

DENMARK TOWN BOARD MEETING MINUTES  
November 2, 2009

**SUPERVISORS PRESENT:** Steve Kramer, Jim Keller, Joe Moore and Gary Dixon

**ABSENT:** Kathy Higgins

**STAFF PRESENT:** Attorney Gilchrist, Planner Farrington

**CALL TO ORDER:** Meeting called to order @ 7:00 PM by Vice-Chair Dixon

**AGENDA APPROVAL:** Keller added O'Connor Nature Preserve. Dixon added Ditch Mowing.

**Motion Moore/2nd Kramer to approve agenda as amended. All In Favor. Motion Carried 4-0.**

**CONSENT AGENDA APPROVAL: Motion Keller/2nd Moore to approve consent agenda which includes 10/05/2009 Board minutes, Claims for Approval #9242-9260, PERA EFT 119909, payroll ending 11/01/2009 and financial reports. All In Favor. Motion Carried 4-0.**

**HEARING DECISION/ZONING ACTIONS:**

**Carter Variance Amendment-**Jim Carter present

Planner summarized proposal-Applicant requests an amendment to a variance granted in 2005 (Resolution 2005-03) for property located at 7793 Quadrant Ave S. Resolution 2005-03 granting the variance was for the bluff line set back, and specific to the plans and specs of the previous property owner. Applicant is not requesting any variance from the setback requirements, as the proposed new home and accessory structure meet the requirements in the ordinances.

Applicant proposes to build a new single family dwelling to the west, farther away from the river than the existing house, and to retain about 1400 sq ft of the existing house and remodel for an accessory structure. This will be the only accessory structure on the property. With the exception of the 1400 sq ft that will be retained for the accessory structure, applicant will demolish the existing house.

The request meets the setback requirements, conforms to the River District regulation protecting slopes greater than 12%. Applicant has submitted a landscaping plan with significant restoration and has agreed to add some additional taller tree species to the north and northeast of the pool area for increased screening from the river. Planning Commission recommended conditional approval of the variance amendment.

Attorney submitted draft resolution to amend existing variance for Board review.

**Motion Keller/2<sup>nd</sup> Kramer to adopt Resolution 2009-09, Amending a Variance Granted By The Town Board Resolution 2005-03 For The Carter/Miller Property Located At 7793 Quadrant Avenue South, with the caveat that if necessary, Legal may adjust language in the document, and authorization for Chair or Vice-Chair to sign. All In Favor. Motion Carried 4-0**

**Homestead Estates Cul-de-sac Variance-** Planner summarized request for a variance to allow St. Croix Trail Lane South as a temporary cul-de-sac of 3900 feet. Subdivision was approved in 2006 with 2 approved cul-de-sacs. Phase 2 is not yet complete. When considering the final plat, the Township was concerned about the phasing of roadway construction. Without construction of Phase 2 roads, specifically 77th Street, St. Croix Trail Lane South is a very long, temporary cul-de-sac totaling 3,900 feet in length. With the ultimate development of Phase 2, 77th Street will be constructed as an east-west through street connecting St. Croix Trail Lane South and St. Croix Trail. The planned, permanent condition of St. Croix Trail Lane South is a much shorter cul-de-sac. To address the issue, the Town approved the final plat, requiring that if Phase 2 roads were not completed by November 2007, the developer must apply for a variance for an over-length cul-de-sac. Planning Commission recommended approval of variance with recommended findings and conditions. Attorney submitted draft resolution for Board review.

**Motion Moore/Keller to adopt Resolution 2009-10, Granting A Variance To Allow St. Croix Trail Lane South In Homestead Estates Subdivision As A Temporary Cul-de-sac, authorization for Chair or Vice-Chair to sign.** Discussion: Keller- Identifying party responsible for removal of the temporary cul-de-sac turnaround. Legal- responsibility is placed on the developers of Phase 1 and Phase 2 within the development. **All In Favor. Motion Carried 4-0.**

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**PUBLIC COMMENT:** Resident informed Board that he was attempting to resolve neighbor complaints regarding motorcycling on his property.

**BUSINESS ITEMS:**

**Pechacek Lot Line Adjustment-** Pechacek family present. Subject acreage is about 80 acres. Two 5 acre parcels (parcels A & B) with homes have already been split from this. Proposal is to increase the lot size of the existing 5 acre parcels to 15.2 acres each. The remaining 50 acres will be split into a 20 acre parcel (parcel C) with the existing house on it, and a 30 acre parcel (parcel D). Because the split would result in both parcels C and D being larger than 20 acres and having a width greater than 500 feet, the parcels meet the requirements that satisfy the statute that exempts them from being treated as a subdivision. Parcels A, B and C each have a density unit already. The one remaining density unit would be attached to parcel D. Applicant would be required to enter into a Development Agreement with the Town. Discussion regarding possible park dedication fees for split. Issue will be addressed in Development Agreement which will be submitted to Board in December for review. Attorney submitted draft resolution for Board review.

**Motion Kramer/2<sup>nd</sup> Moore to adopt Resolution 2009-11, Approving Pechacek Lot Line Adjustment For Property Located At 13765 110<sup>th</sup> Street S. All In Favor. Motion Carried 4-0.**

**Parcel Forfeit-** Parcel 09.026.20.32.0010 (near St Croix Trail/Hwy.10) has been forfeited to the State of MN for non-payment of taxes. After Board discussion, no action taken.

**O'Connor Nature Preserve-** Town has applied for DNR grant in partnership with Conservation District. Town has committed to 100 hours of volunteer service and \$5000 toward the project. East line of property has been cleared to accommodate installation of the fence. Board consensus to also fence west side of property.

**Ditch Mowing-** Road supervisor believed final mowing was turned in on October claim of 75 hrs. Additional mowing claim of 31 hrs turned in this month. Submitted hours and mowing outside of Right of Way were discussed as concerns. Contractor has been noticed not to mow outside Right of Way a number of times in the past.

**Motion Dixon/2<sup>nd</sup> Keller to electively terminate the ditch mowing agreement with Jim Herman and to have Township Attorney send him the required 30 day notice of termination. All In Favor. Motion Carried 4-0.**

**LEGAL REPORTS:**

**Zoning amendments-** 2030 Comp Plan Land Use Map/Zoning Map (Ag Preserves & changes in commercial and RR zoning areas) and Washington County SSTS will be reviewed by Planner and Legal for submission to Planning Commission/Public hearing review.

8:45 PM **Motion Moore/2<sup>nd</sup> Kramer to adjourn. All In Favor. Motion Carried 4-0.**

Becky Herman  
Denmark Township Clerk/Treasurer

Addendums 2009-09, 2009-10, 2009-11

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DENMARK TOWNSHIP  
WASHINGTON COUNTY, MINNESOTA  
RESOLUTION NO. 2009-09

**RESOLUTION AMENDING A VARIANCE GRANTED BY TOWN BOARD RESOLUTION 2005-03 FOR THE PROPERTY  
LOCATED AT: 7793 QUADRANT AVENUE SOUTH**

**WHEREAS**, Jim Carter and Victoria Miller (the "Applicants") are the owners of property located at: 7793 Quadrant Avenue South, Denmark Township, Minnesota, which is legally described on attached Exhibit A (the "Property"); and

**WHEREAS**, the Property is located in the Single Family Estate (SFE) District and the St. Croix River Management District (River District); and

**WHEREAS**, the River District requires a structure setback of 100 feet from the bluff and 200 feet from the river's ordinary high water level; and

**WHEREAS**, on March 5, 2005, the Town Board granted Molly and Philip Minervino, the owners of the Property at the time, a bluffline setback variance in order to allow the construction of a 2086 square foot addition to their existing non-conforming home that was within 58 to 69 feet of the bluff line (the "Minervino Variance"); and

**WHEREAS**, the Applicants wish to build a new home on the Property, remove a portion of the existing house and use the remaining portion of it as an accessory building; and

**WHEREAS**, the proposed new home will be located approximately 240 feet from the bluff line and 450 feet from the river's ordinary high water level, which are well within the setback requirements of the SFE District and the River District; and

**WHEREAS**, Washington County has determined that the proper procedure in this case is to consider an amendment to the Minervino Variance because the conditions of the 2005 variance reference the specific building area, height and location allowed; and

**WHEREAS**, the Denmark Township Planning Commission held a public hearing on the requested amendment to the Minervino Variance and on October 10, 2009 took action to recommend that the Town Board amend the variance together with recommended findings and conditions; and

**WHEREAS**, the Town Board, sitting as the Board of Adjustments & Appeals, hereby finds and determines the following:

- (1) The amendment to the Minervino Variance is in harmony with the general purpose of the Official Controls from the standpoint of the use, since houses and accessory structures are allowed in the SFE District and the River District;
- (2) The new home will be in compliance with all zoning requirements, including setbacks, so no variance for the new home is required;
- (3) The existing home, which will be turned into an accessory structure, was built before the adoption of the bluff setback requirements. By demolishing a part of the existing home, the Applicants are lessening the existing encroachment into the bluff setback;
- (4) The new home and the accessory structure are generally consistent with the essential character of the area. The area is single family residential in character. The new home and accessory structure's proposed heights do not exceed the height requirements of the zoning districts. The new home and accessory structure will be brown in color which meets the requirement of the zoning districts that buildings be earth or summer vegetation tones. The structures will be screened by vegetation as viewed from the river; and
- (5) The new home and the accessory structure's locations are consistent with the adopted Comprehensive Plan's River Corridor Policies.

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**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of Denmark Township, Washington County, Minnesota, that the Minervino Variance is hereby amended with respect to the encroachment into the bluff setback by the accessory structure subject to and conditioned upon compliance with all of the following:

- (a) Grant of variance by Washington County;
- (b) Payment of all fees;
- (c) The Applicants shall undertake the project in general accordance with the plans and specifications dated September 17, 2009 and September 30, 2009;
- (d) The Applicants shall submit to the Town Engineer a Grading, Drainage, and Erosion Control Plan at the time that the Applicants apply for a building permit;
- (e) The existing home shall be demolished, except for the portion identified to remain as an accessory structure. Demolition shall occur within 60 days after the certificate of occupancy is issued for the new home. Demolition shall be completed within 90 days from when it began;
- (f) The wastewater treatment system shall be approved by the Washington County Department of Health;
- (g) A minimum of four additional maple, pin oak, or white pine trees shall be planted north and northeast of the pool;
- (h) The Town may inspect the Property at all reasonable times for purposes of ensuring compliance with the conditions of the variance amendment and the variance;
- (i) Adherence to, and continued compliance with, the requirements of the variance, the variance amendment, the performance standards established by the Town and such other requirements as may apply. The provisions herein shall prevail over any provision in the Minervino Variance which is less strict or inconsistent with this amended variance;
- (j) Compliance with all applicable federal, state and local laws, rules and ordinances; and
- (k) A waiver by the Town or a failure by the Town to take action with respect to any violation of any condition, covenant or term of the variance or variance amendment shall not be deemed to be a waiver of such condition, covenant, or term or any subsequent violation of the same or any other condition, covenant or term;
- (l) Obtaining such other permits or permissions as may be required;
- (m) Applicants shall pay all planning, engineering, administrative, and legal fees and costs incurred by the Town for processing this variance amendment application. In the event any fees are outstanding they will be paid by the Applicants within 14 days of receiving a bill from the Town. In the event the fees are not paid, this variance amendment shall terminate automatically upon recording of a Notice of Nonpayment by the Town;
- (n) All conditions of this variance amendment shall run with the land and shall not in any way be affected by the subsequent sale, lease, or other change from current ownership of the Property and all references to the Applicants herein shall include all heirs, successors and assigns; and
- (o) This variance amendment with original signatures will be forwarded to the Town Clerk-Treasurer. The Town shall record this variance amendment at the sole cost of the Applicants. If in the sole discretion of the Town additional documents are necessary for recording, the Applicants will cooperate and sign any and all documents.

Adopted on the 2<sup>nd</sup> day of November, 2009. **BY THE TOWN BOARD**

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DENMARK TOWNSHIP  
WASHINGTON COUNTY, MINNESOTA  
RESOLUTION NO. 2009-10

RESOLUTION GRANTING A VARIANCE TO ALLOW  
ST. CROIX TRAIL LANE SOUTH IN THE HOMESTEAD  
ESTATES SUBDIVISION AS A TEMPORARY CUL-DE-SAC

**WHEREAS**, Homestead Farms, LLC (the "Applicant") is the Developer of a single family lot subdivision known as Homestead Estates ("Subdivision"), which received final plat approval from the Town Board on March 6, 2006; and

**WHEREAS**, the Subdivision consists of two phases, Phase 1 and Phase 2, which were planned together as a unified project, but are under different ownership; and

**WHEREAS**, Phase 1 included the construction of St. Croix Trail Lane South, which is a very long temporary cul-de-sac that is 3900 feet in length, which was constructed and paved in September 2009; and

**WHEREAS**, Phase 2 of the Subdivision is to include constructing 77<sup>th</sup> Street South, which will connect St. Croix Trail Lane South to St. Croix Trail South and reduce the length of the St. Croix Trail Lane South cul-de-sac; and

**WHEREAS**, the Development Agreement that was entered into between the Town and the Applicant for the Subdivision requires that in the event that the Phase 2 roads are not installed by November of 2007, the Applicant must make an application for a variance to allow St. Croix Trail Lane South as a temporary cul-de-sac of 3,900 feet; and

**WHEREAS**, the Phase 2 roads have not been installed and there appear not to be any plans to install them in the near future; and

**WHEREAS**, the Applicant has requested a variance to allow St. Croix Trail Lane South as a temporary cul-de-sac of 3,900 feet; and

**WHEREAS**, the Denmark Township Planning Commission held a public hearing on the requested variance and on October 10, 2009 took action to recommend the Town Board grant the requested variance together with recommended findings and conditions; and

**WHEREAS**, the Town Board, sitting as the Board of Adjustment and Appeals, hereby finds and determines the following:

- (6) Due to the presence of steep slopes, drainage ways and natural resources in the area, there are practical difficulties in constructing additional through streets in the Subdivision; and
- (7) The situation is unique to the property because the Subdivision was planned as a unified project. This would have allowed for the construction of 77<sup>th</sup> Street South which would have connected St. Croix Trail Lane South to St. Croix Trail South and resulted in a much shorter cul-de-sac. However, the Subdivision was broken into two phases and the Applicant does not have control of the Phase 2 property. Therefore, the Applicant is unable to construct 77<sup>th</sup> Street South which will connect St. Croix Trail Lane South to St. Croix Trail South; and
- (8) One of the requirements of the Development Agreement is for the Applicant to apply for the variance to allow the temporary cul-de-sac of 3,900 feet in the event that Phase 2 roads are not installed by November 2007; and
- (9) The St. Croix Trail Lane South cul-de-sac is temporary and will terminate when 77<sup>th</sup> Street South is constructed as part of Phase 2; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board of Denmark Township, Washington County, Minnesota, that a variance is hereby granted to the Applicant to allow St. Croix Trail Lane South as a temporary cul-de-sac of 3,900 feet subject to and conditioned upon compliance with all of the following:

- (p) Grant of variance by Washington County; and
- (q) Payment of all fees; and
- (r) The temporary cul-de-sac turnaround located at Lot 1, Block 3 must be removed by the Applicant at the time that Phase 2 roads are constructed; and

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- (s) The granting of the variance to allow a temporary cul-de-sac of 3,900 feet does not create road frontage for Lots 9 and 10, Block 5 of the Subdivision. The granting of the variance does not make Lots 9 and 10, Block 5 of the Subdivision buildable; and
- (t) Development of Phase 2 of the Subdivision shall comply with the Development Agreement dated June 13, 2006; and
- (u) The Town may inspect the Subdivision at all reasonable times for purposes of ensuring compliance with the conditions of this variance; and
- (v) Adherence to, and continued compliance with, the requirements of this variance, the performance standards established by the Town and such other requirements as may apply; and
- (w) Compliance with all applicable federal, state and local laws, rules and ordinances; and
- (x) A waiver by the Town or a failure by the Town to take action with respect to any violation of any condition, covenant or term of the variance shall not be deemed to be a waiver of such condition, covenant, or term or any subsequent violation of the same or any other condition, covenant or term; and
- (y) Obtaining such other permits or permissions as may be required; and
- (z) Applicant shall pay all planning, engineering, administrative, and legal fees and costs incurred by the Town for processing this variance application. In the event any fees are outstanding they will be paid by the Applicant within 14 days of receiving a bill from the Town. In the event the fees are not paid, this variance shall terminate automatically upon recording of a Notice of Nonpayment by the Town; and
- (aa) All conditions of this variance shall run with the land and shall not in any way be affected by the subsequent sale, lease, or other change from current ownership of the Subdivision and all references to the Applicant herein shall include all heirs, successors and assigns; and
- (bb) This variance with original signatures will be forwarded to the Town Clerk-Treasurer. The Town shall record this variance at the sole cost of the Applicant. If in the sole discretion of the Town additional documents are necessary for recording, the Applicant will cooperate and sign any and all documents.

Adopted on the 2nd day of November, 2009. **BY THE TOWN BOARD**

DENMARK TOWN BOARD MEETING MINUTES  
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DENMARK TOWNSHIP  
WASHINGTON COUNTY, MINNESOTA  
Resolution No. 2009-11

RESOLUTION APPROVING A LOT LINE ADJUSTMENT  
FOR PROPERTY LOCATED AT 13765 110<sup>TH</sup> STREET

**WHEREAS**, James Pechacek, as Trustee of the Walter J. Pechacek Trust, ("Applicant") has applied for a lot line adjustment for its property located at: 13765 110<sup>th</sup> Street, Hastings, MN 55033; and

**WHEREAS**, the proposed lot line adjustment would adjust the property line between Applicant's property and property owned by Judith M. Pechacek and L.M. Hedin, located at: 11040 Oakgreen Avenue South, Hastings, MN 55033, resulting in approximately 10.25 acres of land being added to the Pechacek/Hedin property; and

**WHEREAS**, the proposed lot line adjustment would adjust the property line between Applicant's property and the property owned by Richard K. Pechacek, located at: 11248 Oakgreen Avenue South, Hastings, MN 55033, resulting in approximately 10.24 acres of land being added to the Richard Pechacek property; and

**WHEREAS**, lot line adjustments are allowed under Chapter Three, Section 4.1 of the Town's Development Code provided that the Applicant provides the required submittals, enters into a development agreement with the Town, and pays all of the costs the Town incurs related to processing and acting on the application; and

**WHEREAS**, in conjunction with the lot line adjustment, the Applicant also desires to divide the remainder of the property into two lots, consisting of one 30.22 acre lot having a width of 991.36 feet and one 20.26 acre lot having a width of 668.31 feet; and

**WHEREAS**, since both lots will be greater than 20 acres and are at least 500 feet wide, pursuant to Minnesota Statutes, Section 462.358, subdivision 4b(b)(6), no approval by the Town is required with respect to the lot division; and

**WHEREAS**, the Town Board determines the proposed lot line adjustment is consistent with its zoning ordinance.

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board hereby approves the proposed lot line adjustment, as indicated in the application materials and as will be further described in the required development agreement, conditioned on compliance with all of the following:

1. No later than 45 days from the date of this Resolution, the owners of all of the properties affected by this lot line adjustment must enter into a development agreement with the Town that is acceptable to the Town and which the Town will draft. Furthermore, the owners of all of the properties, their heirs, successors, and assigns, shall comply with the terms and conditions of the development agreement as well as all applicable laws, rules, and ordinances;
2. The Applicant shall be responsible for reimbursing the Town for all costs incurred related to processing its application including, but not limited to, professional costs to review the application, draft the approval resolution, draft the development agreement, and such other work as needed to finalize the process; and
3. The Applicant shall be responsible for developing, executing, and recording such transfer documents and deeds as may be required to properly transfer the properties subject to the lot line adjustment. The Town will record the development agreement at the Applicant's expense; and

**BE IT FINALLY RESOLVED**, the Town Board Chairperson and the Town Clerk-Treasurer are hereby authorized to enter into the development agreement for this lot line adjustment on behalf of the Town once it is in a form acceptable to the Town Attorney.

Adopted this 2<sup>nd</sup> day of November, 2009. **BY THE TOWN BOARD**