

Denmark Township Planning Commission Meeting
St Croix Knolls Stables Minor Subdivision/Conditional Use Permit (continued from 3/20/17)
Meath Variance
Little Beginnings Minor Subdivision/Conditional Use Permit
Minnesota Coaches Conditional Use Permit
Public Hearings April 17, 2017

Planning Commission members present: Bob Barr, Mike Kelz, Roger Lang, Charlie Grote
Ex-officio Kathy Higgins
Absent: Steve Radke
Supervisors Present: K Herman
Others Present: Attorney Troy Gilchrist, Planner Eric Maass

❖ **7:03 PM Chair Barr opened Public Hearing St Croix Knolls Stables Minor Subdivision/CUP**

Jeff & Jill Leyde Applicants. Todd & Mary Kelm property owners. Request is for St Croix Knoll 2nd Addition Minor Subdivision, Road Vacation and Conditional Use Permit (CUP) for horse boarding. Jill Leyde present. Applicant provided the following requested information.

Lighting Plan: Installation at the entrances and interior for safety. In the future, additional lighting may be added and would meet Denmark Codes regarding shielding and intensity. Planner requested that applicant show where on the site plan lighting/fixtures are planned and to provide model showing the fixtures will be shielded/downcast.

Manure Management Plan: Stalls and paddocks will be cleaned daily, manure stored at the west corner of the barn. Stalls bedded with wood shavings. Terry Herman will remove it as necessary. Manure collection would be approximately 4 ft high, 3 sided concrete, opening to the north. Planner estimated that this would be 50-60 ft from the property line. Lang noted that manure storage cannot be within 100 ft of a property line. Applicant would move the storage to meet setbacks. Removed manure would be spread on applicant's north hay field and adjacent fields. Planner requested information regarding when/how often the manure is collected.

Parking: Cars will be parked along the north side of the barn (gravel surface), 11 parking spaces available. Anticipates at busiest time (evenings & weekends) 6-8 parked cars. Average number of customers is 10 (some will own multiple horses, some horses personally owned). Average times per week a boarder is on site is 3 (some daily, some once a week, some a few times a month). Planner indicated parking spaces is adequate.

Trailer Parking: Horse trailer for up to 10 trailers at the southeast corner of the barn (gravel surface).

Screening Plan: Additional screening will be added to the south and west property lines and around the manure collection site. The Additional screening will further screen trailer parking. Applicant proposes evergreen trees, height unknown.

Horse shows: Possibility of up to 2 horse shows per year. Shows would be during the day, likely 4-H participants.

Well & Septic: Separate well and septic for the barn and house will meet Town/County requirements. Site plan indicates that the access drive goes over the proposed septic/well site. Applicant will move the access drive accordingly.

Kelz asked how many grazeable acres the 4 pastures total. Jill- whole property is 20 acres. Pastures probably 11 acres. County Park 300 ft setback restricts the housing of livestock by can be pastured.

Elevation plans: revised to show a maximum 16' sidewall height.

Discussion re: required grazeable acreage per horse.

Attorney- The ordinance does not require a certain amount of grazeable acres for number of horses. There is no upper limit set in the code. You can still consider if there is enough room, but there is no limit. One horse per two grazeable is simply a mark where you would need no permit unless you were over that number.

Code allows for one horse per two grazeable acres, with no permit necessary. Anything above that threshold would require a CUP. Applicant would be exceeding the allowance by about 16 horses, so would need a CUP. One horse per two grazeable acres is not a limitation on the number of horses allowed; it is just a distinction between those that are permitted without a CUP and the number that would require a CUP process, subject to the conditions that are placed on it.

PUBLIC COMMENT

- Mary McCahey-Paris Ave- Asked if this is would be a business/hobby farm. Applicant replied that some of the horses would be personally owned and would also be boarding additional horses. Planner noted that the property is zoned residential/agricultural which allows horse boarding with a CUP. Questioned if there would be enough parking if shows were to occur.
- Bruce Benson (Paris Ave)- facility seems excessive, concerns regarding the size of the parking lot. Concerns regarding how high the lighting would be. Applicant noted that lighting would mostly be on the front side of the building between the parking lot and entrances. From the outside, not much will be visible from the back of the barn. Parking in front is for cars. Parking in the back is for trailers.
- Dave Munter (Paris Ave)- Questioned where horses would be exercised. Applicant noted that there would be an outdoor riding arena and half of the building would be an indoor riding arena.
- Karen Herman (80th St)- re: manure hauling, feasible other than in the summer months. Cannot spread manure on crops/hay during the growing season. Under the impression that several vacant lots would be combined into 1 parcel. Questioned why the new house would be behind the building, when the ordinance requires accessory structures to be not closer to the road than the house. Attorney noted that there is a provision in the code that allows the Town Board to approve accessory structure location. In this case, if the application is approved, the house and barn location would also be approved as part of the application request. The setback from the county park and the property slope precludes the placement of the barn at the back of the property.
- Jane Stratton (110th St)- questioned available pastureland/grazing space. Planner noted that the total number of proposed horses is over what would be allowed (10). It didn't matter to know the exact grazeable acreage, because it is already determined that the proposed number of horses is over the allowed 10 and a CUP would be necessary. Resident asked for a facility of the proposed size, is there accommodations for washing stalls and water in the building.
- K Herman- asked that a determination be made on the number of grazeable acres.
- J Engler (120th St S)- Would believe that hay would need to be brought in to support feeding 25 horses. Applicant noted that the 9 acres of hay grown on the property would support the feeding.
- K Arnold (110th St S)- questioned where hay would be stored. Applicant noted that storage would be above the barn. Does not believe 9 acres of hay would support 25 horses. Applicant noted that if necessary, they will purchase hay.
- G Stratton (110th St)- Questioned if manure would be spread on subject property. Manure would be spread on the hayfield. Concerns regarding runoff that may impact the park and the river. Applicant in belief that the use of manure would eliminate the current use of fertilizer. Also asked if entire area would be fenced. Applicant confirmed entire area would be.
- J Smith (Paris Ave S)- Discussion regarding the dominant wind direction.
- A Pogatchnic (110th St S)- Under the impression that the property was rural residential and this would be a business. Asked if trailers would be parked there all the time. Applicant noted there may be up to 10 there. Resident expressed concerns that if much of the property was used for parking areas, manure storage and building, there may not be enough pasture for the proposed number of horses, which will be making dirt, and with the downward slope of the property, there may be a runoff to the east. Asked if the manure on the pastures will be cleaned off. Asked what hours cars would be coming and going. Applicant noted that barn hours would be set.
- Runoff- has a study been done for runoff. Surveyor established that the runoff would go to the north and the barn is placed further away than the 300 ft setback. Applicant stated that without a permit, her 25 acres would allow her to have a barn and 12 horses.
- L Barr (110th St S)- Questioned how far the trailers would be from the south property line. Applicant noted 50 ft. Questioned how far the fencing will be off of the property line. Planner-setback from property line can go up to and abut the property line, but must be on the owner's property (roughly 6"-1ft). Concerns that horses could damage the existing trees. Applicant noted the fence would be installed far enough off the property line so the horses cannot graze on the trees. Regarding the existing trees, some have a fungus and may not always be there. Applicant noted that if the trees died, they would replace the screening. Resident has concerns, that if each of the pastures is only 1-2 acres each, if the pastures were rotated with the proposed number of horses, the pastures would be mud and smell. Resident unsure that manure plan is feasible.

Applicant stated that she does understand everyone's concerns, and that the property and horse operation will be managed well.

8:07 PM 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.

Kelz and Barr expressed concerns that there may not be enough acreage to support the proposed number of horses and that this is in a condensed residential area. Lang noted that the public has voiced valid concerns which include manure plan and runoff.

Motion Grote/2nd Barr to forward the St Croix Knolls Minor Subdivision (combining three lots into one 20 acre lot with a new home and one 5 acre lot with the existing home) application to the Board with a recommendation to approve as requested. With all present voting Yes, Motion Carried 4-0-0.

Discussion regarding the CUP- Grote asked if there was a way to lower the number of horses, so there wouldn't be too many for the property. Applicant asked if they had a number that they would find acceptable. Planner noted that if the Applicant could provide the number of grazeable acres, then staff could evaluate to provide the number of horses that could be allowed without a CUP. Kelz in belief that Applicant should start with the number of horses allowed per grazeable acre and if the neighbors are okay with that, then the applicant could expand.

Motion Grote/2nd Kelz to forward St Croix Knolls Conditional Permit application to the Board with a recommendation to deny St Croix Knolls Stables Conditional Use Permit as requested. With all present voting Yes, Motion Carried 4-0-0.

The road/easement vacation hearing has been continued to the 5/1/17 Board Meeting by the Board.

❖ **8:20 PM Chair Barr opened Public Hearing**

Meath Variance- 13625 Pt Douglas Drive S. Applicant Jim Meath present.

Request is for a variance to the 20 ft side yard setback requirement for an existing accessory building. Applicant indicated that the shed was originally constructed in 1999 at the time their home was built on the property. The 18x20 ft shed has no concrete foundation, running water or electricity and is tied into the house (3 sided shed). Applicant noted that at the time of construction, the building inspector told him that he wouldn't need a permit for the shed, as the cost was \$800.00. There is a telephone pole and power cable line located 6 ft directly north of the shed that does not belong to the property owner and was there prior to the shed being built. The NSP pole belongs to the neighbor and NSP found that the neighbor would be responsible to remove it. Meath power line is underground. The neighbor who has the power to the pole, who lives next to the shed does not object to the shed being close to his property line and also has part of his driveway and patio on the Meath property.

Attorney- this came about as a result of a complaint. No building permits were issued for the shed, which was required at the time of construction. Because the shed is two feet from the property line, a variance and after the fact building permit are required.

Planner- Total lot is 0.724 acres, standard lot is 3 acres. The lot was created before the subdivision regulations were in place. Possible issues resulting from siting the shed towards the rear of the property include increasing impervious surface closer to the bluffline, which would result in a reduced area for the runoff generated by the shed's roof to either infiltrate or have its flow rate reduced prior to the runoff reaching the bluff line, which may cause increased erosion along the bluffline. Moving the shed closer to the bluffline also has the potential to create a visual intrusion for viewing from the river and may conflict with future critical area rules.

Public Comment:

- Wayne Fischer- (Pt Douglas Drive) Neighbor to subject property. Stated that subject property is in violation of many codes, including over 25% impervious surface on the property. Attorney noted that an impervious surface concern can be raised in relation to the shed at this hearing. Any other issues would need to be raised with the Board.

Kelz- Asked for clarification of the Applicant's options. The shed could be removed, moved to another location or stay in its current location with a variance and obtaining a building permit after the fact. Attorney noted that the impervious surface will need to be looked at.

8:41 PM 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.

Planner reviewed 4/12/17 staff report Findings of Fact with Planning Commission and public.

Barr believes locating the shed in the rear closer to the bluffline would create a bigger problem and not is not a good option.

Lang believes that the plight of the landowner was created by the landowner, in that the landowner constructed and placed the house where he did. Planner noted that when the subject property was subdivided, it was divided to a ¾ acre parcel, rather than today's standard 3 acre parcel. Barr asked if the ordinance would have allowed a shed size (18x20-360 sq ft) at that time on ¾ acres. Planner indicated that a shed of 1,000 sq ft would be allowed. Discussion re: Findings of Fact. Barr in agreement with the Findings of Fact. Lang believes this is a unique circumstance; generally one applies for a variance prior to a course of action. This was an undersized vacant lot; however, the situation was in the landowner's control. Believes that the shed is in a perfect placement, but this is how he interprets the ordinance. Barr noted that the neighbor that the shed butts up to is fine with the encroachment so doesn't find an issue with recommending approval of a variance.

Motion Grote/2nd Barr to forward the Meath Application for a variance to the side yard setback with a recommendation to approve, based on the 4/12/17 Findings of Fact and Planner's conditions.

1. The Property is currently zoned Single Family Estate (SFE) and includes the Shoreland Overlay District, and the MNRRA and Critical Area Overlays which establishes the applicable setbacks required for an accessory building on the subject parcel; and
2. A variance was previously granted by Denmark Township and Washington County that allowed for a home to be built on the subject property; and
3. The plight of the landowner is due to circumstances unique to the property, not created by the landowner. The lot became a "lot of record" many years before Town Ordinances were in place; and
4. The shed could be sited towards the rear of the property and adhere to the setbacks outlined in the Township Development code; however, that location has the potential to increase the possibility for runoff to cause erosion along the bluff line at the rear of the property; and
5. The structure has existed in its current location since 1999 and relocation of it to the rear of the yard might allow it to be viewed from the river which may conflict with future Critical Area rules; and
6. The variance, if granted, will not alter the essential character of the locality; and
7. The property owner proposes to use the property in a reasonable manner not permitted by the official controls.

Voting Yes- Grote, Barr. Voting No- Kelz, Lang. Abstaining- None. Motion failed 2-2-0, lack of majority.

Motion Barr/2nd Lang to forward the Meath Variance Application to the Board without a recommendation. With all present voting Yes, Motion Carried 4-0-0.

❖ 8:56 PM Chair Barr opened Public Hearing-Little Beginnings Minor subdivision/CUP

Applicant Wade & Jen Gelhar (Daycare owners), Greg Stotko (Planner), Pat Regan, Todd Erickson (Civil Engineer), Fran Schneider (property owner) present.

Request is for a Minor Subdivision of a 10.83 acre parcel, creating two lots (9.88 and 2.50 acres) and for a CUP to construct and operate a daycare on 2.5 acres of the property. The 2.5 acre parcel would include construction of a daycare building on the existing foundation, storage shed, playground area, holding pond and septic/drainfield system.

Accesses- Shared access (on MN Coaches property) into the daycare.

Plans for 137 students and 125 staffers.

Plantings along 120th St, adjacent to the parking lot would be dependent on the access drive location.

MnDOT is requesting that the access drive be 300 ft from Hwy 61. Todd Erickson indicated that the shared access drive is 300 ft from the intersection. The Erickson Marine Access is likely only 200 ft from the intersection. The access in the daycare lot would be about 500 ft from Hwy 61.

Public Comment:

- K Herman inquired on ownership of the parcel. Parcel is owned by Sunrise Properties (Fran Schneider). Owner has co-signed the application.

- P Swanson- (adjacent property owner) Concerns regarding the possible traffic impact that a daycare and bus company would have. Noted that a traffic study should be done. T Erickson noted that this was analyzed. Not all parents dropping off/picking up would be doing so at the same time and also not at the same time that the busses would be coming and going from. Shared access would also help to not create traffic issues, and any problems that were to occur in the future would be directly addressed.

Pat Regan (MN Coaches owner)- Have thoroughly thought about the traffic issue. Are actually selling the daycare less land than they will actually be using, as the traffic planning will allow the daycare traffic to use the shared driveway, and effectively have a one way in and one way out traffic flow. All the parking lot and driveway layouts are designed to keep the vehicles off 120th and keep them on the property. Any vehicles waiting to get onto Hwy 61, would be waiting on the property rather than on 120th, set up for both Little Beginnings and MN Coaches. In Belief that this is a good way for the Town to allow good businesses to grow within the Township.

Motion Lang/2nd Barr to forward Little Beginnings Minor Subdivision Application to the Board with a recommendation to approve, based on the Planner's 4/12/17 Findings of Fact and recommended conditions. With all present voting Yes, Motion Carried 4-0-0.

Conditional Use Permit-Little Beginnings

Planner asked if there would be any issue if the proposed shared access were moved. T Erickson noted that the access is confined as there is an existing building on the property. The intent of MN Coaches is to enter the property on the shared access, then through the lot to eliminate stacked up busses. The shared access is 300 ft from Hwy 61, so it will meet MnDOT's requirement. Planning is comfortable with the two eastern accesses.

Pat Regan- changing the proposed center access would have a negative impact on both Little Beginnings and MN Coaches (shared cost of construction and designed infiltration system). Believes the MNDOT comments are just their comments/recommendations, and is not in agreement that they are non-compliant. There is a driveway there at this time and is being used at this time, would like to continue to use the driveway that has been on the property for some time. Feels proposed plan does not make the traffic problems worse and is prepared to deal with MnDOT.

Planning is comfortable with the Little Beginnings proposed business as presented. The conditions brought forth by MnDOT have been satisfied in regard to stacking and Planning is comfortable with the number of proposed parking spaces (45).

Attorney- Noted that although the Statutes require that the Town gives MnDOT the opportunity to review and comment on plats, the MnDOT comments are only recommendations and not binding.

Public Comment:

- J Engler- adjoining property owner wanted to notify the proposed business owner that he has beehives along the side of the property. J Gelhar noted that the playground area will be natural with flowers and trees (natural to have bees) and that the area would be fenced in. Engler also noted that the property slopes by the property line near the playground area and asked if there would be screening/retaining wall there to address it for possible erosion. T Erickson stated that the water through the ditch will be captured with infiltration soil, and will be routed via culvert through the pond. Neighbor voiced concerns that at this time the busses exiting the property are creating safety issues.

9:43 PM 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.

Motion Lang/2nd Barr to forward the Little Beginnings Conditional Use Permit Application to the Board with a recommendation to approve based on the 4/12/17 Planner's Findings of Fact and recommended conditions:

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. Daycare Facility Use. Operator must at all times comply with the rules and regulations of Federal, State, County, and local agencies regarding the operation of a daycare facility.
3. All Engineering Considerations described in the staff report dated March 21, 2017 are met;
4. Grading and Stormwater Management:
 - a. Sewage treatment systems and their locations are approved by Washington County Department of Public Health and Environment;
 - b. The Stormwater Management plan and SWPPP must meet MPCA NPDES Construction Stormwater Permit requirements. Approved NPDES Construction Stormwater Permit shall be provided, when available.
 - c. Stormwater facilities shall be privately maintained. A Stormwater Maintenance Agreement that details operation and maintenance schedules and responsibilities must be provided for Township and SWWD review. The Town will record this final approved agreement along with the Development Agreement.
 - d. Drainage and utility easements are proposed over all stormwater management facilities. Easements should be shown on final construction plans.
5. Access easements (20-feet wide with max slope of 10%) shall be provided and labeled on plans for stormwater management facilities. Well and Septic System:
 - a. Proposed private well locations must be shown on the plans.
 - b. A copy of the approved permit from Minnesota Department of Health must be provided to the Township prior to well construction.
 - c. Washington County Department of Public Health and Environmental must approve the proposed septic system locations per the most recent requirements of the Washington County Septic-code.
6. Copies of access easements and any maintenance agreements relating to driveway access shall be provided to the Township.
7. 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;
8. 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;
9. 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. Park dedication shall be paid by the subdivider prior to the Township signing the final plat and/or development agreement.
10. 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.
11. Inspections. 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.

With all present voting Yes, Motion Carried 4-0-0.

❖ 9:45 PM Chair Barr opened Public Hearing-MN Coaches Conditional Use Permit

Request is for a Conditional use Permit to continue to operate a bus business at 12044 120th St S. MN Coaches currently leases the existing building. They currently lease a portion of the building to Browns Auto Service, Spalding Roofing, U.S. Lawns, and parking space to Universal Services. Applicant also intends on upgrading the parking areas, drive lanes and existing pavement. Would like part of the parking area to remain pervious, in case an additional building is proposed in the future. Would like a blacktopped surface where the vehicles are traveling and a pervious surface where vehicles are only parked. There is room for about 150 cars. Layout to be determined after applicant speaks with other tenants.

Planner summarized 4-12-17 staff report. Planner noted that development code would indicate that 85 parking spaces would be required.

Public Comment:

- J Engler- With accommodations for an additional 30 from Universal Services, people dropping off/picking up kids from the daycare, there will be a traffic issue. Questioned if there would be a possibility of using the center drive for both in and out access rather than maintaining the westernmost access which is too close to Hwy 61. Pat Regan noted that he would handle the operational part of the accesses, and that the western access, properly designed and properly used will work. MN Coaches will also be investigating the details of the MnDOT easements and any possible Schneider Agreements.

10:19 PM 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 Discussion re: Planner's recommended condition #1, rather than require that the Applicant remove & relocate the existing property access, to have the Applicant address the existing property access and possible relocation.

Lang- concerns related to the safety regarding the accesses.

Motion Kelz/2nd Lang to forward MN Coaches Conditional Use Permit Application to the Board with a recommendation to approve, based on the Planner's 4-12-17 Findings of Fact and recommended conditions, with revision of condition #1, to "That the Applicant address the existing property access and possible relocation of that access". With all present voting Yes, Motion Carried 4-0-0.

1. ~~Address Removal of the existing property access and possible relocation of that access. 300 feet to the east, or to line up with the Erickson Marine access.~~
2. Submission of a parking plan showing a revised parking lot boundary which does not encroach upon MnDOT right-of-way, and shows the parking spaces for 85 vehicles, and bus parking. This plan must be approved by the Township Engineer.
3. Motor Vehicle Repair Use:
 - a. A drainage system for collection of any hazardous material runoff must be installed. Such system shall be subject to approval by the zoning administrator.
 - b. The town engineer shall approve location and number of access driveways to the site.
 - c. No motor vehicles or recreational vehicles shall be parked on the premises other than those utilized by employees.
 - d. Storage of salvage vehicles shall be prohibited.
 - e. All areas used for the storage and disposal of trash, debris, discarded parts and similar times shall be fully screened. All structures and ground shall be maintained in an orderly, clean and safe manner.
 - f. The parking area for the outside sales and storage area shall be a paved surface before the operation of business begins and maintained.
4. Outdoor Storage Use:
 - a. The parking area for the outside storage area shall be a paved surface before the operation of business begins and maintained.
 - b. Each space used for the parking of motor vehicles shall be a minimum of nine (9) feet wide by eighteen (18) feet in length.
5. Compliance with all requirements listed in the Planning and Engineering Staff review letters.
6. Copies of access easements and any maintenance agreements relating to driveway access shall be provided to the Township.
7. 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;
8. 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;
9. 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.
10. 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.

Motion Barr/2nd Kelz to approve minutes of 3/20/2017 Planning Commission/St Croix Knoll Stables. With all present voting Yes, Motion Carried 4-0-0.

10:25 PM Motion Barr/2nd Lang to adjourn. With all present voting Yes, Motion Carried 4-0-0.

Becky Herman
Denmark Clerk/Treasurer