

Denmark Township Memorandum

To: Denmark Township Planning Commission

Copies: Troy Gilchrist, Town Attorney
 Cara Geheren, PE, Town Engineer, FOCUS Engineering, Inc.

From: Ryan Krzos, AICP, Town Planner

Date: June 8, 2020
 Planning Commission Regular Meeting for June 15, 2020

WSB Project No. 15210-000 Phase 05

Requests: **Approval of a minor subdivision subdividing one 56.6-acre parcel into two (2) lots and approval of a variance to the required minimum roadway frontage. The request is for property located at 6XXX Manning Avenue South. PID: 06.027.20.23.0004**

Applicant: Lana Meyer

Owner: Rita Murphy, et al.

Project Location: 6XXX Manning Ave S (STH 95) PID#: 06.027.20.23.0004

Existing Land Use / Zoning: Agriculture / Agricultural, A-2

Surrounding Land Use / Zoning: North: Agriculture / Agricultural, A-2
 East: Agriculture / Agricultural, A-2
 South: Agriculture / Agricultural, A-2
 West: City of Cottage Grove

Comprehensive Plan: The Denmark Township (2040) Comprehensive Plan guides this property for Agricultural land use.

Deadline for Agency Action: Application Date: 04-23-2020
 60-day Extension Letter Mailed: 05-04-2020
 Complete Letter Mailed: 05-08-2020
 120 Days: 08-29-2020

REQUESTED ACTION

The applicant, Lana Meyer has submitted an application to subdivide property in the northwest area of the Township. The minor subdivision request would subdivide one (1) 56.6-acre parcel into two (2) proposed parcels. One parcel "Parcel A" would be 36.9-acres in size and have frontage along STH 95/Manning Avenue. Proposed "Parcel B" would be 19.7 acres in size and gain access via an access easement. Since the width of this access easement abutting Parcel B is 75 feet, a variance is requested to reduce the required roadway frontage from the standard 300 feet to 75 feet.

MINOR SUBDIVISION REVIEW

Ordinance Authority

Chapter 3, Section 6 of the Denmark Township Development Code outlines the criteria for minor subdivisions within the Township. A minor subdivision is defined as “any subdivision containing three (3) or less lots fronting on an existing public street, or approved private driveway, not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provisions or portion of the Comprehensive Plan, Official Map, Zoning Regulations, or these regulations.”

Zoning

The property is located within the Agricultural A-2 zoning district. The proposed lots meet the minimum lot requirements for lot size using the lot averaging design, buildable area. Proposed Parcel A is provided with the requisite 300 feet or more roadway frontage via STH 95/Manning Avenue to the west. Proposed Parcel B would gain access via an access easement through adjoining property. Said access easement abuts the proposed parcel along the south property line a distance of 75 feet. The application is being processed in conjunction with a variance request to reduce the road frontage requirement.

	Minimum Requirement	Parcel A Proposed	Parcel B Proposed
Minimum Lot Size	20.0 acres or 2.0 acres using Lot Averaging Design	36.9 ac	19.7 ac
Minimum Buildable Area	1 acre	>1 acre	> 1 acre
Minimum Road Frontage	300 feet	1,338 feet along STH 95 Manning Ave	75 feet along access easement (variance)

Park Dedication Fees

Chapter 3, Section 12.1 states that “all subdivisions which create additional lots (major subdivisions, minor subdivisions and lot splits) shall either dedicate land for parks and trails or pay a park dedication fee in lieu of land dedication.”

The proposed major subdivision results in one (1) additional buildable parcel. It is Staff's recommendation that park dedication in the amount of one (1) lot be required to be paid by the Applicant.

VARIANCE REVIEW

The proposal includes a variance to reduce the required roadway frontage from the standard 300 feet to 75 feet. The frontage would be provided by an access easement defined within adjoining properties, which abuts the proposed Parcel B a distance of 75 feet.

Ordinance Authority

Chapter 1, Section 9 Variances.

A variance is defined as “the modification or variation of the Denmark Township Development Code 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.”

Variance Criteria

A variance must provide relief from practical difficulties: "Practical Difficulties" as used in connection with the granting of a variance means:

1. The property owner proposes to use the property in a reasonable manner not permitted by the official controls; and
2. The plight of the landowner is due to circumstances unique to the property, not created by the landowner; and
3. The variance, if granted, will not alter the essential character of the locality; and
4. Economic conditions alone shall not constitute practical difficulties; and
5. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

Staff finds that the hardship the variance provides relief from would meet the standard for a practical difficulty. The proposed dividing line between Parcels A and B is along a quarter section line and transmission line corridor. However, using these elements as the dividing line renders the entirety of the existing frontage to just Parcel A. To address access, an easement was prepared to provide access to Parcel B, as extension of a public roadway for this purpose is not available or practical, particularly since development of the parcel is not accompanying this subdivision. Lastly, this lot configuration is also consistent with the arrangement of a number of lots in the vicinity which would maintain the essential character of the locality.

PLANNER RECOMMENDATION

Based on the analysis above, the proposed minor subdivisions conformance with the requirements of the Denmark Township Development Code, Staff recommends conditional approval of the proposed minor subdivision and requested variance to the roadway frontage requirement.

FINDINGS OF FACT

Town Staff offers the following findings of fact for the Planning Commission's and Town Board's consideration:

1. The property owner proposes to subdivide the subject property which is a reasonable use;
2. The proposed dividing line between Parcels A and B is along a quarter section line and transmission line corridor which are unique circumstances not caused by the landowner, the dividing line in this location allots the entirety of the existing frontage to just Parcel B;
3. The variance, if granted, will not alter the essential character of the locality as Parcel B will be of a similar size as parcel in the vicinity and the proposed parcel will remain in agricultural use;
4. Economic conditions are not contributing to the practical difficulties;
5. The subject property is currently zoned Agricultural A-2;

6. Chapter 3, Section 6 permits minor subdivisions containing three (3) or less lots fronting on an existing public street, or approved private driveway, not involving any new street or road;
7. The proposed minor subdivision would subdivide one (1) lot into two (2) lots;
8. In conjunction with the subdivision an access easement will be defined and executed which provide access for Parcel B to STH 95 (Manning Avenue);
9. The proposed minor subdivision does not dedicate any new public roads;
10. The property satisfies the minimum lot size for the proposed use utilizing lot averaging design;
11. The lots to be divided are in a location where conditions are well defined;
12. The newly created property lines will not cause any resulting lot to be in violation of the Development Code except as authorized by the requested;
13. The proposed division was prepared by a registered land surveyor;
14. The proposed subdivision is in compliance with the Township's Comprehensive Plan.

PROPOSED CONDITIONS

The following are conditions Town Staff is recommending to be included, in addition to the Town's standard conditions, as part of the Minor Subdivision approvals if approved by the Town Board:

1. Development Agreement. The Applicant shall enter into a Development Agreement that is prepared by the Town Attorney. More specifically, the Development Agreement shall include provisions related to, but not limited to, payment of the park dedication fee, required covenants, and such other provisions as the Town Attorney determines are appropriate.
2. Access Easement. The Applicant shall prepare and record an access easement to provide the landlocked parcel access to a public road. The easement must be in a form acceptable to the Town Attorney.
3. Park Dedication. The Applicant shall pay a park dedication fee in lieu of land dedication. This fee shall be an amount based on fair market value of the land, and shall be paid at the per lot fee as established by the Town Board as part of Township fee schedule.
4. Septic System. Washington County Department of Public Health and Environmental must approve any proposed septic system.
5. All representations, written and oral, made by the Applicant and the Applicant's agents and representatives to the Town contained in and concerning the application must have been true, complete, and accurate at the time they were made;
6. The Applicant is in compliance and will remain in compliance at all times with all applicable laws, rules, and regulations concerning the property for which this approval is granted;
7. Fees. The Applicant shall pay all planning, engineering and legal fees and costs incurred by the Towns for processing this approval 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 approval shall terminate automatically upon recording of a Notice of Nonpayment by the Town.
8. The Town, its officers, and consultants may enter the Property, after providing reasonable notice to the Applicant or Owners, at all reasonable times to conduct inspections for the

purpose of ensuring compliance with this approval. Prior notice to inspect the Property is not required in the event of an emergency.

Aerial view of the site and neighboring properties

