

Docket Number: 21/10243

Appellant: Daniel Lee (Appellant)
12226 NW 142nd Ave
Polk City, IA 50556

Jake West
Van Wall Energy (Representative)
22728 141st Dr.
Perry, IA 50220

Appeal: Requesting a Variance to allow a 14-foot by 110-foot (1,540 square foot) solar array accessory structure to be located in front of the principal building, having a separation that is greater than 150-feet (from 150-feet to 215-feet) from the principal building.

Appeal Given: For the complete Variance appeal packet, please refer to Attachment ‘A’. The following is an excerpt from Attachment ‘A’:

“Dan and Pamella Lee are wanting to build a 26.4kW ground mounted solar array on their property to offset usage from Mid Am. This location of the array is ideal as it has full sun and located respectfully close to the point of interconnection (electric meter) on the property. They also did not want the array in “their front yard” to avoid seeing so much of it when they are on their porch. The proposed location is ideal for max Solar production and low impact visually”.

*Please note that the site plan submitted with the application has been revised and replaced with Attachment ‘C’ to reflect the proposed location and setback from the platted Drainage Easement for overland water flowage.

Background

The subject property is addressed as 12226 NW 142nd Avenue, Polk City, and is legally described as Lot 1 Lee Estates. The parcel is 21.55-acres located within the Northeast ¼ Northeast ¼ of Section 20 of Union Township. The zoning of the property is “ER” Estate Residential District. The subject property comprises one owner-occupied home constructed in 2002 located at a setback of approximately 658-feet at the end of a long driveway from the north property line. The existing home (1,944 square feet) with detached garage (936 square feet) were permitted with issuance of a Certificate of Occupancy in 2003 & 2004. An existing pole building (2,560 square feet) is located approximately 180-feet southeast of the house and was permitted with the issuance of a Certificate of Occupancy in 2010. There are also a couple of accessory structures for livestock located on the property including a barn (1,600 square feet) that was shown on the 2010 accessory building permit site plan, a three-sided livestock shelter and a small shed constructed prior to platting of the property in 2017. No new entrances are proposed with the request. Please see Attachment ‘B’ at the end of this report that includes an aerial of the site and surrounding properties.
The Appellant contacted Planning Division staff with the submittal of a building permit application to construct a solar array accessory structure at the subject property. During this review, it was determined that a Variance would be required in order for the accessory structure to comply with the Polk County Zoning Ordinance. This Variance request is for a proposed 14’ x 110’ (1,540 square feet) freestanding solar array accessory structure to be constructed on the subject property. The solar array will be located approximately 215-feet from the closest point of the existing house and approximately 534-feet from the northern property line.

**Summary of Request**

The Appellant is requesting an approximate 65-foot separation Variance (from 150 feet to 215 feet) for a proposed solar array accessory structure to be constructed on the subject property of 12226 NW 142nd Avenue, Polk City.

The Polk County Zoning Ordinance, Article 4. Use Regulations, Division 6. Accessory Regulations, Outlines requirements that pertain to customary accessory uses, buildings and structures incidental to the principal use.

*Section 1. Residential Accessory Buildings (J)*, states that an accessory building may not be placed in front of the principal building unless said accessory building is setback a minimum of 100 feet from the front property line and has a maximum separation distance between the principal structure and accessory building of 150 feet.

*Section 3. Solar Panels and Solar Arrays (B)*, stats that solar arrays are permitted as an accessory structure in all districts. Must meet accessory setback requirements. Permits are required to determine structural compatibility.

The proposal complies with the minimum required 100-foot setback, being setback approximately 534 feet, however the separation distance is proposed as approximately 215 feet, exceeding the maximum standard of 150 feet.

County staff mailed five (5) notices to surrounding property owners and have received two (2) items of testimony to-date that are in support of the proposed Variance.

**Natural Resources**

The subject property at 12226 NW 142nd Avenue does not contain floodplain. The property is 21.55-acres and aside from the existing residence is utilized for pasture for livestock and a hay field. An existing 60-foot wide drainage easement for overland flowage is locate approximately 30-feet southeast of the proposed location for the solar array. The proposed location will not
affect the easement on the property. The topography of the land is generally flat with a low elevation of 926-feet in the southeastern corner of the property and a high elevation of 946-feet centrally on the property and within the location of the primary dwelling and detached garages.

**Roads/Utilities**

The property has an existing access onto NW 142nd Avenue. NW 142nd Avenue is a paved two-lane local street maintained by Polk County. No new access points are proposed.

The subject property receives water service from Xenia Rural Water. An existing septic system is located west of the house and does not conflict with the proposed location of the solar array accessory structure.

**Recommendation**

*The Board of Adjustment may grant a variance if items 1 through 5 are affirmed.*

1.) Are there exceptional or extraordinary circumstances or special conditions applying only to the property in question and which do not exist generally on other properties in the same zoning district which makes it impossible to place a use permitted in the district on the property?

Yes. The property is a large irregular shaped lot that is 21.55 acres in size. The house, at its closest point, is approximately 658-feet from the front property line and the solar array accessory structure is proposed to be approximately 534-feet from the front property line. The central to western portion of the property includes the house, septic system, and multiple accessory buildings on the property. The location of the existing improvements along with the shape and size of the property create special circumstances affecting the subject property that do not generally exist on other properties in the same zoning district.

2.) Is the variance necessary for the preservation and enjoyment of property rights possessed by other properties in the same zoning district in the same vicinity? (No variance can permit uses that are prohibited in a district)

Yes. A residential solar array accessory structure that is utilized for personal use is allowed within the “ER” Estate Residential District.

3.) Will the variance preserve adjacent property and support the purpose of the ordinance and the public interest?

Yes. The proposed solar array accessory structure should have a minimal impact to the
adjacent properties. The location is greater than 275 feet from the closest residential dwelling located north of the site. This property owner has submitted a letter of approval for the request. All other residential properties are not in close proximity.

4.) Is there a special condition or circumstance that did not result from the actions of the applicant?

Yes. The improvements to the property as well as the shape and size of the property are special conditions and the circumstance requiring full sun for the operation of the solar array as well as a location where electrical connection can be made are not a result of the actions of the Appellant.

5.) Does the variance support the intent of Article 7 Natural Resource Protection and Article 8 Stormwater and Erosion Control Management of the Polk County Zoning Ordinance?

Yes. The Appellant is required to meet the environmental provisions of the Polk County Zoning Ordinance.

The Board of Adjustment may grant a Variance if items 1 through 5 are affirmed. Since items 1-5 were answered in the affirmative, staff recommends approval of the requested Variance to allow an solar array accessory structure to be located in front of the principal building and to exceed the maximum separation allowance of 150 feet, increasing the separation to approximately 215 feet.
Variance Appeal Application

Board of Adjustment Authority
The Polk County Board of Adjustment is empowered by Iowa law and by the Zoning Ordinance of Polk County to hear requests and to make decisions on variance appeals to the Zoning Ordinance for individual properties where provisions of the Ordinance impose a unique and unnecessary hardship on the property owner and where the granting of a variance is not contrary to the intent of the Zoning Ordinance or to the public interest.

Each variance appeal is only a request to have a hearing before the Board of Adjustment. Notice of the hearing will be provided to all property owners located within 250 feet from the subject property. The Board of Adjustment will make a determination at a public hearing whether or not to approve or deny the request based on a staff report, applicant presentation, as well as public input. All appeals that are denied shall not come back to the Board of Adjustment for one year. Refunds will not be made once notice has been sent out to adjacent property owners.

Please complete the entire application and review the Variance Regulations on page 3.

1. The undersigned applicant requests that the Board of Adjustment consider this application for a variance appeal for the following general purpose. (Describe briefly the request)
   Dan and Pamella Lee are wanting to build a 26.4kW ground mounted solar array on their property to offset usage from Mid Am.
   This location for the array is ideal as it has full sun and located respectfully close to the point of interconnection (electric meter) on the property. They also did not want the array in "their front yard" to avoid seeing so much of it when they are on their porch. The proposed location is ideal for max Solar production and low impact visually.

2. Subject Property Address: 12226 NW 142nd Ave, Polk City, Iowa 50226

3. Subject Property Zoning District: ER Estate Residential District

4. District and Parcel Number: 28000400-200-001

5. Subject Property Legal Description (attach if necessary):
   DANIEL E LEE 12226 NW 142ND AVE POLK CITY, IA 50226-7535

6. Filing Fee: $319 per variance (each provision requested for a variance is considered a separate variance request)

7. Applicant(s) Information:
   
   
   
   Applicant (Print Name) | Signature | date
   
   Owner Interest in Property (owner, renter, prospective buyer, etc.)
   
   leenconstruction1@yahoo.com

   Email

   Address, City, State and Zip

   12226 NW 142nd Ave., Polk City, Iowa 50556

   Phone

   515-238-0530

   Fax

8. Applicant(s) Representative:

   If the appeal is going to be represented by someone other than the applicant please provide that information below

   Jake West, Solar energy specialist
   
   Applicant Representative (Print Name) | Firm or Business Name

   22729 141st Dr., Perry, Iowa 50220

   Address, City, State and Zip

   jake.west@vanwall.com

   Email

   515-988-0249

   Phone

   Fax
9. Property Owner Consent

The application must be signed by all the Titleholders, Contract Purchasers, or Option Purchasers of the subject property. The application may also be signed by the Registered Agent for a corporation or other person with similar legal authority to sign for a property owner. (If additional signatures are needed please attach)

(Pamella S. Lee)  
Signature  
4/20/21

(Print Name)  
Signature  
date

(Print Name)  
Signature  
date

(Print Name)  
Signature  
date

(Print Name)  
Signature  
date

10. State the reason(s) the variance is necessary and why you cannot comply with the regulations of the Zoning Ordinance. Specifically explain the nature of the appeal.

This location for the array is ideal as it has full sun and located respectfully close to the point of interconnection (electric meter) on the property. They also did not want the array in "their front yard" to avoid seeing so much of it when they are on their porch. The proposed location is ideal for max Solar production and low impact visually. By locating the array at this location, close to the meter, they are effectively reducing interconnection costs via the trenching and wire sizing that would go up by moving the array from the front yard to let area East of the shed. The solar array that the proposed location is violating the rule that states: Accessory structures need to be located within 150' of the house. The array is approx. 150' from the front property line and 214' from the house.

The neighbor to the NE is Dan and Pam's daughter and she is fine with the Solar array location and is submitting a letter stating so with this variance application.

A completed application with site drawing and filing fee are required for a submittal. Incomplete submittals will not be processed and returned to the Applicant.

Return completed forms to: Polk County Public Works, Planning Division 5885 NE 14th Street, Des Moines, IA 50313
Phone (515) 286-3705 • Fax (515) 286-3437 Email: PublicWorks@polkcountyiowa.gov
Forms available online http://www.polkcountyiowa.gov/PublicWorks/ BOA Calendar CALENDAR

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1. Complete Application including the description of requested variance(s) with specific information for the request and state the reason(s) the variance is necessary and why you cannot comply with the regulations of the Zoning Ordinance.

2. Submit site drawing as required see details below.

Site Drawing
All variance appeals must submit three (3) 11x17 copies of a site drawing with the application. The site drawing must be fully dimensioned and legible. All required information must be drawn to a scale. The Zoning Administrator may require a petitioner to submit a site plan drawn by an engineer or architect. The site plan shall include the following:

1. Boundary drawing of the lot or area involved.
2. Location, dimensions, height and setbacks of all existing and proposed buildings and structures and the uses of each.
3. Use of the proposed addition to building or structure.
4. Approximate location of the vehicle entrance to the site.
5. Show the approximate location of water and sewer (septic system) facilities, if applicable.
6. Location of parking area and number of stalls required, if applicable.
7. General location of landscaping, buffer areas and screening, if applicable.
8. If the appeal is for a sign, the appeal must be accompanied by both a fully dimensioned, to scale elevation and site plan drawing of the sign, showing the exact location and size of the sign.

Variance Regulations
No variance from the provisions or requirements of this ordinance shall be authorized by the Board of Adjustment unless the Board finds beyond reasonable doubt that all the following conditions and circumstances exist. These regulations are found in the Zoning Ordinance, Article 17. Variance. The conditions and circumstances will be addressed by the Polk County Planning Division staff in reviewing the variance(s) request.

1. There must be exceptional or extraordinary circumstances or special conditions applying to the property in question, and do not exist generally on other properties in the same zoning district. By virtue of the unique or special conditions, it is, therefore, exceptionally difficult to place a use permitted in said district on the property.

2. The variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity and such variances will not permit uses that are prohibited in that district.

3. The authorization of such variance will not be of substantial detriment to adjacent property and will not be contrary to the purpose of this Ordinance and the public interest.

4. That the special conditions or circumstances did not result from the actions of the applicant.

5. The variance will not entirely void the natural resource protection requirements of this Ordinance.

The condition and/or situation of a property for which a variance is sought must be of an unusual nature. A variance shall not be authorized if the condition or situation is of a general or recurrent nature such that adopting a general regulation as an amendment to this Ordinance is a reasonably practicable solution.

The variance granted shall be the minimum necessary to permit a use of the property. A variance shall neither increase the number of permitted dwelling units by more than one (1), nor allow the minimum lot area required for a use to be decreased by more than ten (10) percent. If natural resources are involved, then mitigation for any damage to the environment shall be a condition of the variation.
Nicholas and Elizabeth Cline, the owners of 12162 NW 142nd Ave, Polk City IA 50226, do hereby consent to the construction and installation of the solar panels in the front yard of Daniel and Pamella Lee's home 12226 NW 142nd Ave, Polk City IA 50226

Nicholas Cline

Elizabeth Cline

19th April, 2021