

DENMARK TOWN BOARD MEETING MINUTES  
JANUARY 7, 2008

**SUPERVISORS PRESENT:** Kathy Higgins, Steve Kramer, Jim Keller and Gary Dixon

**ABSENT:** Joe Moore

**ALSO PRESENT:** Attorney Gilchrist and Engineer Geheren

**CALL TO ORDER:** Meeting called to order @ 7:03 PM by Chair Higgins

**AGENDA APPROVAL:** Attorney added Verizon Wireless to Legal Reports. Higgins added Hastings Bridge project. **Motion Keller/2nd Kramer to approve agenda as amended. All in Favor. Motion Carried.**

**CONSENT AGENDA APPROVAL:**

**Motion Keller/2nd Dixon to approve consent agenda which includes 12/03/2007 Board Meeting Minutes, claims #8763-8783, payroll ending 12/31/2007 and financial reports. All in Favor. Motion Carried.**

**HEARING DECISION/ZONING ACTIONS:**

Rase Automotive-Snaza Update- Public Hearing was continued to 01/22/2008 to allow time for Ms. Snaza to submit a to-scale site plan and to have a septic system inspection done, at the request of the Planning Commission. Board received complaint regarding paint fumes at the site and requested that this be addressed in the permitting process.

**BUSINESS ITEMS:**

**122nd and Morgan-** Signs for intersection have been ordered. Striping will be done in 2008. Dixon will meet on site with neighboring residents to discuss their concerns.

**Local Board Of Appeal & Adjustment Training-** The Denmark Township Local Board of Appeal & Adjustment will be held on April 22, 2008. Kramer will attend the 01/09/08 training session for certification needed for Denmark's Local Board of Review.

**2008 Development Review Schedule-** Clerk submitted 2008 Development Review Schedule for approval. **Motion Keller/2nd Dixon to approve 2008 Development Review Schedule. All in Favor. Motion Carried.**

**Rumpca Excavating Letter of Credit-** Letter of Credit which expires on 02/01/2008 has automatic renewal.

**2007 Financial Audit- Motion Dixon/2nd Keller to approve the Accounting firm of Oberloh and Associates to conduct the 2007 Financial Audit for the Township. All in Favor. Motion Carried.**

DENMARK TOWN BOARD MEETING MINUTES  
JANUARY 7, 2008

**WMO Update:** WMO has received comments in regards to the draft rules. Board directed Engineer to review. Board will discuss rules and Joint Powers Agreement when complete, for Board approval. Township will need to adopt these.

**Hastings Bridge Report-** Higgins reported that a number of City, County and State officials are forming a coalition in an effort to replace the Hastings Bridge. Bridge repairs are expected to begin in April, 2008. Board consensus that Township participate in coalition. Higgins will stay involved and keep the Board informed.

**Outstanding Items:**

**Water Contamination-** Keller recommended the Minnesota Department of Health Website as a good source of updated information on water issues.

**St. Croix Ridge-** Attorney sent Mr. Reigel a 30 day written notice of non-compliance.

**Verizon Wireless-Pt. Douglas-** Board approved the Verizon Variance and Conditional Use Permit for the installation and maintenance of a new tower on 12/03/2007. Board reviewed language changes proposed by attorney.

**Motion Keller/2nd Dixon to approve Resolution 2007-14 Verizon Wireless Variance. All in Favor. Motion Carried.**

**Motion Kramer/2nd Keller to approve Resolution 2007-15 Verizon Wireless Conditional Use Permit. All in Favor. Motion Carried.**

**Motion Keller/2nd Dixon to adjourn. All in Favor. Motion Carried.**  
Meeting adjourned at 8:28 PM.

Becky Herman  
Denmark Township Clerk/Treasurer

Addendums: Resolution 2007-14 and Resolution 2007-15

DENMARK TOWN BOARD MEETING MINUTES  
JANUARY 7, 2008

Resolution 2007-14

**DENMARK TOWNSHIP  
WASHINGTON COUNTY, MINNESOTA**

**RESOLUTION NO. 2007-14**

**RESOLUTION GRANTING A VARIANCE TO VERIZON WIRELESS**

**WHEREAS**, Peter Campbell from Buell Consulting submitted a variance application on behalf of his client Verizon Wireless (the “Applicant”) related to its proposal to construct a 125 foot wireless telecommunication tower on property located at 12200 Point Douglas Drive and legally described on the attached Exhibit A which is made part of this resolution (the “Property”);

**WHEREAS**, the Applicant sought a variance from the requirements of Chapter 2, Part 3, Section 2.48(8)(A) of the Denmark Township Development Code (the “Code”) imposing a one-mile setback for new towers from any existing towers;

**WHEREAS**, the Denmark Township Planning Commission held a public hearing on the requested variance and on November 19, 2007 took action to recommend the Town Board grant the requested variance with conditions based upon the Planner’s memorandum and the findings of fact it adopted;

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

- (1) The variance application is in harmony with the general purpose of the Official Controls from the standpoint of the use, since wireless communications towers are allowed in the Commercial/Industrial District with a CUP;
- (2) The Applicant has sufficiently made the case that there are practical difficulties in attempting to carry out the strict letter of this official control (towers within one mile). Locating the tower outside the mile perimeter will likely require an application for another tower site in order to provide adequate coverage for people in southeastern Denmark Township;
- (3) The Applicant has demonstrated a hardship under the criteria established in Chapter 1, Section 9.1(4) of the Code;
- (4) A communication tower located near already existing commercial or industrial uses would be more compatible with these uses. Furthermore, locating near

DENMARK TOWN BOARD MEETING MINUTES  
JANUARY 7, 2008

these uses would keep the tower from being located in a more rural area, which the above cited goals propose to protect;

- (5) Granting the variance is consistent with the goal stated in the Township's Comprehensive Plan to: "Provide efficient and responsive basic services to residents and local businesses."
- (6) Analysis of the information provided by the Applicant demonstrates that the criteria related to plight of the landowner, essential character of the locality, and economic conditions are adequately addressed, and
- (7) The Applicant has demonstrated that the proposed location is the best location for a cell tower in order to provide adequate service to Township residents. The land is zoned Commercial/Industrial, which allows cell towers as a conditional use. The combination of these two factors supports granting the variance based upon reasonable use of the Property.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of Denmark Township, Washington County, Minnesota, that a variance is hereby granted to the Applicant for the Property. Said variance is in support of the erection of a 125-foot tall wireless communication tower in accordance with Chapter 2 of the Code and pursuant to a separately issued conditional use permit.

1. This variance is granted to Applicant for the purpose of not requiring certain setbacks from pre-existing wireless communication towers, subject to the following terms and conditions:

- A. Grant of variance by Washington County; and
- B. Payment of all fees.

2. Applicant is further subject to all of the following conditions:

- (a) The Town may inspect the property at all reasonable times for purposes of ensuring compliance with the conditions of this variance;
- (b) 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;
- (c) Compliance with all applicable federal, state and local laws, rules and ordinances;

DENMARK TOWN BOARD MEETING MINUTES  
JANUARY 7, 2008

- (d) 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;
- (e) Obtaining such other permits as may be required;
- (f) 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 fourteen (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;
- (g) 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 Property or of the Tower and all references to Applicant herein shall include all heirs and assigns; and
- (h) 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 this 3rd day of December, 2007.

DENMARK TOWN BOARD MEETING MINUTES  
JANUARY 7, 2008

Resolution 2007-15

**DENMARK TOWNSHIP  
WASHINGTON COUNTY, MINNESOTA**

**RESOLUTION NO. 2007-15**

**RESOLUTION GRANTING A CONDITIONAL  
USE PERMIT TO VERIZON WIRELESS**

**WHEREAS**, Peter Campbell from Buell Consulting submitted a conditional use permit (“CUP”) application on behalf of his client Verizon Wireless (the “Applicant”) related to its proposal to construct a 125 foot wireless telecommunication tower (the “Tower”) on property located at 12200 Point Douglas Drive and legally described in Exhibit A which is attached and made part of this Resolution (the “Property”);

**WHEREAS**, the Denmark Township Planning Commission held a public hearing on the requested CUP, considered the Town Planner’s memorandum concerning the CUP application, and on November 19, 2007 took action to recommend that the Town Board grant the CUP with certain conditions;

**WHEREAS**, the Town Board granted the Applicant a variance from the one-mile setback requirement from existing towers pursuant to Town Board Resolution No. 2007-14;

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

- (1) The Property on which the Tower is to be located is currently zoned Commercial/Industrial-Rural;
- (2) Wireless telecommunication towers are allowed within the district with a conditional use permit;
- (3) The Tower would be 125 feet in height, would include 12 antennas for the Applicant, and would be constructed to allow for collocation of up to two additional tenants;
- (4) A licensed engineer approved the plans for the Tower;

DENMARK TOWN BOARD MEETING MINUTES  
JANUARY 7, 2008

- (5) The Applicant also proposes to build a 12 foot by 30 foot (360 square feet) accessory structure on the Property near the base of the Tower to house equipment;
- (6) Constructing the proposed accessory structure would be consistent with the restrictions under the Denmark Township Development Code (the "Code");
- (7) The Applicant made reasonable efforts to attempt to locate its facilities on an existing tower located within one mile of the Tower and those efforts were unsuccessful;
- (8) The Property satisfies the minimum lot size for the proposed use; and
- (9) The Tower would comply with all required setback areas, except for the setback from existing towers, for which the Town Board granted a variance;

**NOW THEREFORE BE IT RESOLVED**, that the Town Board of Denmark Township hereby grants the Applicant a conditional use permit to construct the Tower on the Property subject to the following:

1. This conditional use permit is subject to, and the Applicant shall comply with, the following conditions:
  - (A) That the Tower and accessory building are located outside the required setbacks, as shown on submitted plans;
  - (B) That the Applicant provide written documentation explaining tower construction and possible failure, and provide assurance that blowing or falling ice can be contained on the subject property, per Section 2.48(9)(B) of the Township Zoning Ordinance;
  - (C) That the Applicant provide screening of the site with 15 coniferous trees minimum of 6 feet in height, preferably Black Hills Spruce or comparable species. That the trees on the north side of the site not be disturbed;
  - (D) That the fenced area be secured with a gate and lock;
  - (E) That any graded areas are seeded, sodded or otherwise designed to prevent erosion;
  - (F) That the Applicant comply with all applicable performance standards of the Denmark Township Zoning Ordinance, Chapter 2, Part 3, Section 2.48(9);
  - (G) That Denmark Township grant a building permit;

DENMARK TOWN BOARD MEETING MINUTES  
JANUARY 7, 2008

- (H) That the Applicant provide a Financial Guarantee, such as a bond, of \$5,000.00 to the Township to assure removal of the Tower and restoration of the site;
  - (I) That the Applicant provide to the Township a copy of the lease, between all tenants and the Applicant, which may be redacted to exclude any financial obligations contained therein ;
  - (J) That the Town receive written notice of any change in ownership of the Tower;
  - (K) That the Applicant construct the Tower to reasonably accommodate the facilities and equipment of at least two additional tenants;
  - (L) The Applicant not limit or otherwise restrict its interest in the Property by deed, easement, lease, contract, or otherwise so as to prohibit or unreasonably limit the ability of other companies to collocate their facilities and equipment on the Tower or on the Property;
  - (M) That the Applicant allows collocation and multiple tenants to use the Tower to the extent the Tower can structurally accommodate the additional facilities and that such facilities do not unreasonably interfere with the existing facilities on the Tower;
  - (N) The Applicant shall conduct an annual inspection of the Tower to insure continued compliance with the Code and provide an inspection report to the Town at least once a year; and
  - (O) That all fees are paid;
2. This CUP is further subject to, and the Applicant shall comply with, all of the following conditions:
- (a) That any alteration of the premises or any plans, including but not limited to expansion of the use, shall not be permitted unless an amended CUP is issued by the Town Board;
  - (b) That the Applicant shall comply with all applicable federal, state and local laws, rules and ordinances, and obtain such other permits as may be required;
  - (c) That the Town may inspect the property at all reasonable times for purposes of insuring compliance with the conditions of this CUP;
  - (d) That the Applicant shall correct all defects in the Property which violate any of these conditions immediately, but in no case more than thirty days of receipt of written notice from the Town;

DENMARK TOWN BOARD MEETING MINUTES  
JANUARY 7, 2008

- (e) That 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 CUP 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;
- (f) That Applicant shall pay all planning, engineering, administrative, and legal fees and costs incurred by the Town for processing its CUP application and recording this CUP. 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;
- (g) That the conditions of this CUP shall run with the land described and shall not in any way be affected by the subsequent sale, lease or other change from current ownership of the Property or of the Tower and all references to Applicant herein shall include all heirs and assigns; and
- (h) That pursuant to the Code, periodic review of this CUP is imposed as a condition of its grant. Adherence to the terms of this CUP will be reviewed annually at the Annual Town Meeting. If any complaints are received which require Town review the Town Clerk shall notify the permit holder of the date of the review at least ten (10) days prior to the review hearing.

Adopted this 3<sup>rd</sup> day of December, 2007.