

DENMARK TOWN BOARD MEETING MINUTES  
April 4, 2016

**SUPERVISORS PRESENT:** Kathy Higgins, John Kummer, Karen Herman, John Strohfus, Joe Moore

**ABSENT:** None

**STAFF PRESENT:** Attorney Gilchrist (Kennedy-Graven), Engineer Geheren (Focus Engineering)

**CALL TO ORDER:** Meeting called to order @ 7:00 PM by Chair Higgins

**AGENDA APPROVAL:** K Higgins added Erin Glen and Pt Douglas Trail.

**Motion J Moore/2<sup>nd</sup> J Kummer approval of agenda as amended. Voting Yes- J Moore, J Kummer, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 5-0-0.**

**CONSENT AGENDA APPROVAL: Motion J Kummer/2<sup>nd</sup> J Moore approval of Consent Agenda items which include 03/07-03/08/2016 Board Meeting Minutes, Claims 10682-10696, EFT payments- PERA 368358, MN Rev. Tax 0746232896, Federal Tax 24262759, payroll ending 04/01/2016 and financial reports. Voting Yes- J Kummer, J Moore, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 5-0-0.**

**HEARING DECISIONS/ZONING ACTIONS: DeBaere 12170 Morgan Ave S- Variances**

Applicant is requesting a variance from the maximum allowable sq footage and number of accessory structures permitted on the 15 acre parcel.

There are 8 existing structures on the property. DeBaere's are proposing to reduce the number of buildings on the site, by removing 5 old, unusable buildings, and replace these with 1 structure of essentially the same sq footage as the total amount being removed.

The Denmark Planning Commission held a public hearing regarding the requested variance on 03/21/16 and forwarded the request to the Town Board with a recommendation that it grant the variances based on the Planner's 03/07/16 findings and certain conditions.

Attorney provided draft resolution for Board and Applicant review. Applicant noted that the draft indicated a total of 2724 sq ft for the new structure, which should be 2825 sq ft. J Moore noted that that the requested 2825 sq ft size for the new structure is not a standard size for building construction (standard would be 4 or 8 ft increments). Applicant also stated that he had become aware of the same issue when soliciting construction bids for the structure and requested that a max size of 2900 sq ft be allowed. Board consensus that this would be a reasonable request.

**Motion J Moore/2<sup>nd</sup> J Strohfus to adopt Resolution 2016-09 Granting A Variance For The Property Located At 12170 Morgan Avenue South, with new accessory structure size max of 2900 sq ft.**

**Voting Yes- J Moore, J Strohfus, K Herman, J Kummer, K Higgins. Voting No- None. Abstaining- None. Motion Carried 5-0-0.**

J Kummer reminded the Applicant that at the time of completing the removal of the accessory structures being demolished, they need to provide the Town with a sketch of the structures remaining on the property (including the new building), that shows the actual sq ft of each accessory structure.

**PUBLIC COMMENT:** Jim Eilers

Resident expressed concerns regarding the weeds and small trees on the empty lot on Mendel, which Denmark used to mow up to the crop line. K Higgins noted that the Township should not have been mowing the private property beyond the right- of- way in the past.

Resident expressed concerns regarding activity/operations in the business district adjacent to his property. He stated that the business on corner has many school busses parked there, and the bus drivers personal vehicles are parked on unfinished surface, creating an eyesore and bringing property values down. Questioned why school busses are running out of the site. K Higgins stated that an application is pending for development of the property. When application is received a Public Hearing will be scheduled and neighbors will be notified.

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Strohfus noted that the business has been permitted for a car dealership and the busses parked there seem to fit into the scope of the existing permit. With a proposal coming forward at this time, the business use will be reviewed.

Resident stated that the cornfield has been dug out and dirt is being brought in, without permits. Questioned what is permitted on the property.

Permit was issued when original CUP was obtained. There was a grading permit for the site, which had expired. Owners have since obtained a new dirt hauling permit. J Kummer will review both the Mendel lot and business.

**BUSINESS ITEMS:**

**Homestead Estates Proposal-Ben Granley:** Request received from Ben Granley, who is interested in purchasing the entire Phase 2 thirty acre site, amending the Development Agreement, vacating road and eliminating covenants for the 30 acres in Phase 2 of Homestead Estates. Staff is reviewing proposal to see what may or may not be viable.

Attorney- Removal of some portion of the cul-de-sac to the north is being proposed. The south cul-de-sac (future 78<sup>th</sup> St S) would need to be constructed to accommodate the 2 parcels in Phase 1 that are currently unbuildable.

Attorney noted that the issue of the over-length road with no outlet would need to be discussed.

Board consensus to have Mr. Granley to come to a Board Meeting for further discussion of his proposal.

**Aurora Solar Pre-construction Meeting:** Engineer Geheren and K Higgins attended the pre-construction meeting for the Aurora solar project on Norell Ave S. Aurora intends to mobilize onto the site 04/29/16, grading to start in May. Major construction on the site May/June. 21,500 solar panels will be placed on the forty acre site. Work not substantially complete until November 2016. Concerns regarding condition of Norell. Kummer noted that Xcel has been doing associated utility work on Norell. Road will be monitored. Vegetative management plan has been established for the site. Stormwater management permit has been acquired from the State for erosion control.

**Aurora Driveway Access:** Proposed driveway does not meet the 20 ft setback. An easement exists on the property which goes from Norell back to the site, which has been assigned to Hastings Solar. They are requesting a waiver to allow the driveway to be in that easement, which would be within the 20 ft setback. Keeping the easement next to the property line would take up less farmland. **Motion J Kummer/2<sup>nd</sup> J Moore to grant a waiver to allow the driveway to be constructed within the existing easement area, within the 20 ft setback.** Voting Yes- J Kummer, J Moore, K Herman, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 5-0-0.

**Washington County Land Use:** Update regarding the removal of the County's land use authority and controls in Denmark Township. At its 05/24/16 meeting, the County Planning Advisory Commission will prepare comments and a recommendation to the County Board. County is requesting feedback from the Township on whether it would like to assume the subdivision ordinance authority.

Discussion regarding what part of the platting, if any, would still be done by the County.

Higgins spoke with Mike Welling (County Surveyor's Office) who indicated that there would be two levels of review. County recommends that the Town would have its own plat commission and plat review. Statutory 505 reviews would continue to be done by the County.

Attorney noted that the plat commission would essentially be the planning commission, processing as it has been in the past. County strongly recommends that a surveyor conduct the township level of review. Attorney and engineer noted that other communities that they deal with do not hire surveyors to review plats. Engineer believed that the process could simply be that the applicant has a registered surveyor prepare the survey. Staff will research procedures further.

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Strohfus- believes county should provide a detailed standard operating procedure based on what work they will no longer be performing. Board consensus to have Higgins and Attorney conference call with County Surveyor Welling to gain further insight into County's current subdivision/platting procedure.

**Solar Study Discussion:** Discussion regarding proceeding with solar study. Possible survey to be sent out to Denmark residents. Board consensus to independently prepare draft questions regarding asking residents if the Town should allow commercial solar facilities in Denmark. Draft questions to be compiled and discussed at the next Board Meeting.

**Erin Glen:** Erin Glen plat Lot1 Block 4. Erin Glen is requesting to split the lot into Outlots A&B. Attorney noted that Outlot A would be owned by Harry Sieben, property owner to the north of the outlot and he would move his driveway across this lot to connect to the road access into the development. Outlot B, which is where the stormwater pond will be located, would be owned by either the Homeowners Association or whoever is in charge of maintaining the storm pond. Outlots would become unbuildable. Board consensus that creating the outlots would be acceptable and not require preliminary plat to come back before the Board. Changes would be incorporated into the final plat. Board would still need to approve final plat and Applicant will need to enter into a Development Agreement with the Township.

**Warrior Dash:** There will be no Warrior Dash at Afton Alps this year.

**Planning Commission:** Planning Commission Member Don Schneider will be resigning. Board consensus to advertise/post for a Planning Commission Vacancy.

**Pt. Douglas Trail:** Peter Mott, Washington County Parks Dept. has asked if the Board would like him to present an update on the trail plans/construction schedule. Board consensus to have presentation. Higgins will invite Peter to May Board Meeting.

**LEGAL UPDATES**

**11810 Mendel Ave S:** Property will be for sale. Board consensus that Attorney let property owner's counsel know that the noxious weeds on the 5 acre parcel need to be maintained.

**6600 Peller Afton Alps AT&T Tower:** Received letter asking if the fenced area is increased was there any historic property at or near the tower area. Town will respond, noting that there is an existing Conditional Use Permit on the property that would need to be considered if the site were to be changed.

**HRA:** Washington County is proposing legislation to designate the Washington County Housing and Redevelopment Authority as the Washington County Community Development Authority. HRA is asking for Town support of the legislation. Since the legislative session is ending soon, Board took no action on the request.

**Election of Chair, Vice-Chair:** J Moore nominated K Higgins as Chair. **Motion J Moore/2<sup>nd</sup> J Kummer to appoint K Higgins as Chair. Voting Yes- J Moore, J Kummer, J Strohfus, K Herman. Voting No- None. Abstaining- K Higgins. Motion Carried 4-0-1.**

K Higgins nominated J Moore as Vice-Chair. J Moore declined at this time.

**K Herman/2<sup>nd</sup> J Strohfus nominated J Kummer as Vice-Chair.**

**Motion K Herman/2<sup>nd</sup> J Strohfus to appoint J Kummer as Vice-Chair. Voting Yes- K Herman, J Strohfus, J Moore, K Higgins. Voting No- None. Abstaining- J Kummer. Motion Carried 4-0-1.**

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**Designate Official Newspaper of Record and Official Posting Place:** Publishing currently Hastings Star Gazette, also Pioneer Press when directed by Board. Posting currently Town Hall south outside bulletin board.

**Motion J Kummer/2<sup>nd</sup> K Herman to designate Official Newspaper of Record as Hastings Star Gazette, and Pioneer Press when directed by the Board and to designate Official Posting Place at Town Hall south outside bulletin board.** Voting Yes-

J Kummer, K Herman, J Moore, J Strohfus, K Higgins. Voting No- None. Abstaining- None. Motion Carried 5-0-0.

**Designate Official Bank:** Currently Vermillion State Bank. **Motion J Moore/2<sup>nd</sup> J Strohfus to designate Vermillion State Bank as official Township Bank.** Voting Yes- J Moore, J Strohfus, K Herman, J Kummer, K Higgins. Voting No- None. Abstaining- None. Motion Carried 5-0-0.

**Gopher Bounty:** Currently \$3.00 gopher-electors recommended keeping same.

**Motion K Herman/2<sup>nd</sup> J Moore to set gopher bounty at \$3.00 per gopher.** Voting Yes- K Herman, J Moore, J Kummer, J Strohfus. Voting No- None. Abstaining- K Higgins. Motion Carried 4-0-1.

**Supervisor Salary:** Currently \$70.00 per meeting and \$300.00 per month Chair-electors recommended keeping same.

**Motion J Kummer/2<sup>nd</sup> J Moore to set supervisor salary at \$70.00 per meeting and \$300.00 per month chair.** Voting Yes- J Kummer, J Moore, J Strohfus, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 5-0-0.

**Motion J Moore/2<sup>nd</sup> J Strohfus to set 2017 Annual Meeting- Tuesday, March 14, 2017 7:00 PM @ the Denmark Town Hall.** Voting Yes- J Moore, J Strohfus, J Kummer, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 5-0-0.

Note: Reconvening of 2016 Annual Meeting is Tuesday, September 6, 2016 @ 7:00 PM. Regular Board Meeting to follow.

Salary Survey...Higgins conducted salary survey in both Washington and Dakota County Townships and provided findings to Board. Survey included Clerk, Treasurer, Board, Planning Commission, Election Judge and miscellaneous pay rates.

**Contracted Staff:**

**Motion J Moore/2<sup>nd</sup> K Herman to continue current agreements with Kennedy-Graven/Legal Services, WSB/Planning Services and Focus Engineering/Engineering Services as contracted Staff.** Voting Yes- J Moore, K Herman, J Strohfus, J Kummer, K Higgins. Voting No-None. Abstaining- None. Motion Carried 5-0-0.

**Motion K Herman/2<sup>nd</sup> J Strohfus to set the Election Judge (head judges & regular judges) pay at \$15.00/hr.** Voting Yes- K Herman, J Strohfus, J Moore, J Kummer, K Higgins. Voting No-None. Abstaining- None. Motion Carried 5-0-0.

**Motion J Kummer/2<sup>nd</sup> J Moore to hold closed session to conduct the clerk's performance review pursuant to Minn. Stat. § 13D.05, subd. 3(a).** Voting Yes- J Kummer, J Moore, K Herman, J Strohfus, K Higgins. Voting No-None. Abstaining- None. Motion Carried 5-0-0. A summary of the closed session will be provided at the regular board meeting in May.

**Motion J Moore/2<sup>nd</sup> J Kummer to re-open the Board Meeting.** Voting Yes- J Moore, J Kummer, K Herman, J Strohfus, K Higgins. Voting No-None. Abstaining- None. Motion Carried 5-0-0.

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**Motion J Moore/2<sup>nd</sup> J Kummer to raise the Clerk/Treasurers salary 4%, to \$3,382.78/month, and to set the Clerk/Treasurers meeting pay at \$75.00 per meeting (1 meeting per Planning Commission session).**  
Voting Yes- J Moore, J Kummer, K Herman, J Strohfus, K Higgins. Voting No-None. Abstaining- None.  
Motion Carried 5-0-0.

10:34 PM **Motion J Kummer/2<sup>nd</sup> J Moore to adjourn.** Voting Yes- J Kummer, J Moore, J Strohfus, K Herman, K Higgins. Voting No- None. Abstaining- None. Motion Carried 5-0-0.

Becky Herman

Denmark Township Clerk/Treasurer

Denmark Township Chair

Addendum Resolution 2016-09

**DENMARK TOWNSHIP**  
**WASHINGTON COUNTY, MINNESOTA**  
Resolution 2016-09  
**RESOLUTION GRANTING A VARIANCE FOR THE**  
**PROPERTY LOCATED AT 12170 MORGAN AVENUE SOUTH**

**WHEREAS**, John DeBaere (“Applicant”) is the owner of property located at 12170 Morgan Avenue South, Denmark Township, Minnesota, which is legally described in the attached Exhibit A (“Property”);

**WHEREAS**, the Property is located in the Agricultural (A-2) District;

**WHEREAS**, the Applicant has requested a variance from the maximum allowable square footage and number of accessory structures allowed at the property pursuant to the Denmark Township Development Code (“Ordinance”) to allow the Applicant to destroy and remove certain existing accessory structures and to build an accessory structure in their place;

**WHEREAS**, the Denmark Township Planning Commission held a public hearing regarding the requested variance on March 21, 2016 and took action to forward the request to the Town Board with a recommendation that it grant the requested variances based on the presented findings and with certain conditions;

**WHEREAS**, the Town Board hereby finds and determines the following:

- a. The Planner’s Report (“Report”) dated March 7, 2016 regarding this matter, including the findings contained therein, is incorporated herein by reference, except that the conditions proposed in the Report are superseded by the conditions contained in this Resolution;
- b. The Applicant is requesting the following variances (collectively the “Variances”):
  - (1) A variance of approximately 2,217 sq. ft. from the maximum allowable square footage of 4,000 sq. ft. for accessory structures located on a parcel between 10 and 19.99 acres within the A-2 Agricultural District (Chapter Two, Part 3, Section 1, Subsection 1.2(3)(A) of the Ordinance); and
  - (2) A variance to allow for an additional accessory structure (total of 3) within the A-2 Agricultural District, where a maximum of 2 accessory structures is permitted on a parcel greater than 2 acres and less than 20 acres (Chapter Two, Part 3, Section 1, Subsection 1.2(3)(B) of the Ordinance);

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- c. Chapter One, Section 9.1 of the Ordinance permits the issuance of a variance where it is determined that, by reason of circumstances unique to the property not created by the landowner, the strict enforcement of the official controls would cause practical difficulties;
- d. The Property is approximately 15.02 acres in size and contains 8 accessory structures totaling 6,116 square feet (excluding the detached garage);
- e. One of the accessory structures is a detached garage and the Applicant indicates the others are used for agricultural purposes;
- f. Many of the existing structures are old and in poor condition so the Applicant proposes to remove 5 of the accessory structures and replace it with one new accessory structure of approximately the same size as the combined square footage of the structures being removed;
- g. The new accessory structure would also be used for agricultural purposes; and
- h. Practical difficulties exist under the present circumstances that allow, pursuant to the Ordinance, the granting of the requested Variances to allow the removal of 5 of the existing accessory structures and to replace them with one new accessory structure as proposed.

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Board, sitting as the Board of Appeals and Adjustments, hereby approves and issues, based on the record of this matter, the Report, and the findings contained herein, the requested Variances to allow the removal of 5 existing accessory structures and the construction of one new accessory structure conditioned upon compliance with all of the following:

1. Permits. The Applicant shall obtain all necessary approvals and permits prior to beginning construction of the new accessory structure, including a Certificate of Compliance since the proposed new accessory structure is an agricultural building over 1,000 square feet.
2. Size. The new accessory structure being built on the Property shall not exceed 2,900 square feet in size and shall, except as provided by the Variances granted herein, comply with the requirements of the Ordinance.
3. Timing. The demolition of the 5 accessory structures to be removed from the Property must be completed within nine months after completion of construction on the proposed new accessory structure. Removal of old accessory structures will require the Applicant to obtain one or more demolition permits from the Town. At the time of completing the removal of the accessory structures being demolished, the Applicant shall provide the Town a sketch of the accessory structures (including the new accessory structure being built) remaining on the Property that shows the actual square footage of each accessory structure.
4. Fees. The Applicant shall pay all planning, engineering and legal fees and costs incurred by the Town for processing this permit application. In the event any fees are outstanding they will be paid by the Applicant within fourteen (14) days of receiving a bill from the Town. In the event the fees are not paid, this permit shall terminate automatically upon recording of a Notice of Nonpayment by the Town.
5. Inspections. The Town may inspect the Property at all reasonable times for purposes of ensuring compliance with these conditions.
6. Acceptance of Conditions. Utilization of the Property for any of the uses allowed by the issuance of the Variances shall be deemed acceptance of, and agreement to, the terms and conditions of these Variances without qualification or reservation.
7. Application. These conditions 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 Applicant herein shall include all heirs, successors and assigns.

Adopted on the 4<sup>th</sup> day of April, 2016. **BY THE TOWN BOARD**