

Denmark Township Planning Commission Meeting
8210 Neal Ave S-Johnson CUP Public Hearing
April 20, 2015

Planning Commission members present: Roger Lang, Don Schneider, Bob Barr, Charlie Grote, Steve Radke and ex-officio Kathy Higgins

Absent: None

Board Members Present: None

Others Present: Attorney Troy Gilchrist (Kennedy Graven) and Planner Erin Perdu (WSB)

7:00 PM Chair Barr opened public Hearing. 8210 Neal Ave S-Johnson Conditional Use Permit (CUP)
PID 18.027.20.11.0003

Applicants/Owners Bryan & Dawn Johnson present.

Applicants purchased the property from family in 2011. The property has been in their family for decades. Applicants saw the opportunity to preserve their heritage and pass on to future generations and having the 2 homes which were grandfathered in on the property gave opportunity to have a "mother in law" residence for aging parents, to take care of them while they still could maintain some independence. Farm house on the property is a small rambler, less than 1000 sq. ft., built in the 1950's. The barn residence is a 2 bedroom apartment built into the bottom front half of the dairy barn, which was built in 1974. Plan was to renovate the barn and make it into a home rather than a small apartment. Applicant's hired an architect, structural engineer and designer and went through the process of drawing up plans, only to find that the barn is not a viable structure for a home. In order to meet code, the applicant's would need to essentially remove nearly the entire barn. If the barn were renovated for a home, there would be nothing left of the original structure but 2 concrete walls. The additional structural requirements combined with the original plan costs are not fiscally reasonable to pursue. Applicants do not want to demolish the barn, as it would be a viable structure if used for a barn and is sentimental to the family. Applicant's indicated that they did their best to meet the ordinance/codes as they exist and are requesting a CUP that would allow them to build a home elsewhere on the property and then revert the barn back to its original state to be used as a barn.

Property to the back of the property is a tree farm and side property is farmed. Home would not be visible from the road. If approved, Applicant's would like to build in 2015.

Planner- App is applying for a CUP to allow for the continuation for the non-conforming use of 2 homes on the Ag zoned property. The homes existed before the 1982 Ordinance thus they are considered a legal non-conformity. The proposal to recreate the dwelling unit (moving it from the barn to a new structure) is why a CUP is required. Code allows the PC to recommend to the Board a CUP for a non-conforming use in any zoning district, given a set of criteria that ensures that the proposal is in harmony with the intent of ordinance and the comprehensive plan. Having 2 residences on the property does not demonstrate a change in use of how the property is used now. There is no anticipation that there will be any change to the essential character of the area or of neighboring properties. No significant impact on traffic, utilities, or property values in surrounding area.

Planner submitted 04/09/15 Staff Report with Findings of Fact and recommended conditions if approved. Main condition is that the barn be converted from a residence back to barn use within 90 days of cert of occupancy of the new home. Once converted, the barn could not be used for living or overnight accommodations, so there would be no increase in the number of allowed dwellings on the property.

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Attorney – Discussion with the County Planner led to the decision that the CUP process under the non-conforming provisions of the Statutes would be the process that the request should go through. Statute's non-conforming provision addresses allowing a non-conforming use to continue, even through expansion and alteration if its non-conforming violation is not increased. In this case, the non-conformity is the 2 dwellings on 1 parcel and that won't be increased. There will remain 2 residential dwellings.

Conversion of barn- It would be likely that to convert the barn from residential use to barn use, the false floor, kitchen, bathroom and any parts of the structure that make it a dwelling would need to be removed.

Septic System- The existing farmhouse has its own septic system and that will remain as is. There are 2 septic systems for the barn. Applicant is willing to address any issues, if necessary for the barn systems. The new home would have a new septic system.

New house would be located to the west of the existing barn home and the existing driveway would be extended to it as a shared driveway with the existing house.

Public Comments- Craig Andrews-resident on Neal Ave S.

Resident raised questions about the current non-conforming use, allowing only one dwelling on a 20 acre parcel, septic system and conversion of barn residence back to barn use. Discussion regarding fact that the barn dwelling was build in 1974, prior to Town ordinances. General discussion re: application of non-conforming use section of Town ordinance. New septic system to be installed for new residence, which will require County approval. Additionally, applicant will have 90 days to remove the dwelling in the barn. Town Building Inspector will follow-up to assure compliance.

7:22 PM Public Hearing closed. Written comment period will remain open for 10 days. Written comments must be submitted to the Town Clerk. Planning Commission Opened.

Motion Lang/2nd Schneider to forward the 8210 Neal Ave S-Johnson Application to the Board with a recommendation to approve based on the Planner's 04/09/15 Findings of Fact and recommended conditions.

1. **Use.** The barn shall be converted from a residence back to barn storage only within 90 days from the issuance of the certificate of occupancy for the new home. Once converted, the barn shall not be used as a residence or for overnight accommodations.
2. **Permits.** The Applicant shall obtain all necessary approvals and permits prior to beginning construction.
3. **Site Plan.** The applicant shall submit a site plan with the building permit application for the new home, demonstrating compliance with all setback, buildable area, lot coverage, and building height requirements.
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.

With all present voting yes, Motion Carried 5-0-0.

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APPROVAL OF MINUTES-

Motion Barr/2nd Schneider approval of Minutes 03/16/15 Planning Commission/Strohfus Minor Subdivision. With all present voting yes, Motion Carried 5-0-0.

Other Business: Selection of Chair/Vice-Chair

Radke recommended reappointment of Barr as Chair.

Motion Radke/2nd Grote to reappoint Barr as Chair. With all present voting yes, Motion Carried 5-0-0.

Grote recommended appointment of Lang as Vice-Chair.

Motion Radke/2nd Barr to appoint Lang as Vice-Chair. With all present voting yes, Motion Carried 5-0-0.

7:27 PM Motion Grote/2nd Radke to adjourn. With all present voting yes, Motion Carried 5-0-0.

Becky Herman
Denmark Township Clerk/Treasurer