

**SYNOPSIS OF ZONING BOARD OF APPEALS MINUTES
June 13, 2023**

Members Present: *Earl Twiggs*, Chair, *Carl Allen*, Vice-Chair, *Karen Duncan*, and *Pam Palm*

Staff Present: Penny Anderson, Planning Assistant, Tim St. Peter, Code Enforcement Officer and Lewis Cousins, Assessor

Earl Twiggs, Chair called the meeting to order at 6:00 PM.

1. Approval of May 9, 2023 minutes.

Motion by *Carl Allen*, Seconded by *Pam Palm*, to approve the May 9, 2023, minutes.

Vote – unanimous.

2. Janelle Brooks, 58 Oak Street. A *Special Exception* to operate a lash and treatment spa as a home occupation at this location within the Urban Residential Zone.

The agenda was posted on the Lobby TV @ City Hall and advertised in the “Star Herald” on May 24, 2023.

The following abutter(s) were also notified by certified mail: Janpen Poiesz @ 13 Cook Street, Aryn Kierstead @ 15 Cook Street, Michael Smith @ 56 Oak Street and Robert Ragona @ 60 Oak Street.

Janelle Brooks reviewed the A-R Form with the board. Tim St. Peter, Code Enforcement Officer provided pictures to the board members of the property.

Motion by *Pam Palm*, Seconded by *Carl Allen*, to accept the A-R Form as presented by Ms. Brooks. **Vote – unanimous.**

Motion by *Karen Duncan*, Seconded by *Pam Palm*, to **Approve** the *Special Exception* to Janelle Brooks to operate a lash and treatment spa as a home occupation at 58 Oak Street, subject to all Federal, State and local laws. **Vote – unanimous.**

3. Kailyn Stitham and Danika Butler, 20 Phair Street. A *Special Exception* to operate a dog grooming business as a home occupation at this location in the Urban Residential Zone.

The agenda was posted on the Lobby TV @ City Hall and advertised in the “Star Herald” on May 24, 2023.

The following abutter(s) were also notified by certified mail: Brandon Thompson @ 18 Phair Street, Christine Lyszczasz, @ 22 Phair Street, and Penny Greene @ 13 Paper Street.

Kailyn Stitham and Danika Butler reviewed the A-R Form with the board.

Meredith Donahue @ 22 Phair Street, expressed concern that she lived at 22 Phair Street for three (3) years and was not contacted about the meeting. She, stated that she was against the Application and has the following concerns:

1. Noise from client's dogs barking;
2. Concerns with her PTSD flaring up
3. Concerns that dog may get off leash and attack her daughter;
4. Ms. Stitham stated that she was planning to have operation in garage and would sound proof room;
5. She has a policy with her clients that dogs must be on a leash and picked up within 30 minutes of being contacted saying the dog was ready for pick-up; and
6. Dogs would be place in kennels waiting pick-up and there would be no dogs outside.

Lorene Greene @ 13 Paper Street, stated that he had the following concerns:

1. Noise from client's dogs as there are already a number of family that have dogs in the neighborhood that bark; and that there is another business on the property (Lawn Care).

Board members questioned Mr. St. Peter to see if he was aware of this possible business. Mr. St. Peter stated that he was not aware of the business but would look into it.

Helen Uckar @ 17 Phair Street, stated that she lived across the street and had the following concerns:

1. Traffic lights from vehicles coming out of the driveway shining into her windows;
2. Car Exhaust;
3. Noise from more vehicles and dogs in neighborhood;
4. Concerns that the zone would be changed from residential to commercial and more business would be allowed in the quiet residential area; and
5. Concerns about her PTSD flaring up.

Ms. Stitham stated that the dogs would be in kennels inside of the house and the only time the dogs would be outside was when clients would be dropping them off or picking them up. Clients are required to have Dogs on a leash at all times. After dogs are groomed client is notified and has 30 minutes to pick up dog.

Motion by *Carl Allen*, Seconded by *Pam Palm*, to accept the A-R Form as presented by Ms. Stitham and Ms. Butler. **Vote – 3 – 1 with Karen Duncan opposed. Ms. Duncan wanted to table the application until Mr. St. Peter could looking into the other proposed business on the property.**

Mr. St. Peter provided the board and audience a review of the site map of the area and showed that the property that the proposed business was located at 18 Phair Street and not 20 Phair Street.

Ms. Stitham informed the board that when the properties has been previous owned by one person and that she sold the properties together, but that they were separate deeds and tax bills on both properties.

Motion by *Carl Allen*, Seconded by *Pam Palm*, to **Approve** the *Special Exception* to Kailyn Stitham and Danika Butler to operate a dog grooming business a home occupation at 20 Phair Street, subject to all Federal, State and local laws and the following restrictions:

1. That noise level not exceed 65 decibels at the property lines.

Vote – 3 – 1 - with Karen Duncan opposed.

4. **Nordic Sun Energy, 71 Carmichael Street.** A *Dimensional Standards Variance* to construct a commercial solar farm within the minimum front, side and rear property lines from this location within the Business Zone.

The agenda was posted on the Lobby TV @ City Hall and advertised in the “Star Herald” on May 24, 2023.

The following abutter(s) were also notified by certified mail: Presque Isle Housing Authority @ 25 Birch Street, Bruce Hutchins @ 65 Carmichael Street, ANHI, LLC @ 30 Rice Street, Carla Cyr @ 38 Rice Street, Northeast Packaging, Co # 44 Rice Street and Central Distributors, Inc. @ 52 Rice Street.

Carl Soderburg, Sam Collins and Shawn Pelletier, d/b/a Nordic Sun Energy reviewed the A-R Form with the board members with Mr. Pelletier acting as representative for all of them. They also supplied the board members with a site plan of the property and review the Dimensional Standards Variance Questions with the board members. Tim St. Peter, Code Enforcement Officer also provided the board members with pictures of the property.

1. The need for a variance **is** due to the unique circumstances of the property and not to the general condition of the neighborhood:

The site has wetland features and other challenges for site placement of the solar fields.

2. The granting of a variance **will not** produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties:

The requesting variance will result in no detriment to the neighborhood or property values of abutting properties.

3. The practical difficulty **is not** the result of action taken by the petitioner or prior owner:

The owners had previously obtained a building permit to secure the property for a solar farm. The building permit expired after 2 years due to no visible activity of the property. The applicant’s and their engineering firm believed that solar panels were not considered structures and didn’t have to meet the required setback requirements for any of the property lines.

4. **No other** feasible alternative to a variance is available to the petitioner:

Given that the engineering firm has already designed the site for a 2.6MW AC and the applicant has filed their application with the PUC and been approved for the 2.6MW AC. The current site layout of the panels to meet the 2.6 MW AC does not have sufficient space to adjust the panels to meet the required setback and still accomplish the 2.6MW AC Size. If variance not approved they would have to reapply to the PUC and get back in the querying system

5. The granting of a variance **will not** unreasonably adversely affect the Natural environment:

The requested dimensional standards variance will not alter the natural environment whatsoever.

6. The property **is not** located in whole or in part within shoreland areas as described in Title 38, §435.

The property is not located within a shoreland area.

Mr. Pelletier informed the board that a permit had been obtained for the project back in 2021 and that that permit had expired. Mr. Pelletier informed the board that with new guidelines under the Land Use and Development Code they were required to do a site design review and it was at that time that it was observed that the solar panels were placed too close to the property lines. At the time the engineering firm was doing the design there was no communication with the Code Enforcement Office about any setbacks as they and the engineer didn't believe that the solar panels were considered structures and therefore moved forward with the project.

Lewis Cousins, Assessor for the City of Presque Isle, stated that he was for the project and it was a good financial investment for the City of Presque Isle with the taxes that would be generated from the project. He also informed the board that setback from property lines was to prevent the spread of a fire between buildings. He also stated that in his opinion even though there was no physical work done on the property that the engineering work should be considered as to working on the property.

The board members informed Mr. Soderburg, Mr. Collins and Mr. Pelletier that they felt that they were placing them in a bind as they would be setting a precedent with approving this variance as it was their responsibility along with their engineering firm to have checked with the Code Enforcement Office on the required setback and as to whether the City considered the panels structures.

Motion by ***Carl Allen***, Seconded by ***Pam Palm***, to accept the A-R Form as presented by Mr. Pelletier. **Vote – unanimous.**

Motion by ***Karen Duncan***, Seconded by ***Pam Palm***, to accept the Dimensional Standard Variance questions as presented.

All the board members once again express their concerns with the engineering firm not doing their due diligence in contacting the Code Enforcement Office to check on the setback requirements for the City of Presque Isle and assuming that the solar panels were not considered structures. They all expressed concerns about future applications and setting a precedent with allowing the variance.

Motion by **Karen Duncan**, Seconded by **Carl Allen** to **Approve** the Dimensional Standard Variance to Nordic Sun Energy at 71 Carmichael Street to construct a commercial solar farm within the minimum front, side and rear setbacks, subject to all Federal, State and local laws and the following restrictions:

1. All solar panels need to be at least 14.2 feet away from the property lines.

Vote – unanimous.

5. **Nordic Sun Energy, 90 Carmichael Street.** A *Dimensional Standards Variance* to construct a commercial solar farm within the minimum front, side and rear property lines from this location within the Business Zone.

The agenda was posted on the Lobby TV @ City Hall and advertised in the “Star Herald” on May 24, 2023.

The following abutter(s) were also notified by certified mail: Consolidated Communications @ 100 Carmichael Street, Dana Cassidy @ 150 Maysville Street, Presque Isle Housing Authority @ 56 Carmichael Street and Cavendish Farms @ 30 & 60 Storage Drive.

The board members were informed that this application was the same as the previous one except for the address being 90 Carmichael Street instead of 71 Carmichael Street so they agreed to forego hearing the A-R Form and Dimensional Standard Variance answers again.

Motion by **Carl Allen**, Seconded by **Pam Palm**, to accept the A-R Form as presented by Mr. Pelletier. **Vote – unanimous.**

Motion by **Carl Allen**, Seconded by **Karen Duncan** to **Approve** the Dimensional Standard Variance to Nordic Sun Energy at 90 Carmichael Street to construct a commercial solar farm within the minimum front, side and rear setbacks, subject to all Federal, State and local laws and the following restrictions:

1. All solar panels need to be at least 17.4 feet away from the property lines.

Vote – unanimous.

6. **Other Business.**

Tim St. Peter introduced Maren Moir to the board members and explained that she was an intern for the department for the next 8 weeks.

7. **Adjournment.**

Motion by **Carl Allen**, Seconded by **Pam Palm**, to adjourn the meeting. **Vote – unanimous.** Meeting adjournment @ 7:32 PM.

The next Zoning Board of Appeals meeting is scheduled for July 11, 2023. .

Submitted by:

Penny Anderson
Administrative Assistant
City of Presque Isle

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