

BOWMAN COUNTY

APPLICATION FOR ZONING VARIANCE

County Zoning Commission
104 First Street NW Suite #4
Bowman, North Dakota 58623

Application # 1156
Date Issued: 4-27-2023

INSTRUCTIONS:

Complete form and return the completed application and fee to the address above.
Make check payable to Bowman County.

APPLICATION FEE: \$150.00

Receipt Number: 1472

APPLICANT INFORMATION: Name: Bowman Wind, LLC

Mailing Address: 310 4th Street NE Suite 300

City, State, Zip Code: Charlottesville, VA 22902

Phone Number: 715-432-3927 (Scott Jansen)

Legal Description of Property:

Lot: Block: Subdivision City:
Qtr: NE1/4 Section: 22 Township: 131N Range: 104W
Qtr: SE1/4 Section: 15 Township: 131N Range: 104W

Present Zoning of Property: Agricultural

Present Use of Property: Agriculture

Reason for Requesting Variance:

Bowman Wind requests a variance from Bowman County to allow the construction of an overhead transmission line as part of the Bowman Wind (Facility). The 230 kV Gen-Tie transmission line will be less than a mile in length (up to .75 mile) and is required to facilitate the Facility's interconnection to the electric grid. The proposed transmission line would extend from the Facility substation located in Township 131N, Range 104W, Section 22 on land being purchased from Charlotte Miller, cross over 87th Street SW, and interconnect to the existing Rhame substation located in Township 131N, Range 104W, Section 15. Variances from the requirements of Zoning Ordinance Section 6.11 are authorized under Zoning Ordinance Section 6.11.3(7) and variances for an overhead transmission line requirement are authorized under Zoning Ordinance Section 6.11.3(3)(A)(9). Bowman Wind has an easement agreement with the landowner who owns the property in section 22 where a portion of the transmission line will be located and, as indicated by the signature, the landowner supports this variance request. Basin Electric owns the land in section 15 and Southwest Power Pool (SPP) tariff language (attached to this variance request) allows the Bowman Wind transmission line to cross over this property to reach the point of interconnection (POI). The transmission line route shown on the attached Figures is approximate, and Bowman Wind is coordinating with Basin Electric during the Facilities Study process (managed by SPP) to select the exact location of the transmission line. Adelaide Township has no objections to the plan that was presented to them on

March 29, 2023, and for the minimum height of the transmission line to be 20 feet above ground. Attached is the exhibit of what was presented to Adelaide Township.

I, the undersigned applicant, do hereby attest that the information contained in this application is truthful and correct to the best of my ability. I further agree to comply with the zoning ordinances and the requirements and conditions of this variance as established by Bowman County.

If any building or structure is erected, constructed, reconstructed, altered, repaired or converted without first obtaining the proper permit, there will be a penalty assessed to the applicant at the rate of ten (10) times the original Permit Fee. If any building, structure or land is found to be in violation of this code, the Code Administrator or any affected citizen or property owner, in addition to other remedies, may institute any appropriate action or proceeding:

- 1) To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;
- 2) To restrain, correct, or abate such violations;
- 3) To prevent the occupancy of the building, structure, or land; or
- 4) To prevent any illegal act to conduct business or use in or about such premises.

A violation of any provision of this code or the regulations and restrictions made herein shall constitute the maintenance of a public nuisance and shall be a Class A Misdemeanor.

Signature Pages Attached _____

Signature of Applicant



Printed Name of Applicant

Matthew Eberl

Date

4/25/23

Please complete the questions and certification on this form. All questions must be answered completely. If additional space is needed, please attach extra pages to this application.

1. What is the proposed use of the property to include all land and structures: ___The land is used for and will continue to be used for agricultural purposes. The land will also be used for development of a wind energy facility, including the overhead transmission line that is the subject of this variance request. A wind energy facility is an authorized conditional use in the Agricultural District.

2. What characteristics of your property prevent its being used for any of the uses permitted in your zone?

Too narrow ☐ Elevation ☐ Soil ☐ Too small ☐ Slope ☐
Subsurface ☐ Too shallow ☐ Shape ☐ Other reasons ☐ N/A ☒

(If Not Applicable (N/A) is selected, you may skip questions 3-7 and begin with question #8)

Please see the discussion in Section 6.11.3(9) A, which provides further explanation of the basis for the variance request.

3. Describe your concerns with the items marked above, giving dimensions where appropriate. _____

4. How do the above site conditions prevent any reasonable use of your land under the terms of the Zoning Ordinance? _____

5. Are the conditions on your property the result of man-made changes (such as the relocation of a road or highway)? _____, if so, describe _____

6. Which of the following types of modifications will allow you a reasonable use of your land?

Change in setback requirement ☐ Change in lot coverage requirement ☐

Change in yard restriction ☐ Change in height requirement ☐

Change in area requirement ☐

7. Are the conditions of hardship for which you request a variation true only of your property? _____
If not, how many other properties are similarly affected? _____

8. If a change in classification is requested, please indicate: N/A

Agricultural Zone to _____

Commercial Zone to _____

Industrial Zone to _____

Residential Zone to _____

9. A scale drawing must be submitted showing the identity and dimensions of all structures on the parcel with their distances shown from lot lines and setback requirements. (See attached page #4)

All applications must be completed by the landowner and submitted in person or by mail. Applications may be rejected or returned if all supporting materials are not submitted together or the application is not complete. Additional information, deemed necessary by the County Zoning Committee to approve the application, may be requested by the County Zoning Office after the application has been submitted. No application will be processed, reviewed or scheduled for a public hearing if it is incomplete.

If the application is a corporation, LLC, an attorney, realtor, or someone other than the owner, the name on the application shall remain consistent throughout the supporting materials submitted. Please contact the Zoning Office if you have any questions.

For Use By the Planning and Zoning Commission

Date application Filed: _____

Date set for Hearing: _____

Date Notice Published in Newspaper: _____

Date Adjacent Property Owners Notified: _____

Date Fee \$150.00 Paid: _____ Cash ☐ Check ☐ Check # _____

The board shall base its findings on evidence presented in the application, comments received from adjacent property owners and the following conditions before it may approve a request for variance:

- a) The particular surrounding or the topographic condition of the property would result in undue hardship.
- b) The variance request is not based on a desire for economic or other gains.
- c) The alleged difficulty or hardship is caused by the ordinance and has not been created by any person presently having an interest in the property.
- d) The variance shall not be detrimental to the public welfare or injurious to other properties in the area.
- e) The variance shall not be contrary to the interest and purpose of this ordinance.

In light of the evidence presented at the hearing on this case and in conformity with the requirements of the Zoning Ordinance, a variance is:

☐ Granted ☐ Denied ☒ Granted subject to the following requirements:

Must be The overhead lines shall be installed with
Minimum clearance of at least 20 feet from the surface
of the road.

6-8-23

Date

6/20/2023

Date



President, Planning and Zoning Commission



Chairman, Bowman County Commission

BOWMAN COUNTY

APPLICATION FOR ZONING VARIANCE

PLOT PLAN

APPLICANT:

Matthew Eberl _____

Applicant's Printed Name

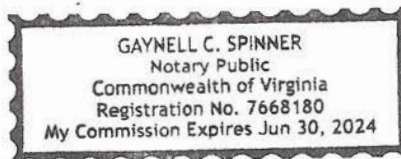
Matthew Eberl
Applicant Signature

STATE OF Virginia)

COUNTY OF Albemarle)

The foregoing instrument was acknowledged before me this 25 day of April, 2023 by Matthew J. Eberl as Development Manager for Apex Clean Energy Holdings, LLC, a Delaware limited liability company, the Manager of Apex GBR, LLC, a Delaware limited liability company, the Sole Member of Apex Clean Energy Finance, LLC, a Delaware limited liability company, the Sole Member of Bowman Wind, LLC, a Delaware limited liability company, on behalf of the company.

Gaynell C. Spinner
Notary Public



LANDOWNER:

Charlotte Miller
Landowner's Printed Name

Charlotte Miller
Landowner Signature

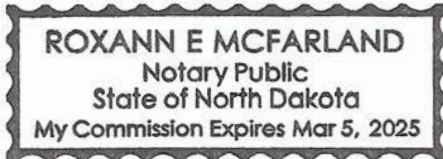
Landowner's Printed Name

Landowner Signature

STATE OF North Dakota

COUNTY OF Bowman

On this 26th day of April, 2023, before me personally appeared Charlotte Miller known to me to be the persons who are described in and who executed the within and foregoing instrument and acknowledged to me that they executed the same.



Roxann E McFarland
Notary Public
My Commission Expires: 3-5-2025

ADJACENT LANDOWNER(S):

Landowner's Printed Name

Landowner's Printed Name

Landowner Signature

Landowner Signature

STATE OF _____)

COUNTY OF _____)

On this _____ day of _____, 20____, before me personally appeared _____ known to me to be the persons who are described in and who executed the within and foregoing instrument and acknowledged to me that they executed the same.

Notary Public
My Commission Expires: _____

ATTACHMENTS

- 1. Letter From Adelaide Township**
- 2. Exhibit Presented to Adelaide Township**
- 3. Utility Permit Example Presented to Adelaide Township**

16104 88th St. SW
Rhome, ND 58651

April 1, 2023

Bowman County Commission
c/o Bowman County Auditor
104 1st St NW, Suite 1
Bowman ND 58623

Bowman County Commission:

We, the Adelaide Township Board, are sending this letter to inform you that we met with Apex in regards to the proposed overhead power line to cross 87th street directly south of the main substation in our township between section 15 and section 22. Adelaide Township has no objections to this plan as it was presented to us at the meeting with Apex on March 29, 2023. We feel the project will not have any effect on the road or the right of way.

We have one request in regards to the minimum height of the lines above the surface of the road. We would like to see the minimum height be set at 20 feet or more with the increasing size of farm implements used today and in the future.

Thank you for encouraging Apex to meet with us on this issue.

Sincerely,

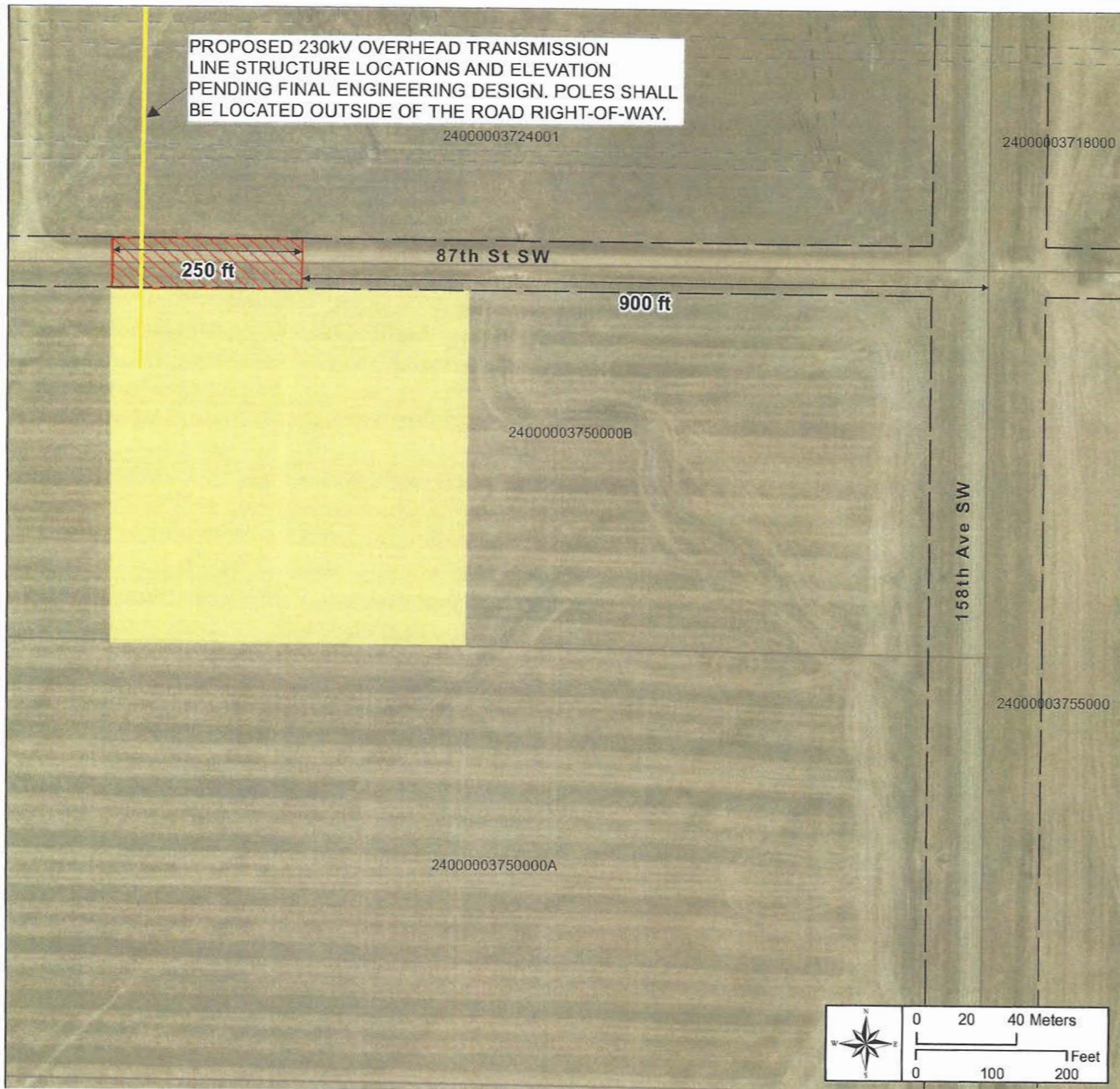
Brett Hendrickson, Chairman
Adelaide Township Board



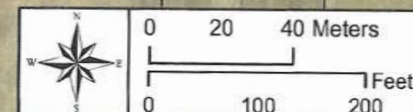
Bowman Wind

- Project Substation Parcel
- Road Right of Way
- Existing Transmission Line
- Anticipated Crossing Corridor
- Parcels
- Proposed 230kV Tline to be installed within the Anticipated Crossing Corridor

PROPOSED 230kV OVERHEAD TRANSMISSION LINE STRUCTURE LOCATIONS AND ELEVATION PENDING FINAL ENGINEERING DESIGN. POLES SHALL BE LOCATED OUTSIDE OF THE ROAD RIGHT-OF-WAY.



Date: 2/21/2023 Author: GIS CONFIDENTIAL
 Coordinate System: NAD 1983 StatePlane North Dakota South FIPS 3302 Feet
 Projection: Lambert Conformal Conic
 Datum: North American 1983
 Units: Foot US



UTILITY PERMIT
ADELAIDE TOWNSHIP

Whereas ADELAIDE TOWNSHIP, Bowman County, North Dakota 58623, referred to as "Grantor" does now grant to Bowman Wind, LLC, a Delaware limited liability company, referred to "Grantee", a Utility Permit to cross 87th Street SW perpendicularly with aboveground transmission and communications lines (the "Overhead Lines").

The Grantor and Grantee specifically agree as follows:

1. The Overhead Lines shall be installed with a minimum clearance of at least 18.5ft. from the surface of the roadway
2. The support poles installed for the Overhead Lines shall be located outside of the public right of way.
3. All trenches and excavations within the public right of way (if any) shall be carefully backfilled so as to eliminate settlement and the surface of all ground shall be returned to its original condition.
4. Adelaide Township shall not be responsible or liable for any costs in connection with the placement or maintenance of the Overhead Lines
5. In the future, if Adelaide Township chooses to excavate in the area where the Overhead Lines are located, Adelaide Township shall notify Grantee and work with Grantee to minimize disturbance of the Overhead Lines. Grantee shall, at its own expense, take steps reasonably necessary to accommodate the excavation.
6. No above ground structures other than the Overhead Lines shall be placed in the Township Road Right of Way without written permission of the Grantor.
7. At time of issuance of this permit, Grantee shall provide the following:
 - A \$300 Crossing Fee
 - A performance bond in the amount of \$250,000.00

Dated this ____ day of _____, 2023

Grantor:

By: _____
Township Supervisor

Grantee:

Bowman Wind, LLC
By: Apex Clean Energy Finance, LLC, its sole member
By: Apex GBR, LLC, its sole member
By: Apex Clean Energy Holdings, LLC, its manager

By: _____
Name: _____
Title: _____