (Feedlot Officer) stated that she inspected the Bauer site around 2018 and noted the cattle accessing the creek 24/7. She and the Soil and Water Conservation District Water Planner Beau Kennedy began working with the property owner to improve the site's runoff and manure management.

## Chair Knott opened the Public Hearing.

No one spoke for or against the request.

<sup>5</sup> After Chair Knott asked three times for comments it was moved by Fox and seconded by Tebbe to close the public hearing.

#### Motion carried 4:0

Commissioner Fox commented on staff's work with the property owner and noted that the Feedlot Ordinance was designed to improve sites in this manner. He added that this project is a good way to protect the environment and noted the Feedlot Officer's work in inspecting the property and following through with the project.

Commissioner Tebbe agreed with Commissioner Fox, commending the Soil and Water Conservation District staff for their work on the project.

Chair Knott agreed with Comissioners Fox and Tebbe.

## <sup>6</sup>Motion by Fox, seconded by Tebbe, for the Board of Adjustment to:

- adopt the staff report into the record;
- adopt the findings of fact;
- · accept the application, testimony, exhibits, and other evidence presented into the record; and

**APPROVE** the request for variance, submitted by Dan Bauer (owner) to Shoreland setback standards to allow construction of an accessory building addition 87-feet from the Ordinary High Watermark of a public watercourse.

#### Motion carried 4:0

#### 6. Other-Discussion

Bechel applauded Kelsey and Beau's work on the Bauer project.

Chair Knott questioned the meeting schedule for 2021, noting there were two combined PAC and BOA meetings in November and December.

Bechel clarified that for the past few years the BOA and PAC have had combined meetings in November and December due to the holidays.

Chair Knott questioned whether staff was aware of a new BOA member that would be replacing Bob Benson whose term expired in 2020.

Staff noted that Brad Anderson, County Board Commissioner District 2, is aware he needs to replace Mr. Benson on the BOA. Staff also noted that the BOA position from District 4 (Jason Majerus) has not been filled for the past couple of years and that it has been difficult for Commissioner Majerus to fill that position.

## **ADJOURN**

## BOARD OF ADJUSTMENT GOODHUE COUNTY, MN JANUARY 25<sup>TH</sup> 2021 MEETING MINUTES DRAFT

<sup>7</sup>Motion by Tebbe, seconded by Fox to adjourn the BOA meeting at 5:28 PM.

## Motion carried 4:0

Respectfully submitted:

Samantha Pierret, Goodhue County Zoning Assistant

## **MOTIONS**

<sup>&</sup>lt;sup>1</sup> APPROVE the meeting agenda. Motion carried 4:0

<sup>&</sup>lt;sup>2</sup> APPROVE the previous meeting's minutes. Motion carried 4:0

<sup>&</sup>lt;sup>3</sup> APPROVE the nomination of Daniel Knott as BOA Chair for 2021. Motion carried 4:0

<sup>&</sup>lt;sup>4</sup> APPROVE the nomination of Darwin Fox as BOA Vice-Chair for 2021. Motion carried 4:0

<sup>&</sup>lt;sup>5</sup> Close the Public Hearing. Motion carried 4:0

<sup>&</sup>lt;sup>6</sup> APPROVE the request for variance to allow a cattle shed addition 87-feet from the OHWM of a public watershed. Motion carried 4:0

<sup>&</sup>lt;sup>7</sup> ADJOURN. Motion carried 4:0

# Goodhue County Land Use Management

Goodhue County Government Center | 509 West Fifth Street | Red Wing, Minnesota 55066

#### Lisa M. Hanni, L.S. Director

Building | Planning | Zoning Telephone: 651.385.3104 Fax: 651.385.3106



County Surveyor / Recorder

Environmental Health | Land Surveying | GIS Telephone: 651.385.3223 Fax: 651.385.3098

To: Board of Adjustment
From: Land Use Management
Meeting Date: March 22, 2021
Report date: March 12, 2021

**PUBLIC HEARING:** Request submitted by Mark Jeanson (on behalf of David Jeanson, Steve Kelling and the Thomas Jeanson Estate) appealing the Zoning Administrator's determination that a proposed 3-lot split creating parcels less than 35-acres in the A3 Zoning District does not conform to the District regulations.

## **Application Information:**

**Applicant:** Mark Jeanson (on behalf of David Jeanson, Steve Kelling and the Thomas Jeanson Estate)

Address of zoning request: 50287 and 50189 180th AVE Pine Island, MN 55963

**Parcels:** 39.030.0700, 39.030.0600 and 40.025.0400

**Abbreviated Legal Description**: Part of the NW ¼ of Section 30 TWP 109 Range 15 in Pine Island Township and Part of the E ½ of the NE ¼ of Section 25 TWP 109 Range 16 in Roscoe Township.

**Township Information**: Pine Island Township and Roscoe Township both acknowledged the request for appeal with no additional comments.

#### **Attachments and Links:**

Application and submitted project summary
Site Maps
Goodhue County Zoning Ordinance:

http://www.co.goodhue.mn.us/DocumentCenter/View/2428

#### **Background:**

Mark Jeanson (on behalf of David Jeanson, Steve Kelling and the Thomas Jeanson Estate), has formally appealed the Zoning Administrator's determination that a 3 lot split creating 4 lots less than 35-acres in the A3 Zoning District does not conform to the District regulations.

In January 2021, a representative for the Applicant submitted a survey and associated documents to record a parcel split and lot combinations on 3 existing parcels in Roscoe and Pine Island Townships (see survey from G-Cubed dated 9-1-2020). The proposal was returned to the Applicant by the Goodhue County Recorder's Office because the survey proposed to combine parcels across Township lines (solid pink line on Exhibit A) which is not allowed. To resolve the issue, the Applicant then proposed that the portions of the parcels located across Township lines be separately surveyed and subdivided to create 2 new stand-alone parcels (See Exhibit A).

The Zoning Administrator reviewed the proposed split and determined that proposed parcels B and D would be less than the 35-acre minimum for the A3 Zoning District. Parcel C, which is approximately 25 acres, would be reduced in size thereby increasing an existing non-conforming parcel.

## **Appeals Ordinance Language:**

#### Article 5 Section 4 Subd. 2:

The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and to that end shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit. The reasons for the Board's decision shall be stated in writing.

## Article 5 Section 4 Subd. 3:

The Board of Adjustment shall hear and determine appeals:

A. Where it is alleged there is error or abuse of discretion in any order, requirement, decision, or determination made by any administrative official or Zoning Administrator in the enforcement of the provisions of any ordinance adopted by the County Board creating zoning districts or regulating the use of property in the County; or

B. From the rulings, decisions, and determinations of any administrative official or Zoning Administrator in granting or denying applications from any rule, regulation, restriction or requirement of the zoning or set-back ordinances, or any section thereof;

## **Applicant Comments:**

- The Applicant has requested the Board of Adjustment consider the existing lot sizes and configuration for the request. All existing lots are less than 35 acres in the A3 District. The Applicant has noted that the proposed configuration would grant Parcel A additional yard space, area for well and septic facilities, and right-of-way for electrical services.
- The Applicant has requested the Board of Adjustment consider the County's requirement for legal access to Parcel C leading to the creation of Parcel D. David Jeanson (owner of Parcel C) would be the owner of parcel D.
- The Applicant has noted that the properties in question are along Township lines where lot combinations cannot be achieved therefore there is no alternative option to achieve the desired result. A similar proposal across Section lines within the same Township could be achieved with a plat.
- The Applicant has stated they understand Parcel B and D would need to be separately surveyed and legally described prior to recording with the Goodhue County Recorder if approved.
- The Applicant has added that Steve Kelling has purchased Parcel A as originally depicted. Mr. Kelling would own parcels A and B if the appeal is successful. All documents relating to the sale have been prepared and signed however formal recording of the sale has been halted during the appeal process.

#### **Staff Comments:**

- Staff recognizes the unique challenges encountered by the Applicant in attempting to split or combine properties across Township lines. Staff also recognizes the split is requested to address property maintenance, access, and ownership issues as part of a property sale. Ordinarily, the property would be required to be combined or platted to address similar split combination issues. However, because the proposal involves parcels that are within separate Townships, these options are not available to the applicant.
- Staff is not opposed to the proposal however, it was determined that staff could not approve the split request administratively. Staff feels an appeal to the Board of Adjustment is appropriate in lieu of a variance in this circumstance as the A3 District stipulates a minimum parcel size for each "principal use" as opposed to other County Zoning districts which specify a minimum lot or parcel area. There are no "principal uses" established on the proposed non-conforming splits.
- Any proposed structures, additions, septic and well facilities on Parcel A or Parcel B would need to meet required setbacks from property lines, including Township lines unless a setback variance is applied for and approved by Goodhue County.
- The Goodhue County Zoning Ordinance specifies that the A3 minimum parcel size of 35-acres is for "principal buildings or uses". Given the proposed size of parcels B and D, a structure or use

could not be established on these lots and meet the required setbacks from property lines, right-of-ways, or Township lines.

- To obtain legal access for Parcel C to 180<sup>th</sup> AVE over Parcel D an easement at least 33 feet wide would need to be recorded for ingress/egress. Parcel B would also need legal access via an easement at least 33 feet wide.
- An alternative to creating Parcel B would be recording an easement over the acreage for use by the owner of Parcel A. An easement would not reduce the acreage of Parcel C.
- An alternative to creating Parcel D would be recording an ingress/egress easement 33 feet wide over Parcel A for access to 180<sup>th</sup> AVE from Parcel C.

The following shall be amended to reflect concerns conveyed at the Board of Adjustment meeting and public hearing.

#### **Staff Recommendation:**

Staff does not make a recommendation to the Board of Adjustment on appeals. Whether affirmed or reversed the Board should:

- adopt the staff report into the record;
- accept the application, testimony, exhibits, and other evidence presented into the record; and
- make a determination to affirm or reverse the Zoning Administrator's rejection of the split request.

## **Action Options for Consideration:**

A. The Board of Adjustment may AFFIRM the Zoning Administrator's determination that the split request does not meet A3 District standards and may not be recorded.

OR

B. The Board of Adjustment may REVERSE the Zoning Administrator's determination.

If the Board of Adjustment chooses to reverse the Zoning Administrator's decision, LUM Staff would recommend the Board of Adjustment consider adding a condition stating that no structures shall be constructed on parcels B and D to maintain conformance with the intent of the A3 District regulation of "35-acres per principal building or use".



# RECEIVED

FEB 2 6 2021

For Staff Use only 221-0006

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PPLICANT OR AUTHORIZED AGENT'S NAME					
Mark J. Jeanson P.R. TLJeanson estate			TELEPHONE:		
215 21st Street SE			TELEPHONE.		
Rochester, MN 55904		EMAIL:			
ROPERTY OWNER'S NAME:		,		- 10-24	
Steve Kelling (Owner of TLJeanson Estate)  David & Kathle ROPERTY OWNER'S ADDRESS:	een Jear	ISON (Current property	owners of West 25 acres )		Same as Abov
	A		TELEPHONE:		
14997 Co 27 Blvd 50189 180th Ave Pine Island, MN 55963 Pine Island, MN 55		3	EMAIL:	_	
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ONTACT FOR PROJECT INFORMATION:					
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#### History:

After the passing of Thomas L Jeanson his estate was put up for sale at address 50287 180<sup>th</sup> Ave Pine Island, MN 55963. It was his wishes that approximately 3 acres were to be sold with the house. The sale of the house took place in December 2020 to Steve Kelling 14997 Co 27 Blvd Pine Island, MN 55963. All the mortgages and debts on the estate were closed out per this sale. For this sale the estate had a survey performed to create an approximate set back of 100 feet from the back of the home which was key to the sale. It also gave right way for the electrical to the property and enough area for a new septic field from dwelling and shared well. The other need to change the original acreage was to also give access to the remaining property of 25 acres to the west of the county road (180 Ave) owned by David and Kathleen Jeanson (Son of TLJeanson) 50189 180 Ave Pine Island, MN 55963.

#### Purpose:

The purpose of this appeal is to claim "hardship" due to the size and placements of the three current plots that reside in Roscoe, and Pine Island townships and to have them re-plotted into acreages that support the aforementioned needs of the TLJeanson estate and remaining acreage of David and Kathleen Jeanson as well as meet the Goodhue county's land management rules and taxes.

#### Currently there are three separate parcels:

Currently on file parcels 39.030.0700 "A" and 39.030.0600"B" are listed to the TLJeanson Estate, and parcel 40.025.0400 "C" is listed as being owned by David and Kathleen Jeanson. This is in an A-3 zoning district per Goodhue land management. See figure #1

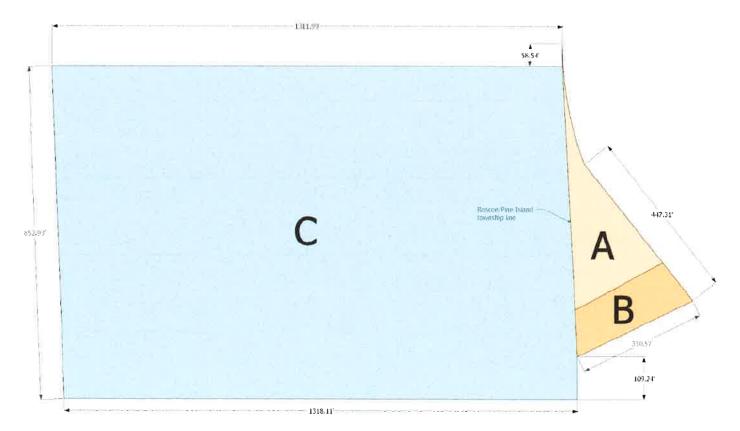


Figure #1. (This graphic is for descriptive purposes only and not intended to represent actual parcel descriptions.)

#### Proposal of four parcels:

Parcels A & B would be for the TLJeanson Estate. Parcel A would be in Pine Island Township and B would be in Roscoe Township, and give the 100 foot setback to the estate. Parcels C & D are for David and Kathleen Jeanson. They currently own per Goodhue records parcel C. Parcel D would would give access to 180 Ave that currently has no access. The boards input to this proposal is welcome and the estate acknowledges updates to the submitted descriptions would need to be updated. See figure #2

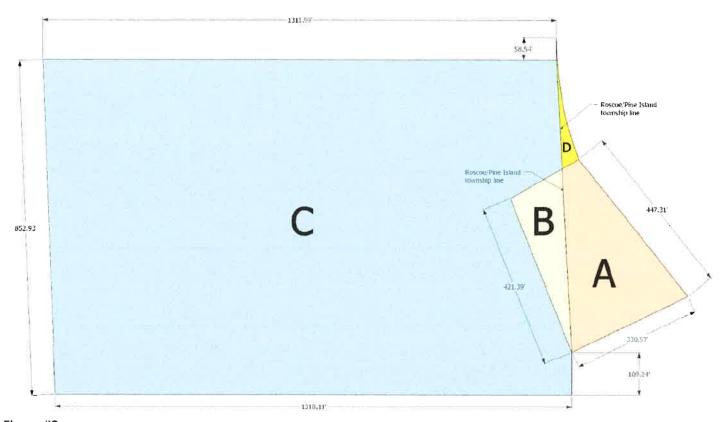
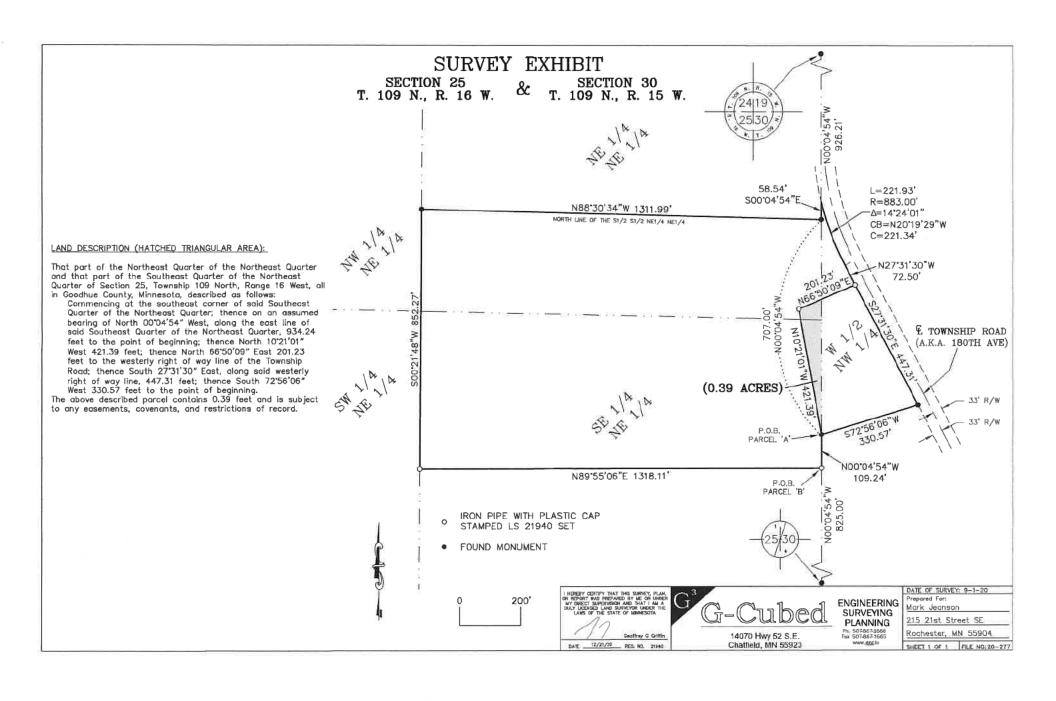


Figure #2. (This graphic is for descriptive purposes only and not intended to represent actual parcel descriptions.)

Note that all of the Jeanson family members of the TLIeanson Estate are in agreement of the aforementioned sale 22 years ago of the 25 acres to David and Kathleen Jeanson, and of the sale of the TLIeanson estate to Steve Kelling. The Estate manager, Mark J. Jeanson 215 21<sup>st</sup> Street SE Rochester, MN 55904 is the sole Personal Representative of the TLIeanson estate as acknowledge in December 2019, in Goodhue County court.

A letter from Roscoe Township stating that they were notified by the TLIeanson Estate hardship case and were going for an appeal was sent to Goodhue land management dated 2/15/2021

Mark attended the Pine Island township meeting and notified the board to the hardship of the TLIeanson Estate. They signed the appeal and made suggestions that are stated in the proposal above.



# Mark Jeanson

From: Sent:

Andy Huneke [huneke.andy@gmail.com] Tuesday, February 16, 2021 3:29 PM

To:

samantha.pierret@co.goodhue.mn.us; Bechel, Ryan

Cc:

scottbergconstruction@gmail.com; rjhoven@msn.com; Andy Huneke; Mark Jeanson

Subject:

Jeanson Zoning Issue

Follow Up Flag: Flag Status:

Follow up Flagged

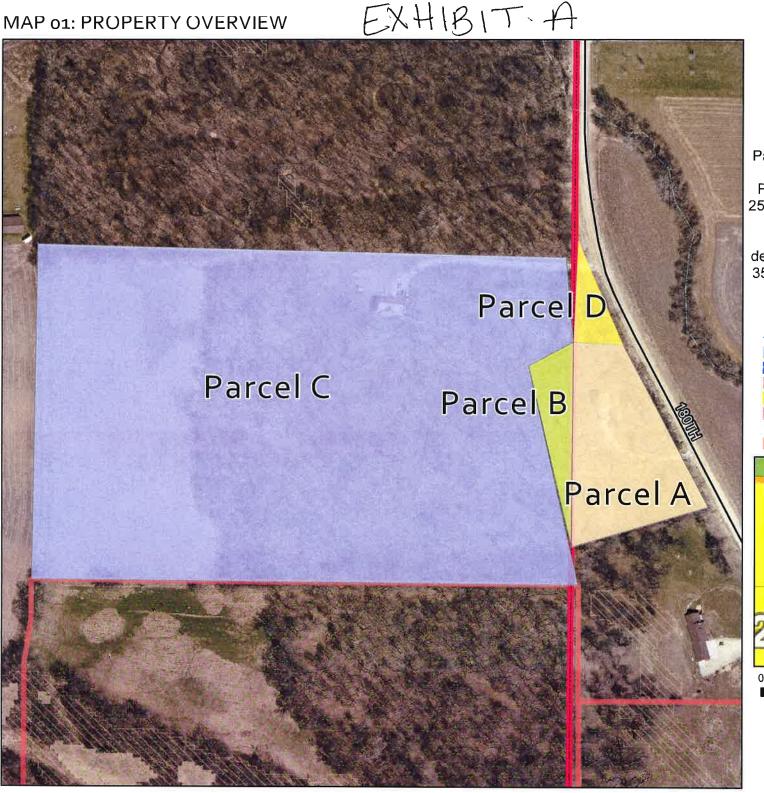
Ryan and Sam,

This email is to inform you that the Roscoe Township board is aware of the zoning issue on the Jeanson property. We understand that Jeanson will be appealing your department's decision.

Roscoe Township follows the zoning regulations set forth by Goodhue County and will continue to do so.

Sincerely, Andy Huneke Roscoe Township

Sent from Mail for Windows 10



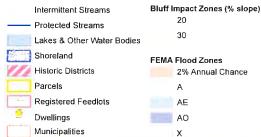
# **BOARD OF ADJUSTMENT**

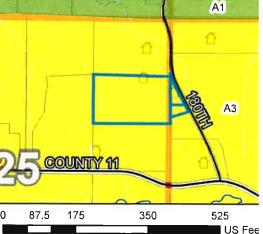
Public Hearing March 22nd, 2021

Mark Jeanson (Applicant)
A3 Zoned District

Part of the NW 1/4 of Section 30 TWP 10 Range 15 in Pine Island Township and Part of the E 1/2 of the NE 1/4 of Section 25 TWP 109 Range 16 in Roscoe Townsh

Appeal of Zoning Administrator's determination a split creating lots less the 35-acres does not conform with A3 Distri regulations
Legend

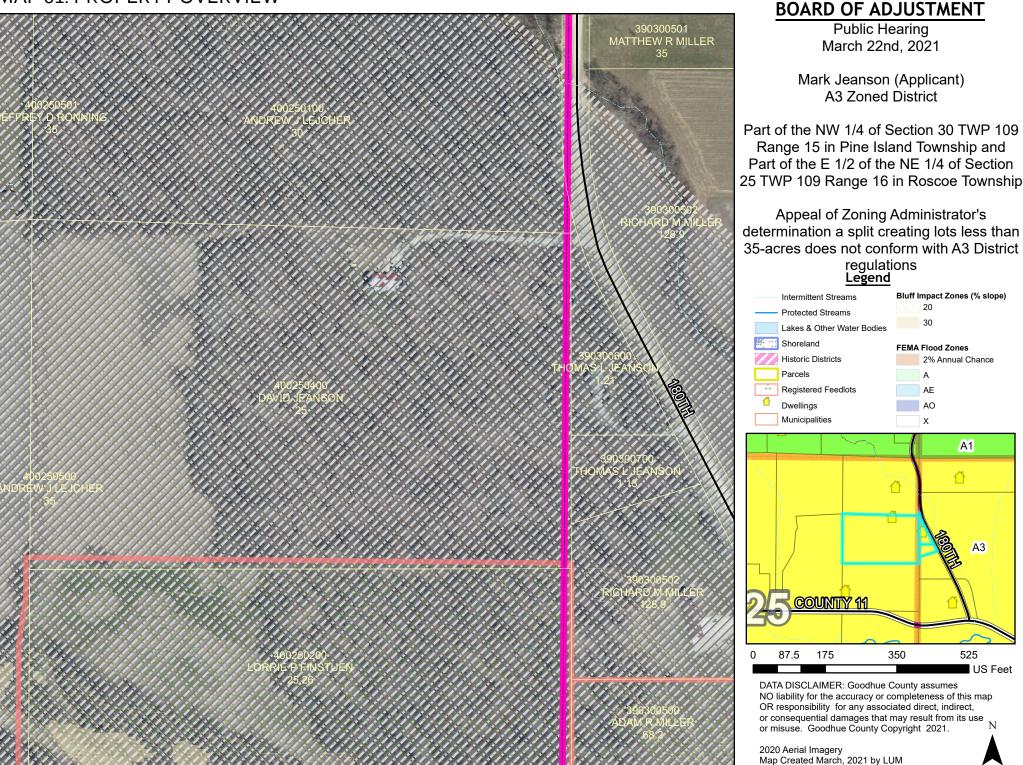




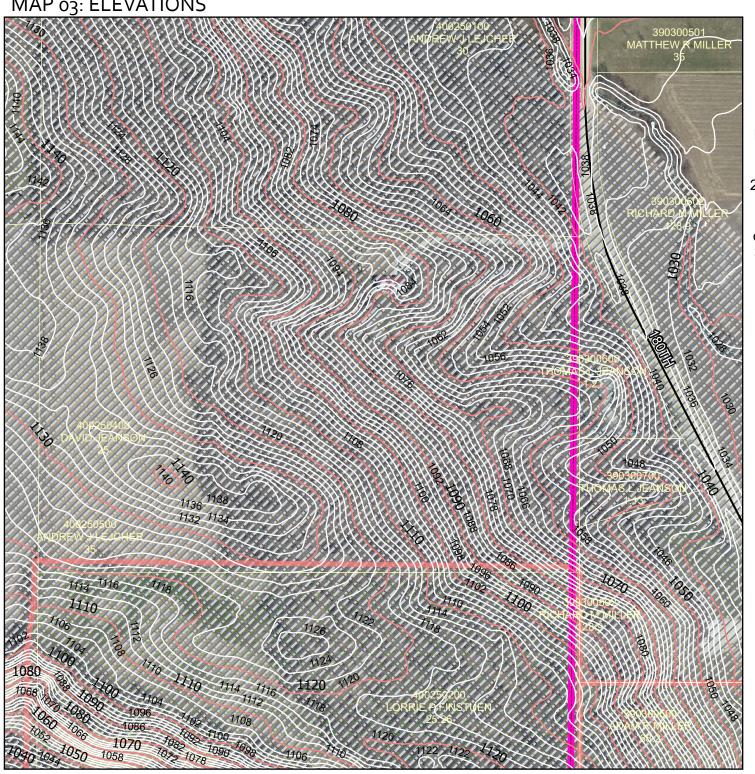
DATA DISCLAIMER: Goodhue County assumes NO liability for the accuracy or completeness of this map OR responsibility for any associated direct, indirect, or consequential damages that may result from its use or misuse. Goodhue County Copyright 2021.

2020 Aerial Imagery
Map Created March, 2021 by LUM

## MAP 01: PROPERTY OVERVIEW



MAP 03: ELEVATIONS



## **BOARD OF ADJUSTMENT**

Public Hearing March 22nd, 2021

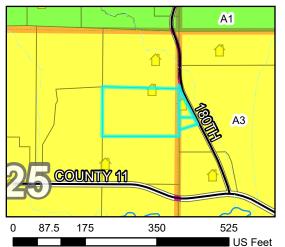
Mark Jeanson (Applicant) A3 Zoned District

Part of the NW 1/4 of Section 30 TWP 109 Range 15 in Pine Island Township and Part of the E 1/2 of the NE 1/4 of Section 25 TWP 109 Range 16 in Roscoe Township

Appeal of Zoning Administrator's determination a split creating lots less than 35-acres does not conform with A3 District regulations

#### Legend

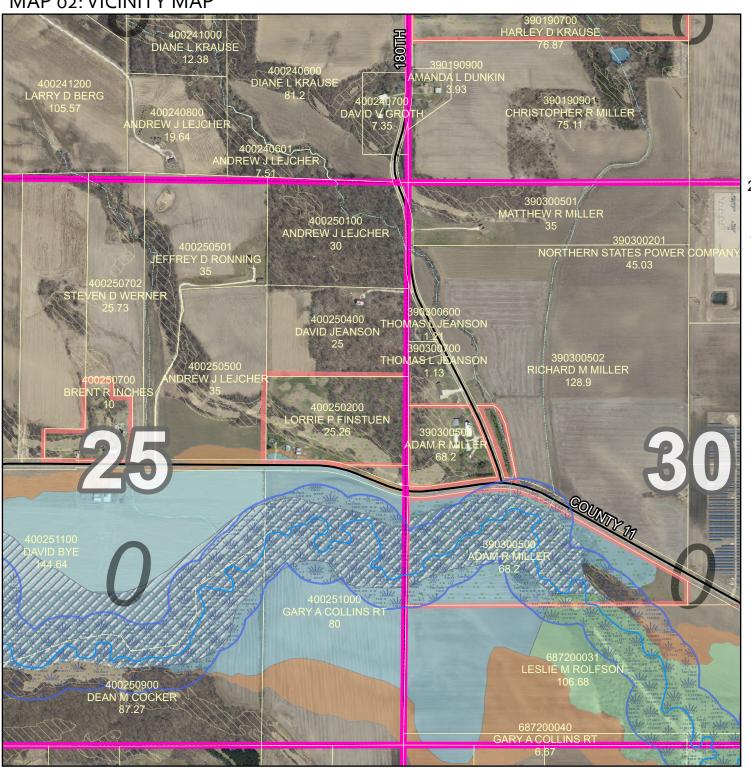
Bluff Impact Zones (% slope) Intermittent Streams 20 Protected Streams Lakes & Other Water Bodies Shoreland **FEMA Flood Zones** Historic Districts 2% Annual Chance Parcels Registered Feedlots ΑE Dwellings ΑO Municipalities Х



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2020Aerial Imagery Map Created March, 2021 by LUM

## MAP 02: VICINITY MAP



## **BOARD OF ADJUSTMENT**

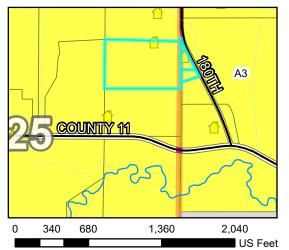
**Public Hearing** March 22nd, 2021

Mark Jeanson (Applicant) A3 Zoned District

Part of the NW 1/4 of Section 30 TWP 109 Range 15 in Pine Island Township and Part of the E 1/2 of the NE 1/4 of Section 25 TWP 109 Range 16 in Roscoe Township

Appeal of Zoning Administrator's determination a split creating lots less than 35-acres does not conform with A3 District regulations Lĕgend

	Intermittent Streams	Bluff Impact Zones (% slop
	Protected Streams	20
	Lakes & Other Water Bodies	30
	Shoreland	FEMA Flood Zones
	Historic Districts	2% Annual Chance
	Parcels	Α
	Registered Feedlots	AE
<u>1</u>	Dwellings	AO
	Municipalities	X



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2020 Aerial Imagery Map Created March, 2021 by LUM