

STILLWATER TOWN BOARD MEETING

November 10, 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, Community Service Officer Mark Caroon, Deputy Clerk Jenni Maes, Treasurer Marsha Olson, Planner Evan Monson, Attorney Jared Shepherd and Engineer Mike Nielson (via Zoom). Planning Commissioners Alan Robbins-Fenger and Robyn Stoller (Internet Ad-Hoc Committee) were also present.

REGULAR MEETING

1. AGENDA – M/S/P McMahon/Hunter moved to adopt the amended agenda to edit as follows to Add: 1.) Old Business: Fairy Falls parking update.
2.) Clerk: Unpermitted Driveway update

(5 ayes)

2. MINUTES – M/S/P McMahon/Hunter moved to approve the 10/13/22 meeting minutes as written. (5 ayes)

3. PLANNER –

a. Sinclair variance request discussion continuation – Planner Evan Monson opened the discussion with a brief overview from the staff report.

The property owners are looking to split their current property into two lots. The new lot would be located on the west end of the current property, and would be 5-acres in size. The property is bounded by Hwy 96 along the north side and the Brown's Creek Trail to the south.

The township's zoning ordinance requires a minimum of one acre of land outside of required setbacks on new lots. The township zoning ordinance has a large setback required from Highway 96. Due to the proximity to the creek, the subject property is also within the Shoreland Overlay zone, which is governed by the County. The County Development Code has a setback required from the creek; the county's setback from the creek and the township's setback from the highway overlay each other.

Comments were received from Washington County and Brown's Creek Watershed District; both recommended the township deny the request.

Criteria and Findings to approve or deny are based on whether the request meets the requirements for a variance. Per the staff report, not all the criteria for the variance request as proposed are met. The Planner recommends the Town Board deny the request to create a lot with a buildable area of under one acre in size, located at 14411 Dellwood Road North.

They can either:

1. Approve, with or without conditions

2. Deny, with findings for denial.
3. Table the request.

The Town Board did table the discussion at last month's meeting to get more information and clarification.

Supervisor Robert Geisen commented that our Planner looked at all the criteria and did a good job. He expressed concerns that land stewardship is not a finding that could be leveraged to approve the request. He would find difficulty in approving without a solid reason that would not set an arbitrary precedent.

Supervisor Mike McMahon commented that our Planner and other agencies have done their work and recommend denial. What is the reason that we are going against all the recommendations?

Chairperson Untiedt mentioned that she understands a possibility that there may be a portion of the property that would not require a variance. Planner Evan Monson had walked the property and commented that the east side of the lot has potential to work without setback variances.

Attorney Jared Shepherd made a comment on procedure. Since 11/11/2022 is the end of the 60-day deadline, he recommends two separate motions. 1) to extend the deadline under Sec. 15.99 MN Statutes – Minnesota. 2) to approve or deny and have staff bring back finding in a Resolution. Review the findings at December meeting.

M/S/P McMahon/Geisen moved to extend the 60-day deadline by another 60 days under Sec. 15.99 MN Statutes – Minnesota. (4 ayes, 1 abstain as Sinclair will not vote)

Chairperson Untiedt opened for public comment:

Resident Barb Medinger commented on the remarks noted from the Watershed District in the staff report; which stated "they noted there is a number of watershed requirements that would create significant challenges with development on this site", but they did not say it couldn't be done. She is surprised that all these setbacks are in place. The Sinclair's have spent a lot of money on permits already.

Applicant Tim Sinclair respectfully asked the Town Board and Planner that if the request is denied, that a letter is signed stating that the 20-acres would be deemed undevelopable. He does not believe that another area to the east would work since there are other issues to consider i.e., DNR, woods, spring, etc. Applicant Debbie Sinclair also remarked that the area to the east setback would be at the bottom of the ravine and could pose difficulty for a driveway. Their approach is to limit the impact and protect the property.

The Washington County Planner remarked "significant concerns" in the staff report.

Planner Monson explained that the request comes first to the Township for zoning approval, then it goes to the County where the request would need to meet the County's

requirements for the Shoreland Overlay Ordinance, then to the Watershed for building permits. Ms. Medinger asked whether they would account for the cliff in the setback requirements due to the topography of the site. Planner Monson explained that the

setback from the creek based off the linear distance from the creek. The setback from Hwy-96 is a result of the highway's designation in our Comprehensive Plan as an arterial road due to higher traffic volume.

Supervisor McMahon stated the unknown plans and development the County may have for Hwy-96 once the Turnback happen; reasons for why setbacks are necessary and noting there are not many properties that a precedent would affect.

M/S/P Geisen/McMahon moved to have Planner Monson bring back findings consistent with denial. (4 ayes, 1 abstain as Sinclair will not vote)

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

a. Partridge Ct. N. – Engineer Nielson was out looking at streets for the Overlay project. This particular street is in rough shape. Originally built in 1986 (36 years old); It has had two chip seals done (2002, 2010). Mr. Nielson recommends the Town Board review and place in the "monitor (3-5 years)" category. This road services 7-8 homes. Tabled until next month's meeting.

5. TREASURER –

a. Report given by Ms. Olson who reported that at the end of the month the township had \$3,029,843 in cash and investments. Through October, expenses look good; election judges for the General Election were paid this month.

b. Claims and Checks #23973 through #24012 were approved for payment.

c. Budget meetings for the 2024; Supervisor Sinclair and Treasurer Olson will begin. The Town Board will meet on December 7 at 5:00PM.

6. COMMUNITY SERVICE DEPARTMENT – CSO Mark Caroon gave a report.

- There were 6 burning permits issued in October.
- There were 63 total monthly calls for October.
- There were no dog impounds reported for October; however, car/deer calls were up for October.
- Overall Animal Complaints were up; included some City of Stillwater follow-through on those calls.
- There were 16 traffic related calls for October.
- Tree trimming – Miller does the roadways prior to snow.
- Dog barking nuisance calls reported by residents who contacted Supervisor Geisen.

(PEOPLE PORTION)

COMMUNITY THREAD – PRESENTATION- Development & Communications Director, Cathleen Hess was present to give an overview presentation of the work, services and value to our community. Community Thread in Stillwater's Vision is a community where all people are engaged, enriched and connected. Their Mission

is to maximize resources and engage volunteers to improve the quality of life for adults and their families in our local community.

Supervisor McMahon asked if they knew the number of Township residents that receive their services? Ms. Hess will look further into this and will respond back.

Ms. Hess asked for a gift of \$500 to support their organization.

M/S McMahon/Geisen moved to authorize \$1,000 in support of the organization. After further discussion, the motion did not go to vote.

Supervisors suggested this request be added to the budget similar to how the Township supports other organizations like the YSB and the Library during our Annual meeting.

Attorney, Jared Shepherd raised concerns about whether the expenditure could be allowed based on his knowledge of the program.

Further discussion at a future meeting.

7. WCA DRAFT NOD for Town Board Consideration – Washington County Conservation District Manager, Jay Riggs sent documents recommending “Notice of Decision” (NOD) for the Miller Excavating Wetland Replacement Plan application. These documents need to be considered by the Town Board for approval.

Supervisor McMahon asked whether we would be posing fines due to lateness.

Chairperson Untiedt suggested tabling due to the lack of clarification and understanding of what Mr. Riggs is asking.

Planner Evan Monson reviewed the NOD; Mr. Riggs is looking for whether the Board concurs or disagrees with the findings. If the Board concurs, the NOD form will need a signature and date.

M/S/P Hunter/Geisen moved to authorize the chair to sign the NOD document. (5 ayes)

The Town Board is meeting next week and can add this to their agenda. Clerk Riehle will email Mr. Riggs to ask for clarification and specific detail to see if more is needed.

A resident was present to ask for an update regarding “Water Testing” and “Soil Testing”. Chairperson Untiedt reported that it is Third-Party testing, reports would be provided by Miller. Supervisor McMahon reported that individual sites (where materials leave) are sample tested per MPCA guidelines, not each load. In order for Miller to continue to receive their AOP, they are required to provide results of ongoing water testing results.

Resident Mitch Reiners who attended via zoom, requested information from 10/13/22 meeting minutes regarding the contents and response of the compliance letter that was sent to Miller. He also would like to receive updates on soil testing from an analytical lab source and ground water testing results report. Mr. Reiners would like the Town Board to address and respond to the 12 potential violations he documented, that were sent to

the Board members in May 2022. Mr. Reiners would like updates prior to the 2023 AOP renewal.

Steve St. Claire from Miller Excavating was present to offer some process details. The data results would be made public; i.e., posted on the township website.

8. CLERK –

a.) Elections – Clerk Riehle recapped the General Election. Precinct teams were thanked. Ms. Riehle purchased necessary stanchions with retractable belts for division and proper flow to eliminate confusion. In addition, she brought up the concerns of parking, privacy and space. Prior to the Presidential Election in two years, the Township should reach out and consider another location.

The Canvass of Elections meeting has been moved due to the Veteran’s Day Holiday conflict, and is now set for Tuesday, November 15th at 2:30 PM.

b.) LMCIT (Annual Insurance)– Clerk Riehle reported that she has completed her portion of the insurance paperwork; our insurance agent will need to go in and do her part then submit it. Clerk Riehle also reported that next up; Workman’s Compensation paperwork will need to be completed.

c.) Budget Meeting – Clerk Riehle will put details on the website. The meeting is scheduled for Wednesday, December 7th at 5:00 PM.

d.) Hazard Mitigation Plan – Clerk Riehle was contacted by Washington County Sheriff Office, Doug Berglund. Every five years paperwork is reviewed and signed. The meeting is scheduled for Tuesday, November 15th at 1:30 PM.

e.) Unpermitted Driveway – Clerk Riehle will follow up with MnDOT regarding an unpermitted driveway as she had not received the letter. Ms. Riehle will report back.

9. PLANNING COMMISSION The meeting was rescheduled to Thursday, November 17th at 7:00 PM. The Commission has continued to work on a Short-Term Rental Ordinance.

10. PARK COMMITTEE – No report.

11. COMMUNICATION COMMITTEE – No report.

12. INTERNET AD-HOC – Robyn Stoller was present to give a PowerPoint presentation. See website link for presentation and updated information:
[Sub-Committees - Stillwater Township, Minnesota \(stillwatertownshipmn.gov\)](https://www.stillwatertownshipmn.gov/sub-committees)

The following indicate presentation recap information:

- Minnesota Statutory Broadband Goals for 2026 are businesses, homes and schools should have 100 mpbs download and 20 mpbs upload speeds.
- 3072 valid tests were completed this past summer.
- 13 ISPs tested.

- Overall average download speed was 14.14 mbps
- Overall average upload speed was 2.23 mbps
- Map shown - underserved area and some areas approved for Federal funding.
- Century Link, Midco, Washington County and MN Office of Broadband Development (OBD) 2023 'Border to Border', Comcast/Xfinity, Comcast Meghan Shea. Information shared.
- Legislature recently approved Line Extension Connection Program – award grants for extension of existing broadband to unserved locations. Process explained.
- Looking forward to 2023 – Anticipate MN 'Border to Border' grants announced and anticipate Comcast/Xfinity to advise on project build-out plan, grant applications.
- Grant application due Feb 2023 – early March 2023.
- Grant awards announced – early Summer 2023.

A resident commented that some cities put in their own fiber and it would give control over service. There was comment that the area is too big to do conduit. Supervisor Untiedt said the idea had been raised earlier but ruled out for cost constraints.

Supervisor Geisen suggested the Communication Committee should be the point of contact.

13. OLD BUSINESS

- Router, Office Printer – Deputy Clerk Maes did research on a couple of printers. DC Maes and Clerk Riehle have not come together to make a decision.

M/S/P Geisen/McMahon moved to approve the purchase of a Multi-Use Functional printer in an amount not to exceed \$600. (5 ayes)

Supervisor Geisen suggests upgrading directly with Century Link to a higher speed.

- Hot Water System – Supervisor McMahon forwarded a quote from Haussner Plumbing LLC., for a 40-gallon hot water heater. An on-demand unit was highly discouraged. Supervisor Geisen would like a second opinion. Mr. Geisen will come back next month with a response. Table until next month.
- Pesticide Preemption sign-on letter – Supervisors discussed.

M/S/P Hunter/Sinclair moved for Chairperson Untiedt to sign the letter to protest the bill that would essentially take away Local Officials' right to regulate toxic pesticides. (5 ayes)

Door Locking – Supervisor McMahon reported the following:

- Door Quote is a bit of a struggle given all the ADA compliance requirements and making it remote entry.
- Closer with buttons: \$1500.
- New Door meeting all ADA requirements: \$1350.00
- Closers and hardware included with door.
- Smartlock <https://level.co/products/lock> \$329 includes 2 keycards additional keycards \$20 for 4 additional. Keypad is \$79.

- Labor \$750
 - New door and smartlock installed: \$2528.00
 - ADA door opener additional \$1500.
 - A couple Contractors will be contacted by Supervisor McMahon
- NPS -Fairy Falls – Soft reopen update not reported at this time.

14. NEW BUSINESS – No report.

M/S/P Geisen/McMahon moved to close the regular session as permitted by Minn. Stat. §13D.05 Subd. 3(b) for a confidential attorney-client privileged discussion regarding potential settlement of the litigation matter, *Stillwater Township v. Bonnie Haines & Joseph Haines*, 82-CV-22-3947 (Minn. Dist. Ct.).
(5 ayes)

The regular meeting was closed.

CLOSED SESSION

The Town Board Supervisors met in closed session with Attorney Jared Shepherd and Attorney Jack Brooksbank.

The public meeting was reopened. No further business was discussed.

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

The meeting was adjourned at 9:35 P.M. (5 ayes)

Public Hearing to consider a variance, meeting scheduled for Thursday, November 17th at 6:30 PM.

Next Regular meeting scheduled for Thursday, December 8, 2022 at 7:00 PM.

Clerk_____

Chairperson_____

Approved_____