

DENMARK TOWN BOARD MEETING MINUTES
November 4, 2013

SUPERVISORS PRESENT: Jim Keller, Joe Moore, Karen Herman and Kathy Higgins

ABSENT: John Kummer

STAFF PRESENT: Attorney Troy Gilchrist (Kennedy-Graven)

CALL TO ORDER: Meeting called to order @ 7:00 PM by Chair Higgins

AGENDA APPROVAL: Higgins added County Meeting

Motion Moore/2nd Keller approval of agenda as amended. All In Favor. Motion Carried 4-0.

CONSENT AGENDA APPROVAL: Motion Keller/2nd Moore approval of consent agenda items which include 10/07/2013 Board Meeting minutes, Claims #10185-10196, EFT payments- PERA 267064, MN Tax Deposit 1358954240, Federal Tax Deposit 84101470, payroll ending 11/01/2013 and financial reports. All In Favor. Motion Carried 4-0.

HEARING DECISIONS/ZONING ACTIONS: None

PUBLIC COMMENT: None

BUSINESS ITEMS:

13090 122nd St S-Accessory Structure Location: Property owner Susan Duffy and builder James Michaels present. Owner is requesting approval to locate 2 accessory structures between the house and the road (122nd St S). Subject property is a 25 acre parcel, which would allow a maximum of 5,000 sq ft total accessory structure size. The parcel has a wide swath of trees cutting through the middle of the property and the owners are building the house on the south side of the tree line, on a westward slope to allow for a walkout lower level, at a 220 ft front setback. Owners are proposing to build a non livestock building (80 x 40) 30 ft from the east property border at a 100 ft front road setback. The owner stated that with the property sloping in all directions, that this is the only reasonable location for this building. The second proposed structure is a horse barn (28 x 36) about 300 ft west of the house with a 150 ft front road setback. This location would allow the barn to be located on a relatively flat site to better accommodate the horse paddocks. Rolling terrain and swales were a big factor in siting the barn regarding horse manure/drainage/runoff. The sites were picked strictly due to the configuration of the land and its limited level locations.

K Herman visited the site and noted that the land is rolling, but believed that the horse barn could be located further to the north. Manure could be properly disposed of and not cause a major problem. Does not believe that there is a plausible reason to approve the proposed location.

Builder explained that the house location was chosen to take advantage of the natural topography to accommodate a walkout, and to locate the house further south to construct the buildings behind the house, would involve major excavation and drainage issues to achieve a walkout basement. Moving the horse barn location further to the north would require major excavation.

Based on the owner's plan to locate the house close to the trees and to take advantage of the slope for a walkout basement, the owner's plan for placement of the barn due to the layout of the land and topography of the property and additional cost of excavation to place it elsewhere, and the owner's attempt to place the horse barn in a location to better address any manure runoff/drainage issues, is reasonable. Higgins would not want to see drainage problems occur due to unnecessarily moving dirt and then having to fix the problem that could be created. Higgins, Moore and Keller would support plan.

Motion Moore/2nd Keller approval of accessory structure location for 13090 122nd St S, as presented, subject to setback, code compliance and obtainment of building permits.

Voting YES: Moore, Keller and Higgins. Voting NO: K Herman. Motion Carried 3-1.

Discussion re: The Ordinance. Questions arose regarding why the ordinance requires accessory structures to be placed behind the house if the Board always grants approval to locate them in front of the house. Not all requests are approved, and most residents who have brought these requests before the Board have reasons why they wish to deviate from the ordinance. Denmark ordinance requires Board approval to locate an accessory structure closer to the road than the house is. This is also

DENMARK TOWN BOARD MEETING MINUTES November 4, 2013

Washington County's Ordinance. This provision provides the Board with some flexibility to allow a structure to be located closer to the road than the house, on a case by case basis. Without this, any applicant wishing to make this request for whatever reason would be required to go through a full, timely and costly variance procedure through both the Town and County. Ordinance may be reviewed by the Board in the future.

Fire Signs:

Excerpt from 11/04/13 Board Meeting [K Herman is in the process of installing fire signs to various properties in the Township. She has been researching other entities regarding written policies on fire signs. Supervisor Herman indicated that she encountered difficulties in placing a sign at a property with a St Croix Tr address. The resident requested 3 signs (the first on St Croix Tr-the second on the private road where it branches off into the direction leading to the property and the third on the alleged easement to the property), as this is the route that he used when entering his property. After receiving information that the resident was in dispute with his neighbor regarding an easement to his property, Karen placed one sign on St Croix Tr. and contacted the Hastings Fire Department to view the site. Assistant Fire Chief Townsend viewed the property and spoke with the neighboring landowner and concluded that there is no reasonable fire or emergency access to the property. Going across the alleged easement, emergency vehicles with equipment would not be able to access the subject property. Only all terrain vehicles could get through and there would still be a problem getting water back to the house. On the portion of the property that goes out to St Croix Tr, there is a deep ditch that would hinder the large fire vehicles. Karen stated that Townsend said to leave the fire sign on the road to indicate that the property is back in that direction and the Fire Department will make a determination of how to address it. The Fire Department has noted the extenuating circumstances of access to the property and will send a letter to the Town regarding the matter.

The Attorney had recommended that based on the property owner's normally used route when accessing the property, that placing signs on both St Croix Tr and at the second spot where the different driveway accesses branch off would be appropriate. Attorney also noted that the Board has final decision on placement of signs.

Moore expressed concerns about the Board being on record as having ignored the advice of legal counsel and would like to see full Board input on the matter. Board will continue discussion after review of Fire Department correspondence.]

Continuation regarding placement of multiple fire signs at a property with a St Croix Tr address. Townsend has reviewed and visited the site and indicated that currently there is no permanent access or suitable driveway for fire and ambulance apparatus and that after speaking with a number of individuals that there seems to be some dispute over accessing this property. The Department has notified their staff so they are aware of this address and the best access routes. Decision regarding fire sign location ultimately falls to the Town Board.

K Herman- Believes that access is yet to be determined. Doesn't believe that the Town should be involved in marking anything but the first spot on St Croix Tr. Doesn't want to see the Township drawn into a private dispute by placing a 2nd sign on the private road.

Higgins- Goal in putting up the fire signs is not to mark or address any easement issues, but rather to indicate the direction in which the property is located. Placing a 2nd sign at the fork is not saying where the driveway is to the property. It is saying that this property is to the right and not to the left. This is consistent with past Township practice. Have placed a number of fire signs on private roads.

Moore- As credible as the Fire Departments opinion is, it is the Board who has the responsibility to place the signs appropriately to benefit the residents. Having been advised by legal to place the 2nd sign at the fork where it would indicate that the direction to the property is to the right- and not placing a sign there, would not be serving our residents well. Placing the 2nd sign at the fork does not give credibility to one or another resident's claims regarding an alleged easement, it just points out in which direction the landowner's property is. There is a liability on the Town if the Emergency Vehicle isn't able to find the property because there isn't a sign to show in which direction that the cabin on the property is in. It would be irresponsible not to place the 2nd sign at the fork.

Attorney- Attorney's recommendation came from how folks have traditionally gotten to the property. No additional analysis is done on whether or not an easement is there. Based on the normally used route into the property by the property owner, the Attorney recommended placing the 2nd sign indicating that at the fork, the property is located to the right, not to the left. This simply indicates in which direction the property is located and does not address any ownership of driveway/easement. Makes sense to direct to the location of the property but to stop short of actually getting onto the property. A Township is not required by law to place fire signs within a Township, but because this has been Township practice, it now becomes an assumed duty. Because the Township has assumed the duty, it has a responsibility to carry it out reasonably.

Moore believes it is the Township's duty to place the 2nd sign to identify the location of the property.

DENMARK TOWN BOARD MEETING MINUTES
November 4, 2013

K Herman indicated that if the motion passes, she will give the fire sign supplies to Moore to install. Also, that it be noted that she raised the legal concerns and the Board decided differently. Believes that the Township should not proceed on further sign installation until the landowner's dispute has gone through the legal process and there is a decision on where the best access is into the property. She does not want to see the Township become involved in an ongoing dispute.

Moore stated that should the motion to install pass, he would not assume K Herman's responsibility in fire sign installation.

Higgins- The Township has installed fire signs on other private roads, possibly to properties across RR tracks and septic easements and there are a lot of those properties in the Town. Doesn't believe the Town can get caught up in easement and land ownership questions, as the Township has the responsibility to the residents to let emergency vehicles know in which general direction they would need to go to service the Township's residents.

Motion Moore/2nd Keller to place a 2nd sign at the fork on the private road to indicate in which direction the property of 6355 St Croix Tr S is located. Voting YES: Moore, Keller and Higgins. Voting NO: K Herman. Motion Carried 3-1.

Town Hall: Moore has requested a tuck pointing quote for the rock foundation from the contractors. Minor repairs to the Town Hall siding and fascia have been done. Water and fountain have been winterized. Well house has an old heat tape inside covering the system and Moore is unable to determine if the heat tape is working, so he has installed a thermometer to read the temps in the well house, with the read out placed in the Town Hall. Board consensus for Moore to purchase new heat tape.

Moore will look into fire safes to secure the old documents in the Town Hall. Cement and block work at the northeast end of the building to protect against water draining into the basement has been done and concrete bollards have been installed on the west side of the building to protect the utility fixtures. Higgins added that the work that has been done looks very good.

County Meeting: Washington County would like to set up a meeting between the County and the Township to discuss the County's role in local government. Keller and Higgins will meet with the County.

LEGAL UPDATES:

Tree Policy: Attorney has asked Board to review current 10/28/13 draft of the Tree Removal Policy and to contact him with any comments or questions.

MRCCA: Attorney attended meeting in which the DNR summarized local government comments regarding the draft rules. DNR stated that they would provide a response on all of the local government comments and also would provide updated rules, and begin to go through the official rulemaking process.

Accessory Structure Agreement: 6291 St Croix Tr S. Property owner David Dawkins is planning to build a house and an accessory structure on his 4.156 acre parcel. Mr Dawkins is requesting to build the accessory structure before construction of the house. Ordinance does not allow an accessory structure to be placed on a parcel without a house. Dawkins would like to build the structure now followed by the house in the spring of 2014. Attorney drafted an agreement outlining conditions that the property owner would need to meet. Obtaining a permit for both the house and the accessory structure at the same time. Requirement for house to be built in the spring 2014. Removal of the accessory structure by the owner if the house is not built in spring 2014. Providing the Township with \$5000 security to be used by the Township to remove the accessory structure if necessary. **Motion Moore/2nd Keller to approve and ratify the Accessory Structure Agreement with David Dawkins for property at 6291 St Croix Tr S.** All In Favor. Motion Carried 4-0.

8:00 PM **Motion Moore/2nd Keller to adjourn.** All In Favor. Motion Carried 4-0.

Becky Herman
Denmark Township Clerk/Treasurer