

Applicant

Dennis Leiding
12403 605th Ave
Mapleton MN 56065

Request and Location

The applicant is requesting a variance to reduce the required setback to a neighboring dwelling from 1,000 feet to 245 feet and to reduce the required property line setback from 50 feet to 10 feet for the purpose of expanding an existing swine finishing operation. The property is zoned Agricultural and is located in the NE 1/4 of the NE 1/4 of Section 35, Lyra Township.

Legal Description

The North Half of the Northeast Quarter of Section 35, Lyra Township (T-106-N, R-27-W).

Zoning

The property is zoned Agricultural.

General Site Description and Project Proposal

The property includes the applicant's feedlot, other agricultural buildings and grain bins. The feedlot consists of two total confinement swine barns and is permitted for 750 finishing pigs or 300 animal units. At the present time, neither barn is stocked. The applicant has indicated that it is unlikely that the southern barn will be stocked again. The north barn may be restocked.

The applicant is requesting a variance to reduce the required setback to two neighboring dwellings and to the side yard for the possible placement of one or two swine finishing barns. At this time the exact plans have not been finalized. According to the applicant the options include: one 500 head finishing barn, two 500 head finishing barns, or one 1,000 head finishing barn. The site plan options indicate that the nearest dwelling is located approximately 245 feet west or southwest of the closest proposed barn. Another dwelling is located approximately 725 feet southwest of the nearest proposed barn. The request to reduce the side yard setback is to allow additional distance between the proposed barn(s) and the neighboring dwellings.

If the request is approved, the applicant will submit an application for a conditional use permit for the actual feedlot expansion.

Existing Land Use within 1/2 Mile

North: Crop land
South: 136th Street (a Township Road) and crop land
East: Crop land
West: One dwelling at approximately 155 feet from an *existing* finishing barn, and crop land
Southwest One dwelling at approximately 635 feet from an *existing* finishing barn, and crop land
Southeast Crop land and one farm dwelling at approximately 1,600 feet from the *nearest proposed barn*
Northwest Crop land and a cemetery at approximately 2,400 feet

Access - There is an existing driveway that services the feedlot and the home to the west. It is likely that if the variance is approved and a conditional use permit for the expansion is approved that a new driveway will be constructed closer to the southeast corner of the property.

NATURAL RESOURCES INFORMATION

Topography

The topography of the area is flat to gently rolling.

Floodplain

The proposal is not within a floodplain area.

Shoreland

The proposal is not within a shoreland area.

Township Review

The applicant met with the Township Board at their June 13, 2011 meeting. In an email dated June 15th the Township Board indicated they had no issue with the request provided the applicant meets all of the requirements of the County.

Environmental Health Review – See Attachment A-3.

Applicant's Statement of Hardship

A feedlot already exists on the property which includes an electrical supply and a source of water. Although it is likely that a second driveway would be constructed, the site also has an existing driveway. In order to meet the required 1,000 foot setback to the nearest dwelling, the proposed finishing barn(s) would be approximately 775 feet out into the field from the nearest existing barn. To do this would add considerable expense to provide infrastructure and would use up a larger area of crop land.

Neighboring Home Owner Response

The applicant has talked with the second closest neighbor who has indicated no issue with the request. Staff has not received any direct comment from this neighbor.

The closest residence is owned by Deutsch Bank with an address listing of Fort Worth Texas. An email response from James Harp was received Wednesday June 29th. Mr. Harp is an Assistant Regional Sales Manager for Altisource Portfolio Solutions. In the email, Mr. Harp wrote: *...we have a Power of Attorney for this property from Deutsch Bank and are currently the servicer. We do not agree with the variance that is being proposed for the feed lot.*

Applicable Sections of the County Land Use Ordinance

Sec. 6-141 (5) states: *New feedlots must be set back 50 feet from all other property lines.*

Sec. 6-144 (2) c. establishes a 1,000 foot mutual setback requirement between feedlots greater than 50 animal units and neighboring dwellings.

Sec. 24-47. Board of adjustment.

(d) *Powers and appeals.*

(1) *Powers.* The board of adjustment shall have power to grant a variance to any of the provisions of this chapter to the extent of the following and no further:

a. To vary or modify the strict application of any of the regulations or provisions contained in this chapter in cases in which there are practical difficulties or unnecessary hardships in the way of such strict applications; no variance or modification of the uses permitted within a district shall be allowed, except as otherwise provided in this chapter.

Section 24-47 (e) Findings Required states: The board of adjustment shall not grant an appeal unless they find the following facts at the hearing where the applicant shall present a statement and evidence in such form as the board of adjustment may require:

1. That there are special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to other property in the same vicinity.
2. That the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

RECOMMENDATIONS

Staff makes no formal recommendation regarding this request.

If the Board of Adjustment determines that a variance should be **DENIED**, the following finding could be used:

Findings

1. That there are NOT special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to other property in the same vicinity.
2. The Board of Adjustment **does not** find that the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

No conditions suggested.

If the Board of Adjustment determines that a variance should be **APPROVED**, the following finding and conditions could be used:

Findings

1. That there are special circumstances or conditions affecting the land, building or use referred to in the appeal that do not apply generally to other property in the same vicinity.
2. That the granting of the application will not materially adversely affect the health or safety of persons residing or working in the area adjacent to the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the area adjacent to the property of the applicant.

Conditions

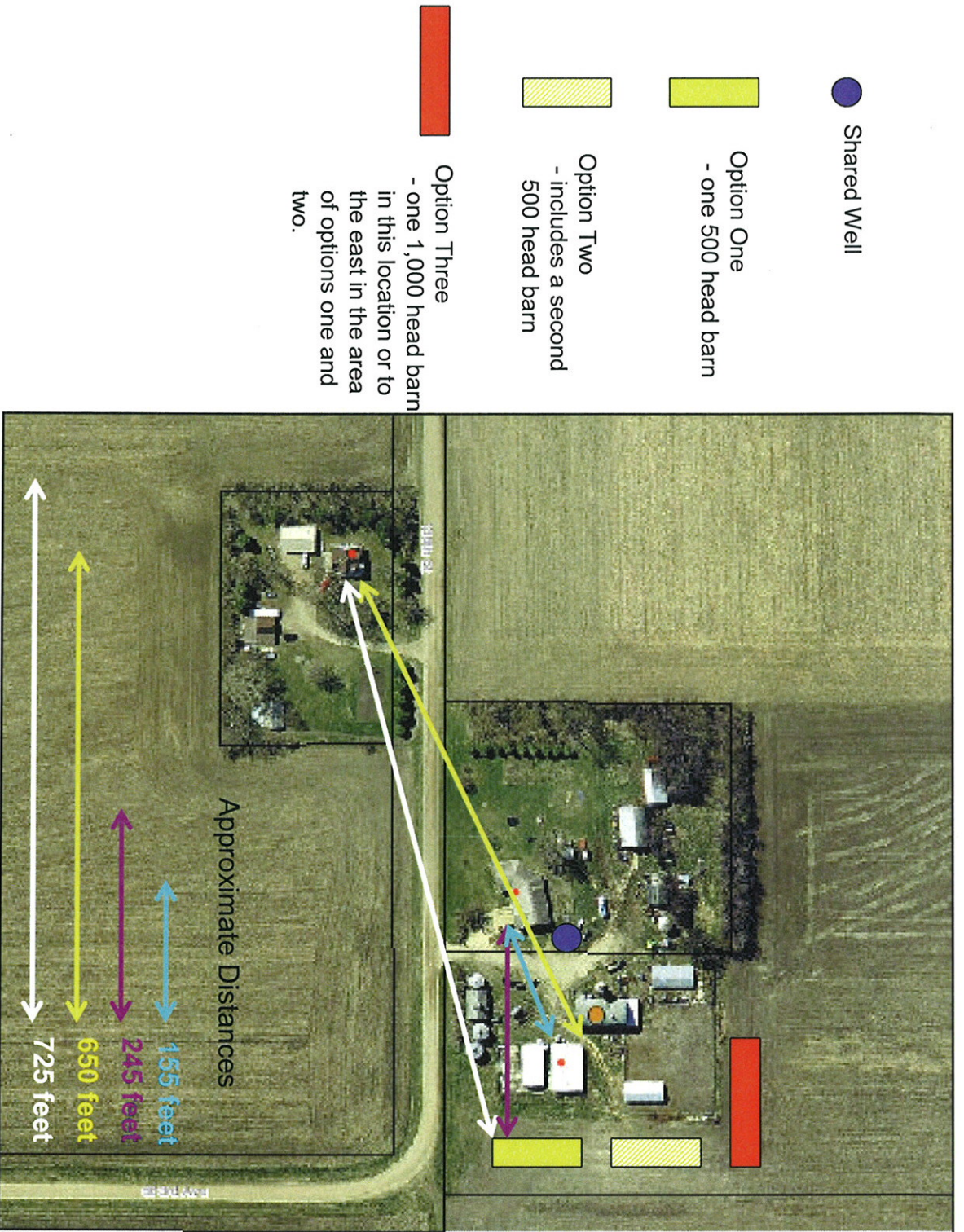
1. That prior to construction of proposed barn(s) the applicant shall obtain approval of a conditional use permit from the County Board and obtain a construction permit.

2. That the manure contents of the southern existing swine barn shall be removed as required by the Minnesota Pollution Control Agency. Said action shall take place prior to November 1, 2011.
3. That the northern existing swine barn if not restocked prior to December 1, 2011, shall be recertified by a structural design engineer licensed in the State of Minnesota **OR** remove all manure contents as required by the Minnesota Pollution Control Agency prior to December 31, 2011.
4. Burial of demolition debris is prohibited.
5. Burial of concrete demolition debris must be approved by the Minnesota Pollution Control Agency.

Attachments

- A-1 Site Location
- A-2 Site Map
- A-3 Environmental Health Review
- A-4 Variance Checklist

A-2 Site Plan



Option Three
 - one 1,000 head barn
 in this location or to
 the east in the area
 of options one and
 two.

Option Two
 - includes a second
 500 head barn

Option One
 - one 500 head barn

● Shared Well

Disclaimer: This map was created using Spatially Correct GIS and was created for informational County use. It is not to be used for any other purpose and does not represent a land survey. No liability is assumed for the accuracy of the data shown here, either expressed or implied by DeKalb County or its employees.

**BLUE EARTH COUNTY
ENVIRONMENTAL SERVICES**

Government Center, 410 South Fifth Street
P.O. Box 3566, Mankato, Minnesota 56002-3566
Phone: (507) 304-4381 Fax: (507) 304-4431

Environmental Health Section - Planning Application Reviews

Date Printed:	June 28, 2011	Permit Number:	PL20110044
Property Owner:	LEIDING DENNIS L	Applicant:	LEIDING DENNIS L
Parcel Number:	R42.18.35.200.006	File ID:	BOA 03-11

Application Description: Request for a variance to reduce the required setback to a neighboring dwelling from 1,000 feet to 245 feet and to reduce the required property line setback from 50 feet to 10 feet for the purpose of expanding an existing swine finishing operation. The property is zoned Agricultural and is located in the NE 1/4 of the NE 1/4 of Section 35, Lyra Township.

Septic Review

Status: Complete - Comments Received

Comments: There is no record of a septic system on this barn set up. There is to be no comingling of sewage and manure in any of the barn set ups. It is unknow what is used for toilet/wash/shower/laundry at this facility. If any exist, a septic system must be installed. A holding tank with an operating permit is an option or a complete system. (P. Ootterness 06/21/2011 3:19 PM)

Well Review

Status: Pending

Comments: At the time this report was written, no well comments had been received. (G. Leary 06/28/11 1:25 PM)

Wetland Review

Status: Complete - Comments Received

Comments: Based on an aerial photograph review of the soils, topography and the National Wetlands Inventory maps as well as historic FSA photos the location of all the proposed new buildings does not appear to impact any wetland(s). The soils in the area consist of moderately well drained soils and the topography doesn't show any areas of concern regarding wetland topography. Therefore, the County doesn't believe there are any wetlands that will be impacted by this permit. (S. Feser 06/23/2011 9:23 AM)

FINDINGS OF FACT
SUPPORTING/DENYING A VARIANCE

Name of Applicant: Dennis Leiding Date: 07/06/11 Variance Application # BOA 03-11
Parcel # R42-18-35-200-006

A variance may be granted only where the strict enforcement of county zoning controls will result in a practical difficulty. A determination that a "practical difficulty" exists is based upon consideration of the following criteria:

1. Is the variance in harmony with the intent of the comprehensive plan, zoning ordinance and State Shoreland Management Rules? Yes () No ()

Why or why not? _____

2. Without the variance, is the owner deprived of a reasonable use of the property? Yes () No ()

Why or why not? _____

3. Is the alleged practical difficulty due to circumstances unique to this property? Yes () No ()

Why or why not? _____

4. Were the circumstances causing the practical difficulty created by someone or something other than the landowner or previous landowners? Yes () No ()

Why or why not? _____

5. Will the issuance of the variance maintain the essential character of the locality? Yes () No ()

Why or why not? _____

6. Does the alleged practical difficulty involve more than economic considerations? Yes () No ()

Why or why not? _____

Facts supporting the answer to each question, above, are hereby certified to be the Findings of the Board of Adjustment. This is in accordance with _____ of the Blue Earth County Shoreland Management Ordinance.

APPROVED () DENIED ()

DATED: _____
Chairperson, Board of Adjustment