

TOWN OF DELAFIELD BOARD OF SUPERVISORS MEETING
June 11, 2013

Members Present: C. Dundon, P. Van Horn, L. Krause, C. Duchow

Members Absent: P. Kanter

Others Present: T. Barbeau, *Town Engineer*, M. Hoppe, *Deputy Fire Chief*, K. Smith, *Lake Country Reporter*, 15 citizens

Public Hearing: Prior to the start of the regularly scheduled Town Board meeting there will be a public hearing held by the Town of Delafield Board of Supervisors to consider changes to Chapter 17 (Zoning Code) and Chapter 18 (Land Division and Development code) of the Town of Delafield Code of Ordinances. The Town Clerk read the Notice of Public Hearing. The Public Hearing was called to order at 7:03 p.m.

Acting Chair Dundon requested that the changes to each section of the Code, listed in the Notice of Public Hearing, be addressed individually for clarity purposes. Engineer Barbeau reviewed the proposed Ordinance changes to the Sections in 17.10 concerning the administration and authority of the Board of Appeals.

Penny Van Horn questioned what constitutes a quorum on the Board of Appeals. Engineer Barbeau stated that three members constitute a quorum.

Engineer Barbeau reviewed the proposed Ordinance to create Section 17.10 (5.5) regarding modifications by special exception due to erroneously permitted work. He stated that the special exception would be considered on a case by case basis. The Plan Commission's role is to process the special exception and make a recommendation to the Town Board for consideration.

Christer Carlsson, W303N2665 Maple Avenue, stated that if a house burns down, it should be able to be replaced.

Ed Gratz, W331S631 Erin Way, stated that he understands what the homeowners are going through and feels for them. The Town has the most restrictive open space requirements in the County. The definition is not really open space but green space. He is speaking against the ordinance. Granting special exceptions to people is discriminatory and against the 14th amendment of the Constitution. It is discriminatory against those homeowners who complied with the Code. The Town Board does not have the right to give people permission to violate the ordinances. The citizen is responsible to follow the Town Code. This change treats some citizens unequally than others. Just because the building inspector did not perform due diligence, the residents should not have to suffer. He is asking the Town to give the residents back their rights before they were taken away in 1998.

Sue Broadfoot, N5 W33778 Lapham Lane, asked if we know how many properties we are talking about as being non-compliant. Mr. Barbeau stated that we do not have that number. She also asked if the Town considered changing the percentages to bring all properties into compliance. Mr. Barbeau stated that the Plan Commission, over the years, has placed a high standard on open space with the vision to have a great amount of green space in the Town. Ms. Broadfoot added that she did due diligence and abided by the code when she built her home and will not get the same waiver as someone who did not do their due diligence.

Renee Ongaro, N41W29131 Prairie Wind Circle S, stated that the building inspector did not catch that her house was non-conforming, and this is causing her and her family to lose tens of thousands of dollars in attempting to sell her home.

Engineer Barbeau stated that homebuilders during the period of 1998-2010 may not have understood that the open space requirements regulated the construction of driveways, sidewalks, patios and swimming pools, as well as the home. Plans submitted to building inspectors and other town officials did not always show the additional hard surfaces and structures that were violating the open space requirements. In other cases, the hard surfaces and structures were added years after the initial plans were approved.

Engineer Barbeau summarized the proposed Ordinance to create Sections 17.02 and 17.07 that relate to legal nonconforming structures and lots by 2011 Wisconsin Act 170, which became effective on April 17, 2012.

Engineer Barbeau summarized the proposed Ordinance to repeal and recreate Sections in Chapter 18 regulating land division and development control to reflect statutory changes in the provisions of Section 236 of the Wisconsin Statutes.

The Public Hearing closed at 7:55 p.m.

First order of business: Call to Order
Acting Chair Dundon called the meeting to order at 7:55 p.m.

Second order of business: Pledge of Allegiance

Third order of business: Citizen Comments
Ed Gratz, W331 S631 Erin Way, asked the Town Board to considering discussing, at some time, the ability for citizens to initiate a direct referendum.

Fourth order of business: Approval of May 28, Board of Review and Town Board Minutes
MOTION MADE BY MR. VAN HORN, SECONDED BY MR. KRAUSE TO APPROVE. MOTION CARRIED.

Fifth order of business: Action on vouchers submitted for payment:
A. Report on budget sub-accounts and action to amend 2013 budget

Mark Hoppe and Jamie Formea applied for grant money to purchase 31 portable and 13 mobile radios. The grant in the amount of \$212,623 was awarded to the Fire Department, contingent on a local match of \$11,190. The Fire Department is requesting funds from the radio reserve account in the amount of \$36,000 to be transferred to the 2013 fire department capital expenditure account.

MOTION MADE BY MS. DUNDON, SECONDED BY MS. DUCHOW TO APPROVE TO REMOVE \$36,000 OUT OF THE REPLACEMENT FUND TO PROCEED WITH THIS PURCHASE OF RADIOS AND PAGERS. MOTION CARRIED.

B. 1) Accounts payable; 2) Payroll
Accounts Payable
MOVED TO APPROVE PAYMENT OF CHECKS #52925 – 52978 IN THE AMOUNT OF \$102,433.38

Payroll
MOVED TO APPROVE PAYMENT IN THE AMOUNT OF \$25,940.00
MS. DUNDON/MR. KRAUSE **MOTION CARRIED.**

Sixth order of business: Communications (for discussion and possible action)

A. None

Seventh order of business: Unfinished Business

A. None

Eighth order of business: New Business

A. Consideration and possible action on adoption of changes to Town of Delafield Code Ordinances

MOTION MADE BY MR. VAN HORN, SECONDED BY MR. KRAUSE TO ACCEPT THE PLAN COMMISSION'S RECOMMENDATION TO APPROVE AN ORDINANCE TO REPEAL AND RECREATE SECTIONS 17.10(4)(A)(1)(a), 17.10(4)(C), 17.10 (4)(D), AND 17.10(4)(F)(1) OF THE TOWN OF DELAFIELD ZONING ORDINANCE CONCERNING THE ADMINISTRATION AND AUTHORITY OF THE BOARD OF APPEALS. MOTION CARRIED.

MOTION MADE BY MR. KRAUSE, SECONDED BY MS. DUNDON TO ACCEPT THE PLAN COMMISSION'S RECOMMENDATION TO APPROVE 17.10 (5.5) OF THE TOWN OF DELAFIELD ZONING ORDINANCE REGARDING MODIFICATIONS BY SPECIAL EXCEPTION DUE TO ERRONEOUSLY PERMITTED WORK. MS. DUCHOW-NAY, MS. DUNDON-AYE, MR. KRAUSE-AYE, MR. VAN HORN-NAY. MOTION FAILED 2-2.

MOTION MADE BY MR. VAN HORN, SECONDED BY MS. DUCHOW TO REFER THIS MATTER BACK TO THE PLAN COMMISSION FOR REVIEW AND RECOMMENDATION TO THE TOWN BOARD. MOTION CARRIED.

MOTION MADE BY MR. VAN HORN, SECONDED BY MS. DUCHOW TO ACCEPT THE PLAN COMMISSION'S RECOMMENDATION TO APPROVE AN ORDINANCE TO CREATE SECTIONS 17.02(1)(G), 17.07(2)(C)(4) AND 17.07(2)(I) OF THE TOWN OF DELAFIELD ZONING ORDINANCES REGARDING LEGAL NONCONFORMING STRUCTURES AND LOTS. MOTION CARRIED.

MOTION MADE BY MR. KRAUSE, SECONDED BY MS. DUCHOW TO ACCEPT THE PLAN COMMISSION'S RECOMMENDATION TO APPROVE AN ORDINANCE TO REPEAL AND RECREATE SECTIONS 18.01(2)(b), 18.04(1)(g)(2), 18.04(3), 18.04(4), 18.07(1)(k), 18.03(2), 18.04(1)(r), 18.05(2)(d), 18.05(3)(j), 18.06(6)(b)(2), 18.07(1)(c), 18.07(1)(f), 18.07(2)(a)(4) and 18.14(2)(a) OF THE TOWN OF DELAFIELD CODE OF ORDINANCES REGULATING LAND DIVISION AND DEVELOPMENT CONTROL. MOTION CARRIED.

B. Award of 2013 Road Paving Program Contract

Engineer Barbeau stated that the Town received three bids on the subject project: 1. Wolf Paving - \$282,125.43, 2. Payne & Dolan, Inc. - \$338,718.40 and 3. Stark Asphalt - \$347,012.35.

MOTION MADE BY MR. VAN HORN, SECONDED BY MR. KRAUSE TO AWARD THE 2013 PAVING PROGRAM CONTRACT BID TO WOLF PAVING IN THE AMOUNT OF \$282,125.43. MOTION CARRIED.

C. Request to approve renewal Alcohol Beverage "Class B" Liquor, Class "B" Beer and Soda Water Beverage License Applications for the period of July 1, 2013 through June 30, 2014 for the following:

1. *Pewaukee Yacht Club*

**MOTION MADE BY MR. KRAUSE, SECONDED BY MS. DUCHOW TO APPROVE.
MOTION CARRIED.**

2. *Kim's Lakeside*

**MOTION MADE BY MS. DUCHOW, SECONDED BY MR. VAN HORN TO APPROVE.
MOTION CARRIED.**

3. *Western Lakes Golf Club*

**MOTION MADE BY MR. KRAUSE, SECONDED BY MS. DUCHOW TO APPROVE.
MOTION CARRIED.**

4. *Dylon's Steakhouse*

**MOTION MADE BY MS. DUCHOW, SECONDED BY MR. KRAUSE TO APPROVE.
MOTION CARRIED.**

5. *Frank's Tap*

**MOTION MADE BY MS. DUCHOW, SECONDED BY MR. KRAUSE TO APPROVE.
MOTION CARRIED.**

- D. Request to approve renewal Alcohol Beverage Class "A" Beer License Application for the period of July 1, 2013 through June 30, 2014 for Gluten Free Trading Company.

**MOTION MADE BY MS. DUCHOW, SECONDED BY MR. KRAUSE TO APPROVE.
MOTION CARRIED.**

- E. Request to approve renewal Alcohol Beverage Class "B" Beer and Soda Water Beverage License Applications for the period of July 1, 2013 through June 30, 2014 for Buck Rub Outfitters, LTD.

**MOTION MADE BY MS. DUCHOW, SECONDED BY MR. VAN HORN TO APPROVE.
MOTION CARRIED.**

- F. Request to approve renewal Soda Water License Application for the period of July 1, 2013 through June 30, 2014 for St. Anthony's Congregation.

**MOTION MADE BY MS. DUCHOW, SECONDED BY MR. VAN HORN TO APPROVE.
MOTION CARRIED.**

- G. Consideration of Application for Temporary Class "B" License to sell fermented malt beverages and a Temporary "Class B" License to sell wine, during a special event on June 23, 2013, to be held on the picnic grounds at St. Anthony Congregation, W280 N2101 Prospect Avenue.

**MOTION MADE BY MS. DUCHOW, SECONDED BY MR. KRAUSE TO APPROVE.
MOTION CARRIED.**

Ninth Order of business: Announcements and Planning Items

- A. Next Town Board Meeting – June 25
- B. Next Plan Commission Meeting – July 2

Tenth order of business: Adjournment

MOTION MADE BY MS. DUCHOW, SECONDED BY MR. KRAUSE TO ADJOURN AT 8:33 P.M. MOTION CARRIED.

Respectfully submitted,

Mary T. Elsner, CMC, WCMC
Town Clerk/Treasurer

Minutes approved on June 25, 2013