



SCOTT COUNTY
BOARD OF ADJUSTMENT
MEETING MINUTES

Scott County Government Center
County Board Room 226
200 Fourth Ave West
Shakopee, Minnesota

Monday, January 13, 2025
County Board Room at 6:30 PM

I. ROLL CALL AND INTRODUCTIONS

Chair Huber opened the meeting at 6:30 PM with the following members present: Ammar Husain, Jay Picha, Kent Robbins, Ray Huber, Tom Vonnhof, Donna Hentges and Lee Watson.

County Staff Present: Brad Davis - Planning Manager; Marty Schmitz - Zoning Administrator; Greg Wagner - Principal Planner, Nathan Hall - Associate Planner; Rachel Nosbush - Deputy Clerk to the Board; Tom Wolf - County Board Commissioner, Kate Sedlacek - Environmental Services, Jon Rudolph - County Traffic Engineer.

II. APPROVAL OF DECEMBER 9, 2024 BOARD OF ADJUSTMENT MINUTES

Chair Huber called for a motion to approve the minutes. Motion by Commissioner Robbins; second by Commissioner Picha to approve the minutes of December 9, 2024. The motion carried unanimously, Commissioner Vonnhof abstaining.

III. PUBLIC HEARING

3.1 PUBLIC HEARING 6:30 PM: DEM CON HZI BIOENERGY, LLC VARIANCE (PL#2024-073)

A. Request for a Variance from the Maximum Height of 45 Feet to 65 Feet

Location: Section 28
Township: Louisville
Current Zoning: I-2, Heavy Industrial District

Greg Wagner presented the staff report for this application. Board of Adjustment packets, staff reports, video recording and approved minutes are available for download at the Scott County Website link: [January 13, 2025 Board of Adjustment](#) or by visiting www.scottcountymn.gov/pacreports and selecting the current date.

Commissioner Comments and Questions:

Chair Huber asked for clarification on the EAW and EIS.

Mr. Wagner explained the Environmental Assessment Worksheet (EAW) was the mandatory project environmental review and the MPCA issued Findings of Fact determining that there was not a need to undertake a more extensive Environmental Impact Study (EIS).

Commissioner Robbins asked if this variance is needed to increase the stack height for methane gas collection.

Mr. Wagner responded the height is required by the Minnesota Pollution Control Agency (MPCA) Air Quality Permit for air emissions.

Commissioner Vonnhof asked for confirmation that the Shakopee Fire Marshall is aware of what Dem Con is proposing and they have made their comments and inspections.

Mr. Wagner confirmed that the County Building Department and Shakopee Fire Marshall have review the proposal.

Commissioner Husain questioned why the specific height of the stack of only 15 feet.

Mr. Wagner responded the height was the minimum amount set by the requirements of the MPCA Air Permit.

Commissioner Husain further questioned the distance from the buildings from Hwy. 169.

Mr. Wagner explained the structure is roughly 500 to 600 feet away from Hwy. 169 and there are no residential properties surrounding this site.

Commissioner Robbins questioned if any residue from the smokestack would interfere with ground level operations and if there could be potential issues with the height of the stack being so close to neighboring ground elevations given the depressed elevation of this development project.

Mr. Wagner explained there would not be potential issues even with this depressed site.

Commissioner Picha questioned why certain property owners received two hearing notices for Dem Con regarding the Variance.

Mr. Wagner explained when an application comes into the Board of Adjustment for a Variance, staff sends out hearing notices to all property owners within 500 of the project location. Dem Con also has an application being heard by the Planning Advisory Commission which requires a 2640-foot radius of the project location, so some neighboring property owners would have received 2 hearing notices for the two separate applications.

Chair Huber opened the public hearing at 6:49 pm.

Public Comments and Questions at the Podium

No public comment.

Chair Huber called for a motion to close the public hearing.

Motion by Commissioner Robbins to close the public hearing; second by Commissioner Vonhof. The motion carried unanimously.

Motion by Commissioner Robbins; second by Commissioner Hentges, based on the variance criteria listed in the staff report, I recommend approval of the variance from the required 45 maximum building height to 65 feet for Dem-Con HZI BioEnergy to install required air quality equipment.

Chair Huber called for a vote on the motion to continue the request as follows:

Commissioner Husain: Aye

Commissioner Picha: Aye

Commissioner Robbins: Aye

Commissioner Huber: Aye

Commissioner Vonhof: Aye

Commissioner Hentges: Aye

Commissioner Watson: Aye

The motion passed unanimously with 7 Ayes.

Criteria for Approval:

1. *Granting the variance will not be in conflict with the Comprehensive Plan.*

The proposed use is in conformance with the Scott County 2040 Comprehensive Plan goals and policies for development in the Heavy Industrial land use district.

2. *Exceptional or extraordinary circumstances apply to the property which do not generally apply to other properties in the same zoning district or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since the enactment of this Ordinance had no control.*

Generally, the stormwater infrastructure (ponds/infiltration) required to accommodate site development begin just below the 750' property elevation. As noted, this is the reclamation grade following mining activities. The applicants have attempted to set the digester at the lowest elevation to accommodate the proposed use while also managing stormwater.

3. *The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.*
Literal interpretation of the Zoning Ordinance would not allow the applicants to install Air Quality Control Systems required by the MPCA Air Permit & EPA standards.
4. *That the special conditions or circumstances do not result from the actions of the applicant.*
The circumstances are not based on actions of the applicant; the additional structure height is required by the MPCA Air Permit.
5. *That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.*
The variance does not provide the applicant any additional operations, storage, or other space for business purposes, but instead allows the installation of required equipment.
6. *The variance requested is the minimum variance which would alleviate the practical difficulty.*
The applicants have reviewed their project design with the MPCA as part of their Air Permit application, and the design proposed is the solution that allows the facility to meet all required state and federal air quality standards.
7. *The variance would not be materially detrimental or will not essentially alter the character of the property in the same zoning district.*
The variance would not alter the character or be detrimental to property in the same zoning district as it is common for industrial uses to have similar air, odor, or other emission stacks and equipment to address nuisance standards as required by state and federal agencies.
8. *Economic considerations alone shall not constitute a practical difficulty if a reasonable use of the property otherwise exists under the provisions of this Ordinance.*
There are no economic considerations as the need for the variance is to meet state and federal air emissions regulations.

IV. ELECTION OF 2025 BOARD OF ADJUSTMENT OFFICERS

Chair Huber opened the meeting for nominations for Chair of the Board of Adjustment.

Commissioner Robbins nominated Commissioner Huber.

Chair Huber called for any further nominations 3 times.

Motion by Commissioner Robbins; second by Commissioner Vonhof to close the nominations. The motion carried unanimously.

Chair Huber called for a vote on Chair nomination of Commissioner Huber. The vote carried unanimously for Commissioner Huber as noted below.

Chair Huber opened the meeting for nominations for Vice Chair of the Board of Adjustment.

Commissioner Watson nominated Commissioner Hentges.

Chair Huber called for any further nominations 3 times.

Motion by Commissioner Robbins; second by Commissioner Vonhof to close the nominations. The motion carried unanimously.

Chair Huber called for a vote on Vice Chair nomination of Commissioner Hentges. The vote carried unanimously for Commissioner Hentges as noted below.

Chair Huber opened the meeting for nominations for Secretary of the Board of Adjustment.

Commissioner Robbins nominated the Deputy Clerk of the Board of Adjustment for Secretary.

Chair Huber called for any further nominations 3 times.

Motion by Commissioner Robbins; second by Commissioner Vonhof to close the nominations. The motion carried unanimously.

Chair Huber called for a vote on the Secretary nomination of Deputy Clerk of the Board of Adjustment. The vote carried unanimously for Deputy Clerk of the Board as noted below.

Chair Huber called for a roll call vote on all 3 nominations with results as follows:

Commissioner Husain: Aye

Commissioner Picha: Aye

Commissioner Robbins: Aye

Commissioner Huber: Aye

Commissioner Vonhof: Aye

Commissioner Hentges: Aye

Commissioner Watson: Aye

The motion passed unanimously with 7 Ayes.

V. GENERAL & ADJOURN

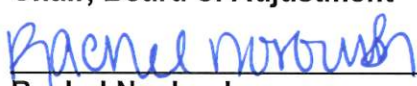
Motion by Commissioner Robbins; second by Commissioner Hentges to adjourn the meeting at 6:53 PM. The motion carried unanimously.



Ray Huber
Chair, Board of Adjustment



Date



Rachel Nosbush
Deputy Clerk to the Board



Date