

Minutes of the Todd County Board of Adjustment Meeting

January 22, 2026

Completed by: Sue Bertrand P&Z Staff

Site visit completed for US Solar by Adam Ossefoort and Ken Hovet on 12/15/2025
Site Visit completed for Peterson by Adam Ossefoort and Danny Peyton on 1/13/2026.

Meeting attended by board members: Vice Chair Bill Berscheit, Danny Payton, alternate Larry Bebus and Planning Commission Liaison Ken Hovet.

Staff members: Adam Ossefoort and Sue Bertrand

Other members of the public: Sign-in Sheet is available for viewing upon request.

Bill called the meeting to order at 6:00 p.m. Each board member introduced themselves and Bill explained the process for those attending, and the Pledge of Allegiance was recited.

AGENDA ITEM 1: Reorganization of the Board and review of Business Rules

Chair

Larry nominated Russ, seconded by Danny, no other nominations, voice vote, no dissent heard, motion carried.

Vice Chair

Larry nominated Bill, seconded by Ken, no other nominations, voice vote, no dissent heard, motion carried.

Dan motioned to adopt the rules as presented for 2026, Larry seconded, voice vote, no dissent heard, motion carried.

AGENDA ITEM 2: USS Eagle Bend Solar, LLC – PID 28-0001100 – Wykeham Township

Request(s):

1. Request to remove the prime farmland solar restriction from Section 9.20 to allow for the submission of a CUP application for a 10-megawatt solar energy system in AF-1 Zoning District.

Tena Munson, Senior Vice President Project Developer at US/Solar, were present as the applicant.

Staff Findings: Adam stated he has no additional information for the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office.

Proposed Condition(s):

1. Proposed project must be constructed in compliance with Section 9.20 of the Todd County Planning and Zoning Ordinance.
2. Variance shall lapse and be void if not substantially completed within 36 months from the granting of this variance in compliance with Section 5.03G of the Todd County Planning and Zoning Ordinance.
3. Applicant shall abide by all other applicable federal, state, and local standards.

Tena Monson, with US Solar, headquartered here, in Minnesota, stated the landowner was present and would like to read her prepared remarks. Tena stated the question she has come up with is what is "Prime farmland"

and how this board defines it. She clarified this is not a policy setting board as that is the Commissioners. They allow the use per: CUP within this district. Of course, they have put in the protections that are important, which are of course, one of the things we are discussing here this evening. Not reviewing the project as a whole, as that is what the Planning Commission will do. We reflect on this discussion here as what is Prime farmland, and how you define it? The last time they were here, they talked about Prime farmland as defined by the USDA in categories and referred to the map handouts the board had to review. She did not feel the maps told the whole story. She wanted to share her yield (Greenwaldt) that does not reflect prime farmland. Her yield is around 125 bushels of corn and the average for the County is 210. The way they think about it, on a project-to-project basis, this board can look at the actual productivity of the property to understand whether they are, in fact, taking highly productive farm land out of rotation or is it finding a better and higher use for land that may not be as productive as the definition of the USDA would lead us to believe. Unfortunately, she does not have data maps to report data yield on neighboring properties. She stated they do not believe, in this case, that this is indeed prime farmland. She thought the board could define prime farmland based by yield, if they so choose. She mentioned they had talked about using a pollinator mix, which is a meadow type mix, with benefits that reduce run-off and erosion control, but they are also proposing to add sheep grazing. US is really big on using Agrivoltaics, a mix of more traditional farming, together with the farming of the sun, to produce locally generated power. She stated they are happy to use the sheep, as they manage the growth of the pollinator mix. Part of traditional agricultural use on site. She would like to discuss/present to the board the replication of a project they have in Big Lake, MN. That project has vegetable crops in between the panels. They have a great partnership with Big River Farms as part of a match maker for farmers looking for land, and they can pair them with their solar facility. They have great success in growing their crops there, and they have a chef that will grow and take products from there to prepare dishes for people when they hold events there. She stated it is quite amazing what they are doing there. It is really hard to do, but they are committed to figure out how to do that here. It would not be for the full acreage, but there are usually not enough farmers in the area that could take that much acreage, but they are committed to doing a portion of it. So, they think, between looking at yields and having an applicant bring forward Agrivoltaics in some capacity, that this variance can be approved. A couple of the other benefits; they have gone in front of the township, and they are in support of this project. The township mentioned property rights, and she states the importance of the people most locally involved, and from the governments' perspective, supporting this project. From the last meeting, there is no one in opposition to this, and tonight, could be potentially one, here, but we are not aware of any opposition. Everyone has been noticed and the landowner has been here for decades and knows all her neighbors. This is a very well-sited project. We don't have neighbors and we are in a place where we are not impacting peoples' lives, but the landowner who will be right next to this, and she is here tonight, working with them. This board is tasked with defining Prime farmland. She stated they believe they have a very well supported project on what they would call low productivity land. We have a landowner that is a part of this community, and they have a deep willingness to incorporate more traditional farming practices onto the site which they welcome as a condition for the site if so needed. An extra perk, it is a locally produced power. We know electricity is in short supply and if you can get power locally, that is always a great story to have. She drew attention to the maps again and stated they have overlaid all of the constraints that they would typically remove; USDA Prime farmland, wetlands and waterways, shoreland buffer zones, unsuitable slopes, tree cover, infrastructure and MN Power service territory. Referred to the black and gold map, which is the opposite of the other map on where you could possibly put solar. They didn't go site by site. She stated they look first at why they wouldn't go there (a lot of infrastructure and investments, pivots), then why they would. They try to avoid a view shed to a "natural environment" like a river. What is really clear, is the limited

supply side of where they could put these. The demand side is that MN Power wants solar power and this is USS Eagle Bend Solar's one time. In her professional and industrial opinion, MN Power's service area is so large, there will not be high demand for projects in Todd County.

More discussion on maps.

Site visit review done by Ken. Stated it was, for the most part, unremarkable and was mainly flat area with a slight slope to the South. He noticed corn stubble under the snow. This report may be viewed fully upon request at the Planning and Zoning office.

Correspondence received: Adam stated none, as the homeowner would like to read her own correspondence.

Public comment:

Jean read a prepared letter to the board for the record. This letter may be viewed in full in the Planning and Zoning office upon request.

Board discussion:

Bill asked about the yield per acre and average.

Tena, 124 bushels per acre for corn and the county average is 210.

Ken asked Jean if she knew what the productivity index is for that piece of land? It would be anywhere between 0-100. A University of MN method of measuring productivity.

Jean stated she was not familiar with this.

Danny stated relating to tax bases, he has heard from both sides, will increase the tax base and so forth, and it will be an ongoing improvement for the Township and County. If this is always positive, why are we always hearing the problems around the Twin Cities and our Western counties and states where they have almost no people doing ok. He has a problem with the tax base statement as "we increase the tax base, the increased profitability" and the more people we have, the more problems we have, and we are always short of money. He has always had trouble with the tax-base statement. As far as the Ordinance, he believes the Board of Adjustment is here to offer relief from the strict enforcement of the Ordinance and he believes they are also here to interpret what the Ordinance is trying to tell us. As far as changing the laws, goes back to the commissioners. He does not want to get into a fight over the Ordinance with the County commissioners. We can suggest to the County Commissioners, they make the Ordinance and Adam goes there, he does not want to get into the politics. As far as the assets of farming on your income and so forth, Danny stated he farms too. He looked around and he sees different pieces of land and how they are farmed, and he sees both extremes as far as 100% managed where it is perfect time planting, perfect time fertilizing and yes, it is always a factor. He also has neighbors that have never sprayed, ever in their life, and it is full of weeds. He fights weeds that blow onto his fields, and it's the same soil texture. How can he compare one to the other? One side is raising quite a bit more bushels than the other side of the fence, with the same soil. He does not want to get into what

category of farming is being done on this property. Having a hard time with that, too. It gets back to why we are here and why we are having trouble with this whole concept of having no prime farmland. He could see easier if it is a little bit here or a little bit there, but the last time he checked this property is over 50% in prime farmland. He can see the road going in or the area where we want to put most of the electronic voltage ramp up to the power grid.

Bill offered sub-station.

Danny continued, the substation up by the solar-panels, and he can see, this project is going on over 50% of this classified as prime farmland. This is where he is having great trouble with it.

Bill stated the last time we asked the applicants for saturation within the County, and cudos to you guys for providing the maps, coupled with the information regarding MN Power, it clearly tells us that the times we are going to have a request like this come before the board is going to very minimal. This is not an "opening the floodgates" situation. He can attest to that personally. He, himself, has been approached 4 or 5 times for solar projects and so far, they have all fallen away. Bill stated he has expressed this with the commissioners, last October, and voiced to them he feels if we don't accept the placement of these things where we don't have to worry about it being aesthetically pleasing (not putting them right tight up against town, where everyone will have to look at the sun beating off of them the first thing in the morning) they will have to see more applications that do not fit the parameter and it gets less desirable. Bill stated the project he has before him, personally, he would have some de-forestation involved, and he feels it is not something that should be done to make way for solar. It makes sense these projects are put on the more logical real estate, where they best fit.

Tena shared statistics on Todd County (627,000 acres) with 2.8% where the solar is allowed, not doing a site-specific review, areas like where irrigators are, or farmed but incredibly wet, too close to homes or the highway as more industrial uses are a better fit.

Bill added, where solar would fit, where the grid would allow it to fit.

Larry asked, as far as the character of the locality, these panels are 6-8 feet high, is there all farmland around it or are neighbors going to think it is an eyesore?

Tena stated we don't have the impacts (noise, don't draw people to the site, we are not stressing your schools, we don't need sewer or water) other than visuals, and ordinance covers this by screening, the closest home is the landowner, and she will have the only visual impact. The best way to reduce this impact is distance, which they are doing, and if you need trees around the roadway or full perimeter, they would be fine with either condition. It is a well-situated site.

Larry, how long will it take to install the panels?

Tena, equivalent to a one construction project, from spring, after road restrictions, we put in the road, until fall. Sometimes they straddle winter.

Larry, will that interfere with the area farming activity like planting and harvesting?

Tena stated no, typically, the solar is impacted more from farmers' dust. Road use maintenance agreements are common with local officials like townships, and US Solar will survey the condition of the road before they do anything and after, and will restore the road to its' original condition or better. She stated this is a small project so there should not be too many trucks. Impacts are limited.

Bill added it is only a mile off Hwy 71.

Danny, refresh us, why is the limitation from the three-phase power line only a mile?

Tena, economics, in terms of proximity to infrastructure.

Tena stated you want to be as close to the infrastructure as possible, there are also thermal impacts, and they look at all the things that could go wrong. The further away from the infrastructure, the more problems can occur. The further away you are, the more you have to shrink your project, so you don't have those impacts.

Bill stated this is not MN Power putting in this proposed project, this is small privately owned groups that have to sell this to MN Power. If it doesn't make MN Power money or tightens that margin down, MN Power absolutely will not accept the application if the economics don't work.

Tena added MN Power has to procure a certain number of megawatts within their service territory. The opportunity could be with Todd County or, they go to the neighboring county.

Bill added as tax payors, we are already paying for solar so, do we want it to come back to us?

Larry asked, if bushels per acre are going down, due to being too wet for the homeowner, how will that affect the panels?

Tena explained why wet ground is not a problem for the construction of the project, providing there is no muck on site.

Ken asked, where you talk about 18,000 acres where solar is allowed, are you talking inside MN Power's service area?

Tena, correct, and explained. She also added it does not include co-ops as the demand is low for co-ops.

Ken, how far is too far out?

Tena, we would never go more than three miles.

Ken reminded Tena the board had asked if there was an alternative site.

Discussion on alternate site.

Tena stated, you asking for an alternative site asks them to abandon the landowner. If the board tells us no, we will go find another county. She stated she cannot recommend investing the millions of dollars we make in these projects, including over ten million dollars, closer to fifteen million dollars with capital expenditures into a county that has already told us they don't... not here. Whether prime farmland or not, she would just go to a different county.

Ken stated one of the considerations of this board, for every variance asked for: is there an alternative site, so we don't need the variance, and he doesn't see that anyone has looked yet.

More discussion on alternative sites.

Bill, with his experience, having been through numerous of these, he is absolutely aware that multiple of his neighbors were approached when he was approached, and almost always they declined. He can think of one other, out of five projects, was one neighbor who put his property up as a potential. When these things get initiated, there is something generated like this (holding up the maps) that shows the potential and the return on investment, so, then the landowners are approached and most decline. Very few are willing to come to the table and have this conversation. Bill stated, in his mind, have we explored alternative sites? Yes, and to back it up one step further, through the last twenty years, he has thrown out fifty to one hundred post cards of companies looking to put solar on our real estate, so the approach is constantly there but it's incredibly limited for the people willing to come to the table. Are alternate sites considered? Absolutely, and felt it was unfair to put it on the applicant, and ask "what is your alternative site", when there simply isn't one.

Ken stated, again, they haven't been out there looking or talked to the land owners.

Tena defended, they send hundreds of letters, postcards and ask people to reach out to them. They also do targeted phone calls, particularly in high value locations, next to substations. When you sign someone, you sign someone. You don't keep signing people. She also added she thinks this is a great site because there are no impacts. She didn't think you could get a site better than what they have put together.

Bill added, as an FYI, once the landowner is approached, they come in and immediately ask for a contract and they put money up, and he is certain Jean has cashed a check or two, like they have done with Bill repeatedly over the years, and once you have taken that step, they are contractually obligated and don't go with some other company. At that point, they are not opening it up to other options at the table. All this was sorted out before the contract was signed, and before they got to this point.

Danny understood the alternate site is limited to Jean's parcel, and it wouldn't make a difference, in her case.

Luke stated they have a site selection team that sends out dozens to hundreds of letters and the response rate is quite low, in the 10% to 15% and you need a willing landowner. There was a letter batch that went out to the Eagle Bend area and Jean's parcel is what they have come up with.

Larry asked what the life span of a panel was.

Tena, 40 plus years, after 25 to 35 years they degrade.

Larry, then what?

Tena, decommissioning or take it down, then return it back to usable soils at the end of it, so if you think about housing or a lot of other developments, there are not a lot of times that that is true. Many Counties view this as an interim use. There is also the potential for repowering, where you switch out the panels and work with higher power panels.

Larry, whose responsibility is it to decommission and whose responsibility is it to get rid of these things?

Tena stated they have within their leases with landowners an agreement where US Solar would have to decommission it, also Todd County Ordinance requires some sort of bond or security if US Solar does not take care of it.

Larry, so after 25 years, you take it all out, then, this prime soil is still usable as prime soil?

Tena, absolutely. She added she will argue the yield would be a lot better, too.

Bill added he was informed the panels have enough value to be recycled and there are places for that.

Bill asked if they would like to go over criteria?

Ken, let's move to criteria questions.

Criteria Question #1: Is the variance in harmony with the general purposes and intent of the official control?	
Board Member	Vote and Comments
Dan Peyton	Yes
Larry Bebus	Yes
Ken Hovet	No
Bill Berscheit	Yes, it is addressed in the ordinance and provides a practical difficulty for it.

Majority response- yes

Criteria Question #2: Is the variance request consistent with the goals and policies of the comprehensive plan?	
Board Member	Vote and Comments
Dan Peyton	Yes
Larry Bebus	Yes
Ken Hovet	Yes
Bill Berscheit	Yes, our Comp plan clearly addresses solar and a desire to place it although the placement criteria are stringent.

Majority response- yes

Criteria Question #3: Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?	
Board Member	Vote and Comments
Dan Peyton	Yes
Larry Bebus	Yes
Ken Hovet	Yes

Criteria Question #3: Is the property owner proposing to use the property in a reasonable manner not permitted by an official control?	
Bill Berscheit	Yes

Majority response- yes

Criteria Question #4: Is the need for a variance due to the circumstances unique to the property not created by the landowner?	
Board Member	Vote and Comments
Dan Peyton	Yes
Bill Berscheit	Yes
Ken Hovet	Yes
Larry Bebus	Yes

Majority response- yes

Criteria Question #5: Will the variance maintain the essential character of the locality?	
Board Member	Vote and Comments
Dan Peyton	No, farming is something that is grown to consume, beef, sheep, poultry, grain, vegetables, however, there is corn grown and put in vehicles, so he's having trouble with this.
Bill Berscheit	Yes, we have no commercial solar in Todd County. Sellers refer to it as a solar farm. The reality is the use of a piece of agricultural real estate that will be opened up to a use that will be exactly the same as it is now, at the end of its term use, and added it is impacted far less than a turkey barn or numerous ag structures or non-ag structures that may be put on this land over multiple generations.
Ken Hovet	No, it is going to look completely different than what is there.
Larry Bebus	Yes, agrees with Bill.

Majority response- split

Criteria Question #6: Does the need for the variance involve more than just economic considerations?	
Board Member	Vote and Comments
Dan Peyton	No, economics only.
Bill Berscheit	Yes, hardest questions, we can change topography by economics, in this case it is about location, location, location, yes, driven by economics, but there are more considerations, even if this is prime farmland, we do have reasons to grant a variance to move forward
Ken Hovet	No, that is all he heard was economic considerations.
Larry Bebus	Yes, involves infrastructure, farmland, economics, everything.

Majority response- split

Criteria Question #7: Have safety and environmental concerns been adequately addressed?	
Board Member	Vote and Comments
Dan Peyton	Yes.
Bill Berscheit	Yes, conditions will address weed control maintenance.
Ken Hovet	Yes, weed control is the biggest concern, no safety concerns, conditions can address the weeds.
Larry Bebus	Yes.

Majority response-Yes

Summary of criteria question majority responses as follows:

#1	Yes
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#2	Yes
#3	Yes
#4	Yes
#5	split
#6	split
#7	Yes

Ken made the motion to deny, based on our requirements set forth in the top paragraph.

Larry asked if we could bring it forward next month?

Bill stated we have an even board this evening with a two-on-two vote. In the criteria questions, there are two that we do not have a majority in. When it comes to a vote, in regards to a motion, that would be a failure. He assumed that is the same for the criteria questions or is that an affirmative vote?

Adam stated the criteria questions are just for discussion. They are there to help establish your findings for making a decision. The motion is what matters in the end. So, each individual member should vote on their individual criteria. He has the statute available in the event there is a tie vote.

Bill stated we have a motion for denial, do we have a second, no second, motion for denial fails. Open to discussion and/or another motion.

Danny made a motion to approve with a weed control condition. He asked what has been decided for under the panels?

Tena stated they are proposing pollinator mix controlled by sheep grazing and they are open to vegetable farming if the board would like them to look at that. The vegetable farming will most likely happen outside of the sheep fence, if the board would like to see a more traditional use for the land, so three; pollinator, sheep and vegetable farming outside the fence).

Danny stated he is also in the pollinator program and lately, the state is pushing pollinators, but there is an annual seeding program that he is in. Each year he must plant. Not sure that is what they are planning.

Tena stated they plant once and it takes three years to establish.

Danny requested, in this pollinator's mix, could we have at least twelve varieties?

Ken asked for a friendly amendment to the conditions, and he asked for weed control as he has seen way too many industrial sites that are just a big weed garden. He would also like to see tree planting for screening.

Tena stated the conditions are reasonable, in terms of screening, however, they have a handful of trees. They like red cedars, but asked for a little flexibility with choosing the type, as they can only commit to the height right now, to make sure they are planting the right trees in the right soil, for successful growth.

Ken agreed, 12' to start with.

Bill had Adam add a condition for screening.

Bill asked for a second, and Larry seconded with the five conditions as presented.
Conditions:

1. Proposed project must be constructed in compliance with Section 9.20 of the Todd County Planning and Zoning Ordinance.
2. Variance shall lapse and be void if not substantially completed within 36 months from the granting of this variance in compliance with Section 5.03G of the Todd County Planning and Zoning Ordinance.
3. Applicant shall plant a pollinator seed mix consisting of no less than 12 different species of plants. Weeds shall be controlled at all times.
4. Vegetative screening shall consist of trees that will reach no less than 12' in height at full maturity.
5. Applicant shall abide by all other applicable federal, state, and local standards.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
Danny Peyton	yes
Ken Hovet	no
Larry Bebus	yes
Bill Berscheit	yes

Motion carried, variance granted.

AGENDA ITEM 3: Luke Peterson – PID 06-003600 – Burnhamville Township

Request(s):

1. Request to reduce the side yard property line setback from 30' to 16.9' in AF-1 Zoning District.

Staff Findings: Adam read the staff report. The staff report is available for viewing upon request in the Planning & Zoning Office.

Proposed Condition(s) if approved:

1. No conditions

Luke confirmed the staff report was accurate.

Danny went through his site visit report. This report may be viewed in full upon request at the Planning and Zoning office.

Correspondence received: none

Public comment: none

Luke stated the reason it's where it is: he can't chase the pheasants out of one barn into another unless they are under a roof, or they are gone.

Board discussion:

Ken, are both barns the same?

Luke, one is galvanized, one is not, both pole sheds.

Danny stated he noticed this is for housing the pheasants, it is ventilated, is there any water in the structure?

Luke. There will be in the spring, and only through the summer.

Dan, it's about the cheapest you can build the structure, with galvanized siding and roof.

Luke, the goal is when they come in this starter barn, when they get to be 5 or 6 weeks, this is a wild animal, so they don't have a chance to get used to the environment. Last year, when they had a lot of heavy rains, he lost a lot of birds, when they first went outside. The idea is: this would alleviate that.

Danny, one of the images shows a layout of the runs, who owns what land?

Discussion on who owns neighboring lands.

Bill asked if there has been any attempt to do a property line adjustment to alleviate the need for a variance?

Adam stated the property line cannot change, due to it being a section line.

Ken made a motion to approve.

Bill stated a motion to approve with findings of facts: this is a family operation that operates across property lines but the property line in question is a section line and therefore would still be considered a property line even if he owned across it.

Larry seconded.

Roll call vote commenced as follows:

Board member	Vote (yes or no)
Danny Peyton	yes
Ken Hovet	yes
Larry Bebus	yes
Bill Berscheit	yes

Motion carried, variance granted.

Adam announced he had brought the Earth program, as part of our Ordinance amendment to make it a part of our application to the commissioners, last Tuesday's work session and they didn't really move forward with it at all, but they want to have Adam come back to an upcoming work session, and bring one or two board members, to discuss your vision of using it. Adam was hoping Ken would be one, as he is the crossover member, but you may want another to come, if anyone is interested, and he doesn't need an answer right now, just saying that is the next step, is we will go back to the work session and bring one or two board members with him.

Dan motioned to adjourn and Ken seconded. Voice vote to adjourn. No dissent heard. Motion carried, and the meeting adjourned at 7:41 PM.