

Present:

Chairman John McPherson; Supervisor Jerry Peterson; Supervisor Daniel Kylo
Cara Geheren, Township Engineer; Sue Agrimson, Township Clerk; Ed Semrud,
Township Treasurer; Scott McDonald, Township Attorney; Duane Stensland, Building
Inspector; Ray Swanson, Planning Commission Chair; Betsy Vance, Deputy Clerk

Public Hearing – Driveway Setback Variance for 1340 Paris Trail

Chairman McPherson called to order a public hearing to consider an application by Mike Hall, 1340 Paris Trail for a variance to allow construction (retention) of a driveway to his property with no side yard setback at 7:00 PM. The setback requirement is 20 feet from the neighboring lot. The driveway was constructed by the previous owner, and when a survey was done in conjunction with a neighbor, identified that the driveway was constructed 9” over the lot line. Mr. Carl Auleciemz, the previous homeowner, was present at the meeting, said he was unaware of the encroachment. Paul and Susan Skweres, the neighboring landowner, expressed concern that the driveway was allowed to be constructed, and that the driveway, the sprinkler heads, and landscaping trees were all over the lot line. They also felt that the Halls were not at fault for the error, but believed the previous homeowner to be responsible. Their primary concern is on the resale value of the home in light of the encroachment, and relations with a new neighbor should the Halls choose to move. Snow removal is not an issue on the lot, in that all the snow could be pushed to the rear of the driveway, and not over the lot line. Having no further discussion, Supervisor Peterson moved to close the hearing. Seconded by Supervisor Kylo, the motion carried. Chairman McPherson adjourned the meeting at 7:30 PM

Regular Meeting Call to Order

Chairman McPherson called the regular meeting of the West Lakeland Town Board to order at 7:30 PM

Approval of the Minutes

The minutes of the December 12, 2005 meeting were presented for approval. Supervisor Peterson moved to approve the minutes as presented. Seconded by Supervisor Kylo, the motion carried.

Treasurer’s Report

Mr. Semrud presented the treasurer’s report for December 2005. The report reflects \$89,000 of revenues, including the second payment of property tax. There are \$105,000 in expenses, including the fire contract renewal, and a large number of pool fence escrow returns. Invoices presented for payment include a payment to the Hillcrest Animal Clinic, also received is an overpayment notice in the same amount. Mr. Semrud will retain that check until clarification of the invoice is received. Supervisor Peterson moved to approve the treasurer’s report as presented. Seconded by Supervisor Kylo, the motion carried.

Review and Payment of Invoices

Mr. Semrud presented invoices for payment. Supervisor Peterson moved to pay the invoices. Seconded by Supervisor Kylo, the motion carried.

Variance Request, Mike Hall

Chairman McPherson asked for discussion on the variance request. Mr. McDonald asked to verify the date of application, to be December 14, 2005. Supervisor Kylo agreed that the issue needed to be resolved, but did not clearly see a hardship for the variance. The driveway could be located, and the cost adjudicated with the previous owner. Supervisor Peterson noted that a previous request presented before the board resulted in a variance to allow the homeowner to only remove the drive to the point it was out of the easement. Action in a similar manner would have the homeowner remove just over 5 feet, and a variance to allow the driveway within 5' of the lot line. In that instance, the house was also built much closer to the lot line. To require that the driveway be located to the 10' setback, as required at the time of construction, would require using a much larger part of the yard for a turn-around, and removal of landscaping. Supervisor Peterson moved to authorize a variance to allow the driveway within 5' of the lot line, outside of the Township easement, citing the need to remove existing land improvements, and that the current homeowners were not responsible for the incorrect installation of the driveway. Supervisor Kylo seconded the motion. The motion carried. Supervisor Kylo moved to extend the time to act upon the variance for an additional sixty days, and direct Mr. McDonald to prepare a resolution to document the variance approval. Seconded by Supervisor Peterson, the motion carried.

Discussion followed on how the Township might be able to provide for more validation of property lines. There have been a number of situations where construction has been started without fully knowing where the lot lines were located. This is the responsibility of the homeowner. It was proposed that the homeowner be required to stake the lot lines prior to issuing a permit and perhaps a survey as well.

Accessory Building Construction, 1445 Neil Avenue

Mr. Greg Zinn appeared before the board to ask the board to review the construction of an accessory building on the Lynn property, 1445 Neil Avenue. Mr. Zinn contended that the garage was being constructed to support an expansion of the home occupation businesses operated on the property. He also contended that the renewal process was not properly followed in that there was no notice of renewal or hearing presented to the neighbors, despite a history of objection and concerns. No certificate of compliance was issued for the activity. The accessory building was asserted as being larger than allowed by ordinance, in that it is 76' x 32', with multiple garage doors on two levels. Because the floor is spancreted, Mr. Zinn contended that the intent was to use both levels for commercial purposes, apparently storing the multiple party buses and landscaping equipment beyond that allowed on the conditional use permit for the home occupation. The floor square footage between the two levels will exceed 5,000 square feet. The garage was presented in concept to the neighbors by Mr. Lynn in August of 2001, and at that time, agreed to not construct the building. Mr. Zinn noted that in June 1999, the agreement with the landscaping business was that materials and equipment would not be stored on the property. The neighbors would like clarification on the

intended use of the structure, including the height of the garage door, extent of electrical service, water and lighting to the structure. The Christensen's, Dale Pelski, Diane Milbreth, Tom Olson and Steve Iverson, also from the neighborhood, echoed similar concerns. Mr. Olson also noted that the use and building were in violation of the neighborhood covenants. All neighbors present expressed concern that the business use could continue to expand without being noticed. Ms. Rochelle Dudgeon, a resident who does not live in the neighborhood, expressed support for Mr. Lynn. The current conditional use permit allows for one bus, and not more than two pieces of equipment for the landscape service. Mr. Lynn said that the size of the garage was to store those limited items – two landscape trucks, one bus, personal trailers, camper, snowmobile trailer, and antique cars. Chairman McPherson noted that the sidewalls of the building and the pitch of the garage were lowered, as well as the height of the front garage doors.

It was noted that the certificate of compliance was newly added to the ordinance with the recodification, and has not been formally enforced to this point.

Update on Xcel Fly Ash Disposal Site

Chairman McPherson provided an update the site selection for the Xcel Fly Ash Disposal. County Commissioners have assured the board that they will be consulted prior to any approvals being issued. Residents were encouraged to attend any hearings or public meetings on the site selection. Currently Xcel is completing the Environmental Analysis Worksheet as a preliminary document of their intent. A public hearing after review of that document for the MPCA is expected in late February or early March. After this review, the next step is the formal Environmental Impact Statement, which could take 8 or 9 months to complete. After that review, formal application could be made to the Township and County for the conditional use permit.

Report on Deer Management Effort

Supervisor Kylo provided an update on the December 2005 deer management effort. The approved bow hunting group was able to remove over 20 deer. Their estimate was that there are over 300 deer in the Township. Reasonable deer population would be 7 to 8 deer per square mile. It is anticipated that the deer hunt would be authorized during the 2006 season as well.

2006 Fire Protection and Rescue Service Contract

The fire protection and rescue service contract was presented for renewal. The price is the same as the 2005 contract for the same level of service. Supervisor Kylo moved to approve the contract as presented. Seconded by Supervisor Peterson, the motion carried.

Driveway Setback Ordinance

The board reviewed a draft code provision to amend the driveway setback from 20 feet to 10 feet from the lot line. Supervisor Peterson moved approval of the draft as presented. Seconded by Supervisor Kylo, the motion carried.

Review TDKA Billing Rate Schedule

Ms. Geheren presented the updated billing rate schedule. Her services were increasing, but she would be able to use more affordable staff for routine tasks. TDKA is restructuring to better use the staff to support the municipalities represented. Supervisor Peterson moved to accept the rate schedule, and continue to retain services from TDKA for 2006. The motion was seconded by Supervisor Kylo. The motion carried.

Rate Adjustment for Waste Management Recycling Services

Ms Agrimson reported the contract currently enforced allows a 3% increase for services. The rate will increase from \$2.48 to \$2.55 per household. The contract is up for renewal next year.

Greg Bebeau Variance Resolution

Mr. McDonald presented the referenced resolution for signature, based on approval of the variance request at a previous meeting.

Request for Kennel Permit, Rachelle and Paul Dudgeon, 1360 Norcrest Ave

Mr. Rachelle Dudgeon appeared before the board to request a kennel permit to be allowed to keep the five dogs currently at the residence. She was unaware of the need for a permit. There have been issues with barking dogs in the neighborhood. Mr. Dave Schultz, a neighbor, reported to the board that he believed the five dogs owned by the Dudgeon's were a major contributor to the problem, since all other neighborhood dogs are kept indoors. Ms. Dudgeon disagreed. Mr. McDonald recommended a hearing be held, since there is a history of dispute. The board requested the hearing.

Application by Yvette and Mike Heintz, 1460 Newberry for Home Occupation Permit

Yvette and Mike Heintz, 1460 Newberry, appeared before the board to request for a conditional use permit to operate a business kennel and home occupation for a doggie daycare. The request could involve expanding their current accessory building. Traffic would be minimal; up to 11 dogs may be on the premises, during day hours only. After discussion, it was determined the request would require a public hearing to support the kennel.

Minor Subdivision Request, Al Roth

Mr. McDonald reported to the board that the request presented by Mr. Al Roth to combine his lots, and subdivide, would not qualify as a minor subdivision. No ruling has been received from Washington County at this time. It was recommended that the existing application for a minor subdivision be voided, and the process initiated for a major subdivision. Supervisor Kylo moved to deny the request for a minor subdivision in that the request did not meet the legal definition. Seconded by Mr. Peterson, the motion carried. Ms. Agrimson was directed to provide a formal letter of denial

Request to move lot line

Mr. Carl Auleciemz appeared before the board to adjust a lot line between two adjacent lots where he has title to both parcels. The adjustment is a curve, totally .08 of

an acre. The purpose of the adjustment is to create a curve to accommodate a curved driveway. Mr. Auleciemz indicated that the driveway design was dictated by the slope of the lot. Supervisor Peterson asked if the lot line could be moved in it's entirety to keep the lot lines square. There is concern that the line could be difficult to describe and may result in poor location in the future, as illustrated by the hearing at the beginning of the meeting. The impact on the easement was also discussed, and it was proposed that the current easement remain, and the additional space needed to comply with Township ordinances be added to the existing easement. Adjusting the easements would require a public hearing, dedicating new easements would not. Supervisor Peterson raised concern that not vacating the initial easements would have the driveway constructed on the easement, a condition not supported by the board. Ms. Geheren raised concern on the lack of options for locating of the driveway. This is a recently platted lot, and a driveway site would have been included in the initial plat. It was also recommended that a drainage plan be done because of the slope. A formal hearing would be required, as well as a formal description of the lot adjustment from the surveyor. No action was requested at this time.

Adjourn to Closed Session

At 10:20 PM, the board members adjourned to a closed session to discuss potential litigation

Respectfully Submitted,



Elizabeth A. Vance
Recording Secretary