

DENMARK TOWN BOARD MEETING MINUTES  
NOVEMBER 12, 2005

**SUPERVISORS PRESENT:** Kathy Higgins, John Kummer and Jim Keller

**ABSENT:** Jim Fitzpatrick and Gary Dixon

**OTHERS PRESENT:** Attorney Shoeberg

**CALL TO ORDER:** Rescheduled Board Meeting called to order at 7:00 PM by Vice-Chair Kummer.

**AGENDA APPROVAL:** Higgins added Inspectron/Larry Wasmund. Motion Higgins/2<sup>nd</sup> Kummer to approve Agenda as amended. Motion Carried.

**CONSENT AGENDA APPROVAL:** Motion Higgins/2nd Keller to approve consent Agenda. Motion Carried.

**HEARING DECISIONS/ZONING ACTIONS:**

**Howe Variance-** Peter Vujovich presented proposed plan for Howe's. Applicants would like to remove existing cabin and build a new house with a 40 foot setback to the bluff. Existing cabin is on the bluffline. When all the setbacks are met, there is very little area for building. During heavy rain and spring run off, water goes down the driveway and collects around the existing house. Howe's have put much effort into dealing with the erosion issues caused by the runoff. Meeting the 100 foot setback pushes the house into many mature trees. Board was not in support of a pool/patio and /or any impervious material in the 40 foot setback. Vujovich requested that pond/patio be approved subject to engineering review/approval. Board instructed applicant to come back to Board when/if plans have been finalized and agreed to by DNR and township engineer.

Motion Higgins/2nd Keller to approve Howe 40 foot setback variance, excluding pool/patio and any impervious material in 40 foot setback area, subject to the following conditions:

- 1.) Exterior colors including the roof shall be earth tone or summer vegetation color to minimize visual effect from the river.
- 2.) Detailed site grading, erosion control, and drainage patterns plans be as approved by the Township Engineer prior to issuance of a grading or building permit. Grading and drainage shall be designed to mitigate the existing erosion and to have minimal impact on the native vegetation and slopes. Erosion control to be maintained until permanent vegetation/ground cover is established. Bluff edge to be restored to native vegetation after removal of the existing house. Vegetative restoration plan to be as approved by the Town Planner prior to issuance of grading permit and staff will inspect erosion control and restoration during the construction process.
- 3.) Tree protection fencing shall be installed and maintained during construction and grading. This fencing shall be at the drip line from the crown of the trees to be preserved.
- 4.) Septic system and site shall be as approved by the Township and the County.
- 5.) No impervious surface be located within the 40 foot setback area. Revised site plan be submitted showing relocation or elimination of the lap pool and paved terrace area, (currently shown within the 40 foot setback). Motion Carried.

**Erickson Marine Amended Conditional Use Permit-** Harald Eriksen/Yaggy Colby presented for Erickson Marine. Proposed is a new 12,000 sq. ft. metal storage building for boat storage. Building will be inside the existing fence and will have a gravel floor and no bathrooms. Also planned is remodeling the existing building, adding windows, overhead door, insulation and heating. Based on staff recommendations, plan was revised to include aesthetic architectural features and additional landscaping.

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Higgins reported that the Planning Commission recommended approval, subject to Staff recommendations. Higgins does not agree with the requirement of architectural aesthetics and landscaping. As this control is not in our ordinances, Higgins would be willing to recommend, but not require as conditions. Kummer agreed that if this was something a developer chose to do, that is fine, however, we do not have anything in our ordinances requiring it. Motion Keller to approve Erickson Marine Amended Conditional Use Permit subject to Planning Commission recommendation:

- 1.) The addition of a three-foot high red colored metal band along the base of the proposed storage building.
- 2.) The addition of nine trees and six shrubs along the east and west sides of the building.
- 3.) Outdoor storage of boats is allowed only in the fenced storage area designated on the approved site plan dated 9/23/2005.
- 4.) No outdoor storage of parts or supplies is permitted.
- 5.) Signage is to meet Township sign regulations.
- 6.) Heavy-duty silt fence shall be installed at the limits of grading. All erosion control devices shall be in place prior to any construction and shall be maintained until viable turf cover is established as approved by the Township Engineer.
- 7.) Final grading shall be completed in accordance with the Grading Plan dated 9/19/2005.

Motion died for lack of second.

Motion Higgins/2nd Kummer to approve Erickson Marine Amended Conditional Use Permit subject to above Planning Commission recommendation minus landscaping and architectural requirements.

Discussion-Keller stated it was not unreasonable to make recommendations to make something fit into the township especially the landscaping requirements. If applicant is not required, they most likely will not do so. Shoeberg stated that landscaping requirements are in the ordinances. Motion Higgins/2nd Kummer to amend motion to restore landscaping requirement. Discussion about not wanting to set precedent of requiring architectural design types on a case by case basis. If Board wishes to require architectural design types, Board can establish policy and require via ordinance. Motion carried.

**PUBLIC COMMENT:**

Status of Ordinances to be discussed under meetings.

**BUSINESS ITEMS:**

**Specialized Acres 3-** Harald Eriksen presented for Ken Cordes on proposed community septic system. System users would be 6 lots in the 20 acre parcel. Average people per lot-35. Estimate of 25 gallons per person per day, resulting in about 5200 gallons of wastewater per day from site. Perc tests done by Barry Brown. Applicant has been in touch with Washington County Dept. of Public Health and Dennis O'Donnell, and has received a list of common Septic Systems from University of MN. Each lot would have 2 septic tanks and each lot owner would be restricted on usage by covenants. Eco-Check will be the company that will manage and run the system. Each individual lot will have its own well. Kummer expressed concern re: management/operation/financial responsibility of system. Wants to assure that Township does not have liability/responsibility for system. Wants system in place for assuring that successive owners are aware of restrictions/covenants on lots. Eriksen stated that Eco-check would charge individual homeowners monthly for maintenance fees. Attorney gave examples of metering discharge and system reporting. Atty stated there would be no liability for township with system, as it is a private system. Recommends that Township require certificate of Insurance with Township as an additional insured. Declarations would be put in title. Any limited discharge capacity would be disclosed to any purchaser.

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Attorney suggested having Engineer and sanitary people review proposal and outline for the Board issues they need to cover.

Motion Keller/2nd Higgins to approve Specialized Acres 3 concept of using Community Septic System. Motion Carried. Discussion-Higgins want to be sure this is consistent with our Ordinances and that the Township will not be responsible for enforcing or monitoring water usage. Kummer wants full disclosure to buyers.

**Marshall Open Space Subdivision-** Marshall's are requesting authorization to split Lot #4 so seller/buyer can close on sale. Discussion re: not being able to finalize any sale until County has agreed to concept. Motion Higgins/2nd Keller to authorize lot split of Lot 4 as submitted on preliminary plat subject to new ordinance adoption, and final plat approval with buyer being required to join in on final plat. Motion Carried.

**Inspectron-**

**James:** Larry Wasmund requesting guidance from Board re: James' request for a building permit for a new home, and conversion of existing building into storage/sales for produce. Consensus that James' need to apply for seasonal conditional use permit, and that Inspectron may issue building permit for home contingent upon existing building be removed if CUP not applied for/received. Wasmund stated a certificate of occupancy to change old structure from residential use to storage/sales and merchandising would be necessary. Codes must be met.

**Afton Apple:** Afton Apple applied for permit to erect framed support canopy structure. Application was incomplete, applicant notified of what was needed 09-08-05. Follow-up letter sent by Inspectron 09-19-05 detailing requirements, and including building code references. Building constructed anyway and utilized with no permit. Femling stated the building had been up for several years, and he originally didn't know it needed a permit. The structure is temporary, so it goes up and comes down. Femling and his architect did not agree with Inspectron's interpretation of building codes. Discussion re: process for appealing to Town Board, a decision made by Township staff, rather than ignoring Inspectron requirements and continuing with building construction/use. Femling advised by Board that if structure is put up again, it needs to be done according to Inspectron requirements. Higgins requested copies of correspondence from Wasmund on the issue and a copy of the Afton Apple Conditional Use Permit from Attorney.

11:20 AM Recess

11:30 AM Reconvene

**Engineer's Report: read by Kummer**

- 1.) Fieldcrest 1st addition- Warranty period has expired and corrective work has been completed. Engineer recommended remaining security be released. Motion Higgins/2nd Keller to release remaining security on Fieldcrest 1st addition. Motion Carried.
- 2.) Fieldcrest 2nd addition- Developer installed improvements are complete and recommended acceptance of entering warranty period. Motion Higgins/2nd Keller to approve acceptance of entering warranty period. Motion Carried.
- 3.) Eagle's Watch- Developer installed improvements are complete and recommend acceptance of warranty period. Motion Keller/2nd Higgins to approve acceptance of entering warranty period. Motion Carried.

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- 4.) Kummer's Cliff- Developer installed improvements are completed. The street will remain privately owned and maintained. Engineer recommends approval of entering warranty period on the completed improvements. Prior to warranty period expiration, site will be inspected to ensure there are no erosion or settlement problems with the completed improvements. Discussion-Higgins asked for clarification on approval of the private road. Attorney stated approval is for the private gravel drive, built to Township standards, serving 2 lots. No blacktop required until further development occurs. Motion Keller/2nd Higgins to approve acceptance of the improvements entering warranty period. Motion Carried.
- 5.) St Croix Ridge- Construction is complete with exception of bituminous wearing course placement. Developer's engineer found that some corrective work is needed on the emergency overflow for the pond. Developer has requested a reduction in the financial security and the Township Engineer recommends approval of the request, Attorney stated he had talked with the Township Engineer and they felt a \$75000 maintenance bond was in order, however, Kummer raised question if that amount adequate. Attorney to verify dollar amount with Engineer. Kummer visited site after a 3 inch rain and noted that there was no run off across 110th street Lane. There was water exceed that went into the overflow structure of the East storm pond designed for 100 year rain. TKDA inspected the same day. It was found they had the overflow structure set too low. They also found a problem with the other pond. Kummer wanted to make sure the amount of the Maintenance Bond was sufficient to cover the corrections. Higgins requested that future recommendations had dollar amounts established before approval. Motion Keller/2nd Higgins to approve Maintenance Bond subject to Engineer's estimate. Motion Carried.

**117th Street Plat-** Documents not ready. Attorney to have plat ready for approval at Dec. Meeting

**Eagle's Watch Trail Compensation-** Township received compensation payment of \$3850 from Mr Stanton for Eagle's Watch Homeowner's Association in lieu of installing the unfinished portion of the trail. Motion Higgins/2nd Keller to direct Clerk to send Eagle's Watch Homeowner's Association check for \$4000. Motion Carried.

**Emergency Preparedness-** Higgins reported that Myra Peterson is requesting a Denmark Township representative to participate on the County Emergency Preparedness Committee. Keller will talk to Myra re: time requirements, etc. Will possibly represent township. To be discussed in December.

**TH 95 Report-** moved to December Agenda

**Town Hall Flagpole-** Keller received estimates for Flagpole from American Flagpole and Flag Company. Board decided on a pole with inner cables. Board discussion on placement of pole and decided not on the asphalt area. Pole will most likely be set on the South side of the Town Hall, depending on installer's opinion. Motion Higgins/2nd Kummer to authorize acceptance of American Flagpole and Flag Company's bid of \$2254.85 less the charge of \$300 for installation in asphalt area. Motion Carried.

**Utility Permit/Procedure-** Higgins presented Utility Permit Policy, Utility Maintenance and Construction Permit Application form, and Utility Permit Escrow Fee Agreement for Board approval. Consensus to increase \$1000 restoration bond requirement to \$5000. Attorney recommended adding requirement for Utility Companies to certify Gopher One review before start of projects. This will be added to the Policy

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and the Application. Attorney will send language to clerk. Motion Higgins/2nd Keller to approve adoption of the November 2005 Utility Permit forms, subject to the \$5000 Restoration Bond change and Gopher 1 Certification added. Motion Carried.

**Davison Cartway Public Hearing-** Board scheduled Davison Cartway hearing for 12/12/05 at 7:00 PM at the Town Hall. Attorney will send Board information in advance and will handle necessary notifications.

**LEGAL REPORTS:**

**Suburban-** Attorney reported that Babcock is in possession of property. Property has been mowed and gates repaired. Some tires are gone. Atty will re-inspect next week. Owners did the cleanup. Township will not have to.

**Rumpca-** Motion was heard for Rumpca to join in on current lawsuit. Grote/Kramer are appealing County Planning Commission recommendation to approve the Conditional Use Permit.

**Ordinance Status:** Bd scheduled tentative Public Hearing for 01/09/06. Current draft needs inclusion of atty changes. Shoeberg/Higgins to meet to finalize. Next step to publish latest draft for Board review. Final version will then be published for Public Hearing.

**Homestead Estates -** Attorney received inquiry from Femling's attorney re: timing of Final Plat approval. Shoeberg advised him that before that could happen, the ordinances had to be approved. Board set a tentative hearing on ordinances for January 9, 2006. Attorney inquired about possibility of variance for Homestead Estates to close on lots prior to final plat approval. Board not willing to grant variance at this time.

Higgins requested WMO proposed budget and expenditures before the December Board Meeting, as Final Levy needs to be certified at the December Meeting. Shoeberg will provide this week. Joint Powers Agreement just signed by Hastings. Atty will provide copy for Township files.

Motion Keller/2<sup>nd</sup> Higgins to adjourn. Motion Carried.

12:33 PM Motion Higgins/2nd Keller to reconvene. Motion Carried.

In attendance- Frank Femling and Tony Sieben.

Purpose of discussion is to try to get additional acreage from Homestead Estates to Todd and Julie Sieben's lot, so they have sufficient land to construct an accessory structure on their lot. Current lot size 2.17 acres. Minimum lot size for accessory building requested is 2.5 acres. Unclear as to where additional acreage will come from. Higgins expressed concern that additional land to be added to Sieben lot would create non-compliant lot for Lyla. Kummer questioned if 50.37% open space would allow additional acreage to come out of Open Space. Shoeberg stated there is a means to accomplish it since it is not a plat at this time. Shoeberg and Clinton are trying to determine appropriate action.

12:37 PM Motion Keller/2nd Higgins to re adjourn. Motion Carried.

Becky Herman  
Clerk/Treasurer