

STILLWATER TOWN BOARD MEETING

October 13, 2022

Township Hall - *Hybrid

7:00 P.M.

PRESENT: Chairperson Sheila-Marie Untiedt, Supervisors Mike McMahon, Rod Hunter, Robert Geisen and Tim Sinclair. Clerk Barbara Riehle, Deputy Clerk Jenni Maes, Treasurer Marsha Olson, TKDA Planner Larry Poppler Jr. and Engineer Mike Nielson (via Zoom).

PUBLIC HEARING

14411 Dellwood Rd N- Consideration of an application request from Tim and Debbie Sinclair, for a variance request from setback requirements in order to create a 5-acre lot with a buildable area of 12,500 SF.

Chairperson Sheila-Marie Untiedt opened the public hearing.

TKDA Planner Representative Larry Poppler Jr., PE was introduced as the evening Planner substitute for Evan Monson. Mr. Poppler gave an overview of the request from the staff report.

The applicant is looking to split 5-acres, through lot averaging, to create a new lot from the 20-acre parcel for a single-family residence. The 20-acre lot is narrow, with Hwy-96 to the North and the Brown's Creek Trail to the South.

There are criteria for setbacks related to Brown's Creek as well as Hwy-96. The Township Ordinance requires a minimum 150 feet setback from arterial roads (Hwy-96) from the centerline, or 75 feet from the right-of-way (ROW), whichever is greater.

New lots require one acre of "buildable" land outside of the setbacks. With the Brown's Creek and the Bluff, the Shoreland Overlay Zone/Developmental Code has a setback requirement of 200 feet. This requirement is unable to be met.

The Brown's Creek Watershed District commented concerns about approving, noting a number of challenges on the site.

Washington County commented 'significant concerns' with the proposed request stating "Variances are only granted when the plight of the landowner is due to circumstances unique to the property, not created by the landowner. This standard would not be able to be met since [a] non-buildable lot would be created by the landowner. Therefore, Washington County recommends the Township refrain from approving the potential lot split."

Staff reviewed the proposed request. An evaluation was done based on the following six criteria followed by staff comment:

- Variances shall only be permitted when they are in harmony with the general purposes and intent of the Comprehensive Plan and official controls. Granting the requested variance to buildable area requirements does not appear to be in harmony with the Comprehensive Plan and official controls.

- The property owner proposes to use the property in a reasonable manner not permitted by an official control. The applicant does not propose a reasonable use under conditions allowed by the official controls.
- The plight of the landowner is due to circumstance unique to the property, not created by the landowner. The plight of the landowner is created by the landowner.
- The variance if granted, will not alter the essential character of the locality. The variance, if granted, would not alter the essential character of the locality.
- Economic conditions alone shall not constitute a hardship if reasonable use for the property exists under the terms of the Zoning Ordinance. Economic conditions alone do not constitute a hardship.
- The Board may consider the inability to use solar energy systems as a “hardship” in granting of the variance. N/A; the requested variance is not related to solar energy systems having adequate access to sunlight.

The Town Board may either do one of the following:

1. Approve, with or without conditions.
2. Deny, with findings for denial.
3. Table the request.

Chair Untiedt asked whether the changes in TH96 from State to County Road would have any change in setback requirements? Planner Poppler replied no, it would still remain arterial.

Surveyor, Paul A. Johnson from P J Land Surveying spoke in representation of the applicants. Mr. Johnson believes this is a beautiful and unique piece of property that the Sinclair’s purchased 36 years ago. At that time none of the current ordinances were in place. He believes the setbacks are extreme in this case. They have 12,000 SF to build on, and only need 4,000 SF to build a home.

Applicant, Tim Sinclair spoke on behalf of his application. He stated that the bluff lines were 50-70 feet above the creek; whereas a home would not be visible at the creek or by the trail. In addition, there are mature trees along the ROW; again, limited visibility. There are buckthorn and black locusts. An opening was created. Limited impact to the 5-acre property with 4.7 acres of open space. Soil testing and wetland determination was done. No wetlands were found and no impact to the creek noted. They desire to maintain the rural character and protect the vision statement as Mr. Sinclair was a member of the Planning Commission at the time and was a part of writing the language for the Vision Statement. New rules came into effect in 2018. He noted that currently there are 4 houses south of Hwy 96 (north of the creek); noting two of the houses (one being on 2.5 acres and 35 feet from the creek; the other is .80 acres and is approximately 150 feet from the creek). Since the property is narrow, there is limited placement for a house. Mr. Sinclair believes he has been a good steward of the property that he purchased 36-years ago. At that time, they donated 20+ acres to the DNR on the east end that abuts Hwy95. In addition, he has granted the DNR a fishing easement and a non-vehicular easement which ties in. He asks for consideration as the Town Board reviews the proposed request.

Supervisor Rod Hunter had concerns for setting a precedence for lot splitting of the remaining 15 acres. Mr. Sinclair responded that under current lot averaging it would not be allowed. Currently, 2/20 acre and 4/40 acre allowed.

Resident Barbara Medinger- 8802 Stonebridge Trail – spoke during the public hearing to say she believes the Sinclair’s are great neighbors and excellent stewards of the natural resources of their property. As a former member of the Brown’s Creek Watershed Board and neighbor, she feels strongly in support of their request as the Sinclair’s have allowed testing and easements be done from their land.

The public hearing was closed at 7:18PM; there will be further discussion during the regular meeting under “Planner”. The regular meeting was opened.

REGULAR MEETING

1. AGENDA – M/S/P Hunter/Sinclair moved to adopt the amended agenda to edit as follows to Add:
 - 1.) Clerk: PC, Printer, Router.
 - 2.) Park Committee: Drinking fountain repair proposal– approve cost.
 - 3.) New Business: Street signs – damage and replacement.

(5 ayes)

2. MINUTES – M/S/P McMahon/Hunter moved to approve the 09/08/22 meeting minutes as written. (5 ayes)

3. PLANNER –

- a. Sinclair variance request discussion – Chair Untiedt opened the discussion with a comment that there are a number of regulations now, that would require variances. Is there a way to restrict further subdivision? Ms. Untiedt added that the creek is not affected by this proposal.

Supervisor Robert Geisen commented that whatever decision is made will outlive them, that whoever owns the property in the future then the precedence has then been set. This property is not grandfathered in. There is other already approved small lots created through subdivision in the community that have been grandfathered.

Supervisor Rod Hunter commented that the consideration is that they have been good stewards of the land, have donated 20+ acres and have been cooperative with various agencies. Mr. Hunter was in favor of this consideration. In addition, he suggested a 10-acre parcel split to mitigate any changes of subdivision issues in the future.

Chair Untiedt suggested the Board table the request, connect with Attorney Soren Mattick and get feedback on whether there is a way to prevent any future subdivision.

M/S/P McMahon/Hunter moved to table the request. (4 ayes, 1 abstain as Sinclair will not vote)

- b. Permit AOP Update – Planner Larry Poppler reported that a letter was sent to the owner regarding they were out of compliance. There have been conversations with

Steve St. Claire from Miller Excavating regarding the completion of plans to meet specifications of the Watershed District which are being completed by Sunde Engineering.

Steve St Claire responded that he sent an email to Planner Evan Monson in response to the letter. Mr. St Claire added that the Watershed District sent information on October 7th, which recommended for approval. Jay Riggs from the Conservation District was planning to give a presentation at the next meeting. The next meeting is November 10th.

c. CUP – Sandstrom ground mount solar - **14033 120TH St N** – Conditional Use Permit (CUP) request to have a ground-mounted solar array at a size of over 800 SF, located on a parcel of land 20 or more acres in size.

TKDA Planner Representative Larry Poppler Jr., PE; the Planner substitute for Evan Monson. Mr. Poppler gave an overview of the request from the staff report.

The Planning Commission reviewed the application request at their October 6th meeting. They heard comments from both the applicant and the contractor and through findings the criteria had been met. The Planning Commission recommended to the Town Board to approve the CUP based on the following four conditions being met.

1. The proposed solar energy system shall adhere to the plans submitted to the township and reviewed with this CUP request.
2. The proposed ground-mounted system shall not exceed the size as shown in the submitted plans of 1,112 SF. An increase in size of the ground-mounted solar energy system shall require an amendment to this CUP.
3. The applicant shall secure any other applicable Federal, State, County and local permits required for the project.
4. The applicant shall pay all fees and escrows associated with this application.

Supervisor Giesen asked the Planner a question regarding if there was division of the lot in the future what would need to happen? The CUP application would need to be amended or reduce the size of the solar use.

Supervisor Sinclair asked whether it involves just personal use? Applicant Chad Sandstrom answered that it is scaled to meet 103% average energy use.

Supervisor McMahon asked whether they had roof panels? Applicants answered; No, because of trees and the positioning of the roof would not work. In addition, the barns are old and may not be able to withstand the weight due to their age.

Supervisor Hunter commented that there are a lot of panels, what is the level of use? The property is Agricultural so it serves the hobby farm and the ground mount served as dual purpose to provide shade for their livestock.

M/S/P Sinclair/McMahon moved to approve the CUP with the conditions as recommended. (5 ayes)

4. ENGINEER – Michael Nielson was present via Zoom and reported on the following:

a. Bids - Snow Removal - Bids for the 2023-2025 Snow Removal Contract were opened at the Sambatek Offices on Wednesday, September 28, 2022 at 2PM. Two bids were received. One bid from Miller Excavating in the amount of \$145,400 and one bid from Dresel Contracting in the amount of \$224,200. The bids included an estimated number of hours for various tasks and identified an hourly rate for each piece of equipment with labor. It was recommended to award the Snow Removal Contract to Miller Excavating on an as hourly needed basis at the unit rates bid in the form.

Chair Supervisor Untiedt questioned “if by example, they only plow \$90K worth of work this season, are we obligated at the \$145K or the hourly?” A: Engineer Mike Nielson responded “We are not obligated at any minimum or maximum; we pay for the hours, it’s an estimate that has been used in the past. Hard to predict the snow levels.”

Supervisor Sinclair noted that the other bid by Dresel could be higher to accommodate for the travel from Chisago.

M/S/P Geisen/McMahon moved to approve and award the Snow Removal Contract to Miller Excavating as recommended by the Engineer. (5 ayes)

b. Bids - Road & Trail Maintenance – Bids for the 2023-2025 Street Maintenance Contract were opened at the Sambatek Offices on Wednesday, September 28, 2022 at 2PM. One bid was received from Miller Excavating in the amount of \$149,846.70. The bid included an estimated number of hours for various tasks and identified an hourly rate for each piece of equipment. It was recommended to award the Street Maintenance Contract to Miller Excavating on an as hourly needed basis at the unit rates bid in the form.

M/S/P McMahon/Sinclair moved to approve and award the Street Maintenance Contract to Miller Excavating as recommended by the Engineer. (5 ayes)

5. TREASURER –

a. Report given by Ms. Olson who reported that at the end of the month the township had \$3,052,049.87 in cash and investments. Through September, expenses seem to be looking good next to the budget. This month, Election Judges who worked the Primary were paid.

b. Claims and Checks #23935 through #23972 were approved for payment.

6. COMMUNITY SERVICE DEPARTMENT – Mark Caroon was not present. Clerk Riehle read stats from his report.

- There were 5 burning permit issued in September.
- There were 74 total monthly calls for September.
- There were 3 animal complaint calls for September.

- There were 18 traffic related calls for September.

(PEOPLE PORTION)

7. WASHINGTON COUNTY – Engineer II Andrew Giesen was in attendance to present an update on the Jurisdictional Transfer of TH96 (Dellwood Rd) to the County from MnDOT.

Mr. Giesen gave an overview of the PowerPoint which covered the History of the Highway, Functional Classification and Jurisdiction, what does it mean to be a County Highway and Next Steps.

This 9-mile segment, TH96 Turnback has been planned for many years. Roads are classified by the function they serve. There are two primary road functions, they are "Access" and "Mobility". Roadway Jurisdiction is who owns and operates the roadway. By properly aligning roadway jurisdiction helps ensure the best value and use of funds for maintenance and future improvements and helps to maintain or improve the role of the roadway in the transportation system. A County Highway serves Functional Classification, Speeds, Commuter & Truck Routes and have better County Highway Characteristics such as wide shoulders.

This transfer is scheduled to occur in the spring of 2023. The County begins operation and maintenance this Fall 2022; This Winter, the County is only responsible for plowing (snow and ice control). In the Spring of 2023, when the Turnback is fully executed, then the County will take on full maintenance responsibilities.

Continued collaboration and studies will be done to identify both short-term and long-term needs. Future improvements will follow the County's Cost Participation Policy. Any enhancements the Township would need to participate in sharing those costs.

Supervisor Sinclair asked whether there is money following the Turnback? Mr. Giesen reported that they are taking on the 9-mile segment "as-is". Negotiations and future needs are being reviewed. The State would pay the County an estimated \$14M.

Supervisor Sinclair asked if a Roundabout is in the long-term planning? Mr. Giesen reported that an intersection control evaluation and the corridor study would be performed and anticipate there to be community requests.

Supervisor Chair Untied asked whether the money would be escrowed? Mr. Giesen reported that the money would not be escrowed. There are three different funding sources which will be coming in 2023 but they do know there will be capital improvements made to this corridor in 5-15 years.

Commissioner Gary Kriesel was present and added that the triangular piece of property would be included.

8. NPS – Fairy Falls – parking/stripping discussion – Craig Hansen, Superintendent with the St. Croix National Scenic Riverway and Lisa Yager, Chief of Resource Stewardship and Education with the St. Croix National Scenic Riverway were present to discuss the

Day Use Area at Fairy Falls (54 acres). The NPS manages this site location. The Park was closed approximately two years. In the last year, there have been many meetings. There were the following discussion points:

- Signage – provided by NPS
- Social trails (not maintained or marked trails) by tree placement to discourage use
- Parking – Orwell Avenue and possible move to Hwy 95; 6 cars enforcement; no striping
- Day Use Area – sunrise to sunset
- NPS – not patrolling
- Originally closed for health and safety; now general trail conditions deemed unsafe
- 6-8 weeks plan for soft reopen

Engineer Mike Nielson commented that the appropriate signage is necessary. He is in agreement that monitoring would be necessary for erosion control and not to stripe at this time.

M/S McMahon/Sinclair moved to have the “no parking” signs removed. No vote.

Supervisor Geisen would like to amend the motion to remove the no parking signs but then have signs for the space now pending their request at township cost. The amended motion was not accepted.

Supervisor Hunter had concerns and Supervisor Untiedt would like to inform the neighbors. Supervisor Untiedt would like to have the NPS put up the signs at their cost.

M/S/P McMahon/Sinclair moved to approve removal of the “no parking” signs when the NPS is ready to post their signs for a length of six cars. (5 ayes)

9. CLERK –

a.) Elections – Clerk Riehle presented a request to adopt a Resolution appointing Election Judges for the November 8, 2022 General Election with Exhibit A. The Board agreed to adopt the Resolution.

M/S/P Hunter/McMahon (3 ayes); Supervisor Sinclair abstained due to conflict of interest. Supervisor Geisen abstained due to conflict of interest; he will be serving as an election judge.

Clerk Riehle met with a County Elections Representative for a site visit; the goal was to get another set of eyes and a view of our location so that flow could be best utilized. Now that we are two precincts, a suggestion was to look at another larger site for hosting elections for the Presidential election in two years. Clerk Riehle will discuss this further as necessary following this years’ General election.

b.) ORI – sunseting – Clerk Riehle was contacted by Darlene Pankonie with the Washington County Sheriff’s Office. In November 2020, Stillwater Township decommissioned our police department. The Township now has a “Community Service” Department. Stillwater Township had been assigned Originating Agency Identifier (ORI) of MN0822400. Given the decommission of the police department, this ORI can be retired from the Minnesota Bureau of Apprehensions systems.

M/S/P Hunter/McMahon moved to sunset the ORI and retire MN0822400. (5 ayes)

c.) Unpermitted Driveway – Clerk Riehle received a phone call from MnDOT regarding an unpermitted driveway that was put in off Hwy 96/Dellwood Rd. The location happens to be in the bi-pass lane. A review was conducted and will be addressed prior to the Turnback transfer from MnDOT to Washington County. Clerk Riehle had not received the letter to date; but will follow up on this.

d.) PC, Printer, Router – Supervisor Mike McMahon looked into cost and features of a Chromebook. He noted that a 12" at \$179; was not the best size for ease and accessibility and recommended a 17" Chromebook at the approximate cost of \$500-\$600. The computer would be accessible for meetings and office use.

M/S/P Sinclair/Geisen moved to approve an amount not to exceed \$600 for a 17" Chromebook. (5 ayes)

The current office printer is basic, outdated and has limited functions. Supervisors feel that the dated model is inhibiting productivity; it doesn't have the scanning capability nor the ability to copy double sided documents and only prints in black and white. Clerk Riehle and Deputy Clerk Maes will consult and look into options and will bring back to the Board.

The current internet router is with Century Link. Supervisors discussed an update to the router is needed. It may not increase internet service but may be needed for reliability. Further discussion was tabled.

10. PLANNING COMMISSION – Commission member Alan Robbins-Fenger was present to give a summary from the Planning Commissions meeting last week. The Commission has continued to work on a Short-Term Rental Ordinance.

11. PARK COMMITTEE – The committee met recently. Supervisor Liaison Hunter reported that the committee will go on seasonal hiatus. Mr. Hunter spoke on a \$50,000 grant that the committee learned was available; this is for enhancement through the Legacy fund which would benefit Little Carnelian Park. The Township would have to provide 5% of the funding. The Park Committee is looking to apply.

Deputy Clerk Jennifer Maes reported that the drinking fountain is cracked. Park Member Noah Smith is willing to fix this but needs funding for materials to do so.

M/S/P McMahon/Hunter moved to approve the amount needed not to exceed \$400 for repair of the drinking fountain. (5 ayes)

12. COMMUNICATION COMMITTEE – No report given.

13. INTERNET AD-HOC – This will be an agenda item for November.

14. OLD BUSINESS

- HVAC - Supervisor Mike McMahon reported that the new unit is in. He noted that the "nest" thermostat is not compatible with the "G-Suites" email accounts so a separate Gmail account will be set up to allow for ease of use.
- Hot Water System – Supervisor McMahon reported that he talked with Township resident and plumber Ron Haussner who suggested something other than the on-demand unit. Supervisor McMahon will have him come and evaluate our current system and diagnosis and bid the project. Table until next month.

15. NEW BUSINESS –

- Pesticide Preemption sign-on letter – Supervisors had not had an opportunity to look into the details; tabled until November. Clerk Riehle will forward the link to the Board for review.
- Door Locking – Supervisor McMahon reported on ADA requirements and explained some options for systems. A new system could be updated by using Covid funds. Supervisor McMahon will put together a formal proposal.
- Street Signs – Supervisor Robert Geisen reported that the street sign at the intersection of Mayfield/Mendel is in need of replacement because it is unreadable. Also, the street sign at Mendel Rd./101st St. is laying on the ground as it must have been hit. Clerk Riehle will contact CSO Mark Caroon for follow-up on these.

16. ADJORNMENT – M/S/P Hunter/Sinclair moved to adjourn the meeting.

The meeting was adjourned at 9:15 P.M. (5 ayes)

Next meeting scheduled for November 10, 2022.

Clerk_____

Chairperson_____

Approved_____