

**Dorr Township Planning Commission
Special Meeting
January 6, 2009 Minutes**

1. Chairman Robert Wagner called the meeting to order at 7:00 P.M.
2. The Pledge of Allegiance was recited.
3. Roll Call--Members Present: Joycelin Denstone, Larry Dolegowski, Norm Fifelski, Gordon Lieffers, Karen Slater, Robert Wagner and Dorr Township Attorney Steve McKown. Members Absent: Jennifer Lamb and Jan Johnson Township Planner.
4. Changes or Additions to the Agenda
None.
5. Public Comments
None.
6. Public Hearing Don Anthony Builders & Developers, Inc./Tony Bouma
At 7:00 P.M. the Public Hearing to consider the request of Don Anthony Builders & Developers, Inc./Tony Bouma as remanded by the Allegan County Circuit Court for a Special Use Permit that would allow the expansion and establishment of a private road was held.
18 attended.

Steve McKown presented a summary of the previous Public Hearings held at the request of Don Anthony Builders & Developers, Inc. and of lawsuit filed against Dorr Township and the Circuit Court decision.

James Doezema attorney representing Don Anthony Builders & Developers, Inc. stated the Dorr Township Planning Commission had to evaluate whether the Applicant met the requirements of Special Land Use Section 4.30 and the application requirements of Section 4.31 and the Standards for Private Road Section 4.16 to grant the Special Use Permit. Mr. Doezema stated the General Standards Section 4.32 was not applicable in the request for a Special Land Use for a Private Road.

Mr. McKown disagreed with Mr. Doezema's interpretation of the requirements and advised the Planning Commission to determine that the Applicant met the requirements of Section 4.32 before granting approval of his request.

Dale Van Kooten who engineered the project stated no changes had been made to the plans that were reviewed by the Planning Commission at the previous Public Hearing.

Discussion:

Ed Klinge stated the proposed project presented interference with his property and livelihood. He expressed his belief that the proposed project attempted to break the current easement. He voiced concerns about water run off and potential costs related to construction and maintenance of the proposed road to him and to the other property owners. He repeated that Rustic Road was a private drive-not a private road.

Robert Wagner produced a copy of the Public Hearing dated June 9, 1992 when Mr. Klinge and others requested a Special Use Permit for construction of a “private road.”

Steve McKown explained that for more than 25 years a road easement that served more than 1 residence was considered a “private road” and in his opinion Rustic Road was a “private road.” Mr. McKown said the planned expansion was not on Mr. Klinge’s property and he was not aware of anyone trying to break an easement. Mr. McKown stated a clear statement defining who was responsible for road repair and maintenance costs could be a condition of approval.

Ray Wiersma stated in the initial design Rustic Drive would have extended to his property however, Rustic Drive was not completed. Steve McKown explained that the initial easement that allowed for Rustic Drive to extend to the Wiersma property was still in effect and could be implemented.

Mike Aalderink questioned the purpose and plan for the road extension and whether his property taxes would be increased if the project resulted in paving 140th Avenue.

Mr. Doezema explained that properties that were within the boundaries of the current easement shared the cost of maintenance of the existing Rustic Drive however (other than Don Anthony Builders & Developers, Inc.) they were not responsible for construction and maintenance costs for the expanded portion of the road.

A discussion ensued regarding surface water run off. Mr. Klinge stated the water path was towards 140th Avenue. Mr. Van Kooten disagreed. Norm Fifelski reminded the Planning Commissioners that there was no plan to alter the contours of the land and that the bottom land belonged to others. Mr. Doezema stated current law prohibited water drainage from new projects onto neighboring lands in excess of the amount of water that already drained onto those lands. Norm Fifelski stated the water run off would increase when fallow land was developed. Mr. Van Kooten stated the increase would be of an “insignificant amount” as the expanded road would not be constructed with an impervious surface. He did admit that if the surface of the expanded road was paved water run off would accelerate to a “more rapid pace” than the current flow.

Dennis Harig questioned whether 140th Avenue would be improved as it was when the plat located off 140th Avenue to the east of this project constructed. Steve McKown and Robert Wagner explained the requirements imposed when subdivisions and/or site condominium projects were constructed off gravel roads. The number of acres owned by the Applicant and the zoning requirements for the Rural Estate zoning district (1-acre

minimum size lots and 200 feet of frontage) limited the number of lots possible for development.

Jan Aalderink questioned if the Township could require paving 140th Avenue due to the proposed project. Steve McKown said the Township was “not allowed to force” paving of streets.

The need to enforce 300.206 Section 4.16 (b) reconstruction of private roads to current standards when the existing private road was extended and who was responsible for the cost of reconstruction was discussed. It was determined that the Applicant was responsible for the cost of reconstruction of the existing portion of Rustic Drive as a condition of approval. The Applicant was not responsible for costs associated with construction of the portion of Rustic Drive included in the existing easement that was never built.

The Public Comment Section was closed at 7:42 P.M.

Findings of Fact:

- a) The special land use shall be established, laid out and operated so as not to have a substantial adverse effect upon adjoining or nearby lands or any of the uses thereof.

The project is an extension of the existing Rustic Drive and the contours of the land would not be altered. The neighboring properties are residential as is the proposed project thus no substantial adverse effect upon adjoining or nearby lands is anticipated. No evidence was presented to support that the project presented a substantial adverse effect upon adjoining or nearby lands or the uses thereof.

- b) The special land use must not have an adverse effect on water and sewer services, storm water drainage, road capacity and volume of traffic and traffic safety and circulation.

Public water and sewer services are not available at the location. Due to the restrictions of the Rural Estate zoning district and the number of acres included in the project fewer than 18 additional homes could be added which placed no significant impact on water wells and septic systems, road capacity and volume of traffic and traffic safety and circulation. The contours of the land would not be altered thus making no substantial impact on storm water drainage. The addition of one to five homes fewer than 18 homes No evidence was presented to support that the project presented a substantial adverse effect upon water and sewer services, storm water drainage, road capacity and volume of traffic and traffic safety and circulation.

- c) The special land use must not have an adverse effect on police and fire services and other public safety and emergency services.

The project was reviewed and approved by the Fire Chief. Residential use with the potential for fewer than 18 additional homes posed no significant negative effect on

police and fire services and other public safety and emergency services. No evidence was presented to support that the project presented a substantial adverse effect upon police and fire services and other public safety and emergency services.

- d) The special land use must not have an adverse effect on the need and demand for other public services.

The intended use for modest sized residential development presents no significant negative effect on public services such as schools and libraries. No evidence was presented to support that the project presented a substantial adverse effect upon the need and demand for other public services.

- e) The special land use must not have a significant adverse effect on the natural environment of the site and nearby properties.

The intended use for modest sized residential development presents no significant negative effect on the natural environment of the site and nearby properties. No evidence was presented to support that the project presented a substantial adverse effect upon the natural environment of the site and nearby properties.

- f) The special land use must be consistent with the intent and purposes of this ordinance and the Dorr Township Master Plan and protect the public health, safety and welfare.

The project conforms to the Master Plan for residential development in the Rural Estate zoning district. The road must be constructed to standards.

No evidence was presented to support that the project presented a substantial adverse effect upon public health, safety and welfare.

Whereas based on the Findings of Fact which demonstrate the conformance with the requirements of and promotes the intent and purpose of Chapter IV Special Land Uses and specifically meets the General Standards of Section 4.32 and as it has been demonstrated that the project conforms with Section XIVA of the Dorr Township Ordinance, a motion was made by Gordon Lieffers and supported by Larry Dolegowski that the request by Don Anthony Builders & Developers, Inc./Tony Bouma for a Special Land Use Permit that would allow the expansion and establishment of a private road at tax Parcel #03-05-029-001-21 which will affect and benefit tax parcels 03-05-0290-001-00, 03-05-029-001-60 and 03-05-029-001-20 per the plan dated 5/30/08 be approved.

Approval is subject to the following conditions:

A road maintenance agreement is developed which specifies that the owners of the properties currently within the boundaries of the existing easement-other than those owned by Don Anthony Builders & Developers, Inc.-are not responsible for and costs to construct or to maintain the new section of road.

An equitable apportionment of the obligation to maintain the existing section of the private road.

A stop sign and street name sign be installed at the intersection of Rustic Drive and 140th Avenue.

Roll Call vote: Dolegowski-Yes, Fifelski-Yes, Lieffers-Yes, Denstone -Yes, Slater-Yes, Wagner-Yes. Members Absent: Lamb. Motion carried.

7. Commissioner Comments

The potential issues regarding the costs of private road improvements required to meet regulations when 10 or more homes were constructed were discussed.

8. A Motion was made by Gordon Lieffers and Supported by Joycelin Denstone to adjourn. All Aye. The meeting was adjourned at 8:31 P.M.

The next scheduled regular Planning Commission meeting is January 20, 2009.

Respectfully Submitted,

Karen Ann Slater

Karen Ann Slater
Secretary