

Denmark Township Planning Commission Meeting
Wiegele Variances Temporary Care Facility
Zeaverino-Cordes Rezone RR to C/I and Conditional Use Permit Trucking
Public Hearing April 16, 2018

Planning Commission members present: Mike Kelz, Roger Lang, Natalia Keene, Bob Barr
Ex-officio Kathy Higgins
Absent: Steve Radke
Supervisors- Karen Herman
Others Present: Attorney Troy Gilchrist (Kennedy-Graven), Planner Molly Patterson-Lundgren (WSB)

7:02 PM Chair Barr opened Public Hearing. 6404 Oakgreen Ave S Wiegele Temporary Care Facility Variances. PID 05.027.20.14.0001. 26-acre parcel. Zoned Ag- density 1/20 acres.

Applicants Joseph & Melissa Wiegele Present.

Planner- Applicants are requesting a variance allowing the existing home on the property to be used as a temporary care facility rather than a manufactured home. Applicant's are also requesting a variance from the requirement that the infirmity and need for care be verified by a written statement from a physician. Planner provided 04/10/18 staff review and recommends denial of the variances based the fact that the medical statement does not document the infirmity and need for care.

Attorney- Ordinance allows for only one home on a parcel. A temporary care facility is an exception to this ordinance. The ordinance does require that the facility be a manufactured home which would be required to be removed once the facility is no longer needed. Criteria for an allowance of a temporary care facility also requires that the infirmity and care needed be verified by a physician.

Applicant's- Intention to build a new home on the property was never an intent to say that Marcella (grandmother) was in need of any form of care. Intent was to subdivide their 26-acre property, whether it meant changing it to residential zoning or whatever. Intent was to build their new home on a 5-acre site and were told by the Planner that there was no possible way that could happen, but a temporary care facility is a means to make that happen. Currently, the grandmother is capable of getting around for the most part, but in time, they want her to be able to stay in her own time. Doesn't believe she needs someone to stay with her in her home all the time, but there should be someone there close to maintain the property, so she doesn't have to worry about it.

Applicant cited precedents with other's in the Township having 2 homes on 1 parcel. Barr noted that Planning Commission would not be commenting/addressing anything other than what is before them at this time, an application requesting variances from criteria mandated in the Temporary Care Facility Ordinance. And noted that the application does not meet the criteria for the requested variances.

Lang- Basically you want this property rezoned, so the best way to pursue that goal is by this Temporary Care Facility avenue. Applicant noted yes, and they were informed by the Township/Planner how to go about this.

Planner stated that she would have to take a closer look at the Comprehensive Plan and if we had received an application for a re zoning request, it would have been reviewed.

Barr stated that the information before the Planning Commission is for the variances requested, not at anyone else's property or a rezoning request. Lang thought maybe the Planner was simply suggesting other avenues to help fulfill the applicant's goals, because the zoning of Ag allows only 1 home per 20 acres (parcel is 26 acres).

Public Comment: Marcella Wiegele-lives in the existing house. Purchased in 1965. In the early 2000's sold the property to her son Terry and his wife Cynthia with a life estate for herself. As of today, she has not been told by her son that he had sold the property to her grandson Joseph and his wife Melissa. Marcella stated that she does take care of some of the property herself and maintains her own landscaping and is able to shovel her sidewalk. Her son Terry does the snowplowing and mowing. Marcella expressed concerns as to why anyone would try to turn her old home into a temporary care facility without discussing it with her.

Attorney- Not familiar with any request to rezone. Applicant's would like to have a second home on the property, which the ordinance prohibits. A variance to allow a second home on the property would not be approved. Only way to allow 2nd home would be during temporary construction of a new home, temporary farmworker, or a temporary care facility. Given the context of the information that the grandmother was ill/needed help, which the Applicant confirmed when disagreeing with the doctor's opinion, making it clear that it was related to her health. This created the need for a variance from the criteria that a doctor's verification is needed. Whether you characterize this as these two variances to fit a

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home temporarily on the property or a variance to the underlying prohibition of not having 2 homes on the property, you are still addressing the allowance of 2 homes on the property. Attorney is recommending not allowing 2 homes on the property. Attorney noted that the Planner had contacted the Applicants a couple different times to ask if they still wished to proceed with their requests and they specifically confirm that they would be proceeding.

7:25 PM Wiegele Variance Public Hearing closed. Written comment period will remain open for 10 days. Written comments must be submitted to the Town Clerk. Planning Commission meeting opened.

Lang- Applicant's were trying to do something that was not currently allowed, and the Planner mentioned something that may have been plausible for the Applicant's. Planning Commission responsibility is to look at the application that is actually in front of us, requesting variances regarding a temporary care facility. Planning Commission consensus in agreement.

Motion Barr/2nd Lang to forward the Wiegele Variances Application to the Town Board with a recommendation to deny both variances to the Temporary Care Facility, based on the Planner's 04/12/18 Findings Of Fact:

- 1. The Property is currently zoned Agricultural (A-2); and**
- 2. The proposed use of a temporary care facility – dwelling unit requires a certificate of compliance in the Agricultural (A-2) district; and**
- 3. The intent of a temporary dwelling unit-care facility is to provide a temporary home for an infirm relative requiring extraordinary care; and**
- 4. The use of a temporary dwelling unit-care facility on the subject property without the documented infirmity need of a relative is not permitted by ordinance.**

Voting Yes- Barr, Lang, Keene, Kelz. Voting No- None. Abstaining None. Motion Carried 4-0-0.

7:34 PM Chair Barr opened Public Hearing. 12255 120th St S- PID 06.026.20.23.0001 Zevevino- Cordes Rezone from Rural Residential to Commercial Industrial & Conditional Use Permit to allow the operation of a trucking company, continuation of an existing landscape business and leasing outdoor storage space for independent truck/semi-trailers, campers/boats
Applicant's David & Crystal Zevevino and property owner Ken Cordes present.

Planner- Request is to rezone the approximately 21-acre parcel from Rural Residential (RR) to Commercial/Industrial (C/I). Additional request for a Conditional Use Permit (CUP) to allow for the operation of a trucking business, commercial outdoor storage of recreational vehicles and independent tractor trailers, addition of a 2,000-gallon fuel tank, commercial vehicle repair, and to continue the existing Landscaping Contracting Company. The requested uses would not be allowed on the property as currently zoned RR. If the rezoning from RR to C/I-Rural is approved, the Applicant would be eligible for a CUP on the property. Planner provided 04/12/18 staff review and recommends approval of the rezoning and CUP.

The landscaping business on the subject parcel is currently operating as a legal nonconformity. The Comp Plan calls for the parcel to be a Rural Residential use. Planner noted that if the Board approved the rezoning, they would need to amend/update the Comp Plan. Planner spoke with the Town Engineer and also drove 120th St S. and noted that 120th is a narrow road.

Barr- already a fair amount of commercial traffic on 120th. Asked Planner if there were any recommendations to address that. Planner stated that after passing the commercial area, there was a rise in the road and that as soon as you get to the rise, the properties are RR in nature.

Discussion regarding other possible accesses to the property.

Attorney- The required CUP would flow from the rezoning. From a rezoning perspective, this is a policy issue. If the PC recommends approval of the rezoning, it would then need to determine whether the requested CUP is appropriate, looking at the negative impacts of the uses and whether they can be reasonably moderated by conditions of the permit. If the PC recommends denial of the rezoning, the CUP would also be recommended for denial as it wouldn't be allowed in the RR District.

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Applicants- Does not believe there would be much more traffic with their 7 trucks. Generally, the trucks would leave in the morning and return after the work day, not go in and out during the day. The trucks parked in the outdoor storage area will be over the road trucks and would not be going in and out on a daily basis. Also, trucks would be carrying no load, empty out and empty in. Empty weight 26,000 pounds full 63,000 pounds. Parking is planned for a maximum of 30 trucks and or boats/campers. Outdoor parking of recreational vehicles would occur only if there were not enough trucks using the parking. Barr noted that if the property is rezoned commercial, this could possibly open up the potential for greater commercial activity on the property.

Re: road concerns. Width is not a problem for the dump trucks, company has safe drivers. The dump trucks are just as wide as the busses. Regarding servicing vehicles, there would be very little truck traffic in the winter. If service is done on vehicles that are not their own, it would be in the winter months. Parking of trucks would be behind the evergreens and buildings in the back, farthest away from the road. No overnight sleeping. Will have outdoor lighting and security cameras, possible gating in the future. Applicants plan to live in the home.

7:55 PM Public Comment-

Hassan Sahouani 120th St S- submitted petition signed by multiple neighbors in opposition to rezoning the property to from RR to C/I. Cited Comp Plan and surrounding residential area concerns i.e. negative effects on property values, noise and odor pollution, air and ground pollution, adding to the inadequacy of 120th St S to handle additional truck traffic, request of a road safety audit to evaluate the impact of intensive truck circulation on traffic at the highway on intersection and concerns regarding the safety for resident and the child care facility located nearby. Petition entered into the record and signed by 21 neighboring property owners.

Barr noted that the existing turf business already has diesel trucks and equipment. Noted that the proposal indicates that the trucks would be far back on the property. Sahouani stated that other concerns would be of the truck repair in the front and the trucks running in the front. Also expressed concerns regarding the 4000-gal fuel tank.

Jeff Carlson 120th St S- concern re intersection, with existing day care, bus company and Universal Services trucks/traffic this is a dangerous area to be adding additional truck traffic. Concerned with discrepancy that the applicant noted that they would not be having additional lighting, but now indicate there will be additional lighting. In the past another business in this commercial district put in lighting which impacted personal property. Proposed lighting on the subject parcel would impact neighboring personal property. Does not believe everything on the parcel would have barriers between property and neighbors. If rezoned, future use could increase commercial activity on the property.

Gerald Leyde Mendel Ave S- concerns re intersection Hwy 61/120th full of traffic now. Only way semi's can get onto the property would be to move over to the other side of the road to make the turn into the driveway. There are other parking places where trucks park and run all night.

Jeff Farr- Mendel Ave S- concerns re turn lane coming off Hwy61/120th. Congestion of traffic and additional danger with winter icy conditions on 120th.

Tony Cordes- 120th St S- Inquiring why a number of these residents were not concerned with and requesting signs for 120th St S that indicated there were children ahead when the day care and bus company went in. When Ken was doing business on his property, he had about 15 trucks going in. The driveway coming in is 30-40 ft wide and it was not necessary to make the wide swing into the property with the tractor trailers. Re visuals, the 2 buildings in the back create a screen plus there is screening with the evergreens.

Joe Engler 120th St S- Road restrictions of 5 T are posted from just past the Margo Ave/120th St intersection heading east. Doesn't believe the road is built to withstand the existing or proposed traffic.
Ken Orner 120th St S- With the uncontrolled intersection, the safety issues, it will not take long for drivers to go around the back way. That road was not meant for heavy traffic, and with the 45 degree turn, this will be a dangerous situation.

Teresa Orner 120th St S- when 2 cars pass each other, there is no room to even walk a dog on the side without being in danger.

Kathleen Hanson Mendel Ave S- reiterated the danger of having additional semi-trailer trucks. If someone pulls into the south bound turning lane at Hwy 61/120th site lines are blocked. Also, if you are coming from the south and get into the turning lane to enter 120th there are times that you can't get onto 120th as the vehicle waiting on 120th is taking up more than their lane area. When areas are under

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construction people do reroute another way. The area at Morgan/122nd is dangerous when a corn crop is planted that obstructs oncoming traffic.

Levi Muhl Morgan Ave S- existing commercial semi traffic now can't head southbound on Hwy 61. They are already rerouting via 120th to Morgan to Hwy 61.

Briana Aarness Mendel Ave S- Have small children who can no longer ride their bikes on 120th with the existing traffic.

Ken Cordes- 120th St S- Owner of existing business and property 12255 120th St S.

Has lived on the property for forty years. Has had many semi's, tractors, end dumps, back hoes, dozers and other equipment that left the property every morning. Vehicles did not leave and return at the same time every day and doesn't expect that the applicants vehicles would be a problem. Noted that every day when his neighbor leaves at 5:30 AM, his lights shine directly in his home. Were times when he personally plowed and sanded 120th for the safety of his own trucks using the road. Safety record, not one accident. Going south is a problem and had requested MnDOT to add an extension to alleviate issues. MnDOT declined. Requested Denmark to add a slow down sign on the road. Higgins referred the request to the Roads Supervisor.

Barr- Town recently went through the day care and bus company issues regarding concerns of the road issues.

Bill King Morgan Ave S- Since Cordes has split off the land, there has been an increasing number of commercial businesses which has increased the traffic significantly in just the past 5 years. It will keep getting worse. The intersection is not designed for its load. Would hope that the Town would push MnDOT to do an analysis of the traffic flow. Needs to really be looked at for any change in zoning.

Angela Thole 120th St S- lives at subject property. Re the 5 T road restriction is only spring load restriction. The Applicant's- Zeaverinos would contribute to the community by plowing roads when not done by the Town, which Cordes has done regularly.

Sara Lee & David Screaton- own and farm the 44 acres of RR parcel directly adjacent to the east off subject parcel. Oppose rezoning. Why rezone this residential property when there is already 70 acres of C/I land within ½ mile of subject property. Rezoning detrimental to the value of their property. Currently have difficulties with water runoff the subject property and increased impervious surfaces would cause an additional hardship on their property. Are currently dealing with existing runoff and have personally constructed a long waterway to support it, but additional runoff because of a gravel surface is too much to deal with.

Dawn Sahouani 120th St S- Proposed hours of operation to be 7 AM start. This is the time that the busses are busiest, people are bringing their children to the day care center, and people are leaving for work. This is when things are jammed up at the Hwy 61/120th area and this start time is problematic for the safety in the area.

Gerald Leyde Mendel Ave S- There was to be no fill brought in. In the area proposed for 30 vehicles to park, that currently is a sod field and gravel would need to be brought in.

8:30 PM Public Comment portion closed.

Applicants-

Parking location is at the back of the property screened by trees, buildings. Can see trucks from the road at the next door commercial property. The property is next to existing commercial property. Believes the property and the commercial properties existed prior to the neighboring houses. Trucks would be leaving and gone prior to the busses leaving. Trucks are not loud and are muffled. Business previously parked their trucks in Newport.

Proposed hours of operation- Business operations 5:30AM-5PM. Staff recommends 7AM-6PM Mon-Fri.

Shop vehicle repair open to the public 8AM-6PM. Staff recommends 8AM-6PM Mon-Fri.

Landscape business 8AM-4PM Mon-Fri and 8AM-2PM Sat.

Applicant indicated that the truck jobs typically start at 7AM in the cities and would need to leave at the earlier requested time of 5:30 AM.

The fuel would not be explosive and will be double walled as required. Any leak would be contained.

Business does not operate during road restriction period.

Parking surface- Applicant request to gravel parking area. Other commercial areas have been required to apply asphalt millings to parking surfaces, rather than using gravel. Applicant would be agreeable to asphalt millings if necessary.

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8:40 PM Cordes/Zeeverino Rezone and Conditional Use Permit Public Hearing closed. Written comment period will remain open for 10 days. Written comments must be submitted to the Town Clerk. Planning Commission meeting opened.

Planning Commission considerations-

Current traffic issues on 120th St S and the impact of additional truck traffic is concerning and main issue. Concerns regarding additional water runoff due to increased impervious surface. Concerns regarding the day care traffic, bus company traffic and existing commercial traffic.

Area is commercial/Industrial and there is legitimacy for this parcel to be commercial. Questions on whether access could be located elsewhere. Acknowledgement of a good business owner with rights and residential property owners with equal rights.

There are a certain number of trucks being proposed, but that can increase. Planner noted that if approved, the CUP can limit the number of vehicles stored or being utilized by the business. This would need to be managed/monitored over time.

Clarification- subject parcel was never zoned commercial. Was rezoned in 2009 from Ag to RR. Correction of staff report- parcel consists of 20.01 acre, not 11 acres as indicated in the report. Discussion regarding the commercial district and where would expansion occur if there were a need. Planner recommends looking at both future land use/zoning plans and whether or not your transportation system can accommodate it. If you are not prepared to upgrade the transportation routes to meet the commercial needs, you probably need to pull back on whether those areas are appropriate for commercial. Also, regarding economic development. How do you manage land use given restraints with transportation and how do you grow economic development given those restraints?

Applicant questioned if using an access route other than 120th St S would make a difference.

Planning Commission Discussion- that there are a too many concerns regarding the rezoning. Residential homes existed prior to this rezoning request to change from Ag to Commercial Industrial. Also, the road is a considerable issue. Noted that screening issue and impervious surface issue as discussed add to the concerns.

Kelz in belief that this may be what the Town needs to get MnDOT to do something about the intersection concerns. Town has spoken with MnDOT a number of times regarding the intersection concerns and MnDOT has indicated that it is not in their plan to do any upgrades at this time.

Motion Lang/2nd Barr to forward the Cordes/Zeeverino Rezoning & Conditional Use Permit Applications to the Town Board with a recommendation to deny both the rezoning request from Rural Residential to Commercial/Industrial and the Conditional Use Permit request based on the public input, traffic study/concerns, screening issue, impervious surface issue.

Discussion: Kelz- It doesn't seem unreasonable to rezone the property to commercial as it is horseshoed by commercial at one end, but still undecided. Keene undecided because of the road issue. Hard to deny a rezoning because of the road issue- an issue unrelated to the request. Can understand both sides.

Attorney- this is a recommendation only. The Town Board will have the final decision. Board has typically allowed additional comments. Planning Commission decision should be based on the larger policy decision of whether Commercial/Industrial is an appropriate use for this property.

Planner noted that while considering the appropriate use, to consider the findings of fact. What is it guided for in the Land Use Plan and is the transportation system able to support the proposed rezoning. Keene believes that the Comp Plan and the ability for the proposal to not address what the concerns are, warrants that rezoning may not be appropriate. Looking at the stand-alone application, it appears that it can be commercial. With the Comp Plan and other factors that have to be considered, those factors would take precedence. Barr noted that the road is already overtaxed and there is not another plan in place to support that because there has been so much development in the same area, would be inclined to deny rezoning.

Voting Yes- Lang, Barr, Keene. Voting No- Kelz. Abstaining- None. Motion Carried 3-1-0.

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Motion Kelz/2nd Lang to approve minutes of 12/18/2017 Planning Commission/McFadden Specialized Acres Conditional Use Permit Self-Storage Facility Variances & Lot Line Adjustment.
Voting Yes- Kelz, Lang, Keene, Barr. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Election Of Chair/Vice-Chair

Motion Lang/2nd Kelz to elect Bob Barr as Chair. Voting Yes- Lang, Kelz, Keene, Barr. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

Motion Barr/2nd Keene to elect Roger Lang as Vice-Chair. Voting Yes- Barr, Keene, Kelz, Lang. Voting No- None. Abstaining- None. Motion Carried 4-0-0.

9:15 PM Motion Barr/2nd Keene to adjourn. With All Present Voting Yes, Motion Carried 4-0-0.

Becky Herman
Denmark Clerk/Treasurer